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Legal and Practical Measures Against **Illicit Trafficking** in Cultural Property

UNESCO HANDBOOK

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Legal and Practical Measures Against **Illicit Trafficking** in Cultural Property

UNESCO HANDBOOK

International Standards Section
Division of Cultural Heritage, 2006

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Introduction

Trade in cultural property is a major, and growing, international business. There is a vigorous licit and legal trade that reflects a positive recognition and appreciation of culture and art forms. Unfortunately, beyond the licit trade an international illicit traffic keeps increasing worldwide.

The practices of theft, looting, pillaging, and/or illicit import and export of cultural property are well known. This affects museums, public and private collections, legitimate owners or possessors, religious buildings, cultural institutions and archaeological sites worldwide. Depending on means and ambitions, criminals may undertake sophisticated operations, by which they steal objects, and then directly or indirectly export them to selected countries where they can fetch high prices from willing buyers.

This handbook briefly draws attention to some basic legal and practical measures and tools to help combat illicit trafficking in cultural property. Remember: *prevention* is key.

Two introductory caveats:

- i) Such measures are presented as basic elements for the protection of cultural property. Any State or interested entity may wish to use them, in whole or in part, depending on national/local specificities.
- ii) Addressed to a large public with diverse backgrounds, the drafting style of this handbook endeavors to be sufficiently accurate yet succinct.



PART I LEGAL ISSUES AND MEASURES

A Revising and/or Strengthening National Legislation



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Protection of cultural heritage and objects relies to a great extent on the existence and proper implementation of national legislation (Laws, Decrees, etc.) and – where applicable vis-à-vis a State Party – international conventions. The importance of legislation and its proper implementation is self-evident. Around the world, most States have enacted legislation that protects their cultural heritage to some degree. Some legislations are more advanced and/or sophisticated than others, in particular taking account of and addressing contemporary illicit trafficking issues. Depending on the country, its history, cultural heritage, and legislative policies, cultural property may be covered and protected in part or as a whole, according to high, mid or low standards. This variety of protection at the national level results – not surprisingly – in a lack of international uniformity in the legal treatment of cultural property. However, at least partially, some uniformity is achieved by international conventions vis-à-vis their States Parties (see I. B. below).

1. Defining “Cultural Property”

We often see the terms cultural “property”, “heritage”, “goods” and “objects” interchanged. There is no single, universal definition for any of these terms. Although in common parlance they generally refer to the same things, their exact definition and legal regime (alienability, exportability etc.) are to be sought in national legislation, or in international conventions (relevant if applicable to the subject-matter and vis-à-vis a State “Party”, see I. B. 2 below). Therefore such definitions and legal regimes vary from State legislation to State legislation, or from treaty (international convention) to treaty. Generally, the word “property” has a legal background (linked to “ownership”), while “heritage” stresses conservation and transfer from generation to generation. No particular culture-oriented connotation characterizes “good” and “object”.

For the purposes of the fight against illicit trafficking, the definition of “cultural property” is at present unified among the States Parties to the 1970 UNESCO *Convention of the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property* (hereafter the 1970 UNESCO Convention) and the 1995 UNIDROIT *Convention on Stolen or Illegally Exported Cultural Objects* (hereafter the 1995 UNIDROIT Convention). Both international Conventions define cultural property or objects as property which, on

religious or secular grounds, is of importance for archaeology, prehistory, history, literature, art or science and which belongs to one of the categories specifically listed in the Conventions¹.

2. A Basic Check-List for National Legislation

Recognizing that each State is specific in terms of history and national legislation, *inter alia* on cultural property, UNESCO encourages all its Member States to review their national legislation, and to revise and/or strengthen it as necessary. In so doing, it should be noted that the legislation may address cultural property categories ranging from broad to narrow; with some provisions covering cultural heritage generally, others covering moveable cultural objects generally, and still others covering more specific categories such as underwater cultural heritage or objects issuing from archaeological excavations. As a starting point, UNESCO Member States are encouraged to consider including the following points as appropriate in their national legislation so as to (better) protect cultural property against illicit trafficking:

- a. Provide a clear definition of cultural property/objects and/or cultural heritage that are covered within the scope of the legislation;
- b. Establish the State's ownership of: i) whatever is deemed appropriate by the national authorities; and ii) cultural property not yet excavated, or illicitly excavated from the national territory. This provision may help in requesting restitution of these objects domestically or even abroad.² For objects licitly



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1. Article 1 of the 1970 UNESCO Convention and the Annex to the 1995 UNIDROIT Convention read as follows:
 - “... (a) Rare collections and specimens of fauna, flora, minerals and anatomy, and objects of palaeontological interest;
 - (b) property relating to history, including the history of science and technology and military and social history, to the life of national leaders, thinkers, scientists and artist and to events of national importance;
 - (c) products of archaeological excavations (including regular and clandestine) or of archaeological discoveries;
 - (d) elements of artistic or historical monuments or archaeological sites which have been dismembered;
 - (e) antiquities more than one hundred years old, such as inscriptions, coins and engraved seals;
 - (f) objects of ethnological interest;
 - (g) property of artistic interest, such as:
 - (i) pictures, paintings and drawings produced entirely by hand on any support and in any material (excluding industrial designs and manufactured articles decorated by hand);
 - (ii) original works of statuary art and sculpture in any material;
 - (iii) original engravings, prints and lithographs;
 - (iv) original artistic assemblages and montages in any material;
 - (h) rare manuscripts and incunabula, old books, documents and publications of special interest (historical, artistic, scientific, literary, etc.) singly or in collections;
 - (i) postage, revenue and similar stamps, singly or in collections;
 - (j) archives, including sound, photographic and cinematographic archives;
 - (k) articles of furniture more than one hundred years old and old musical instruments.”
 2. Although the latter case is more complex if under the applicable law the new possessor has acquired title. Restitution becomes easier if international conventions apply (see I. B. below).



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- excavated, national legislation may either maintain the State's ownership or permit private ownership (as through the law of finds);
- c. Regulate archaeological excavations on national territory (administration, permits, finds, storage, ownership...);
 - d. Establish a clear legal regime applicable specifically to cultural property that provides a legal answer to issues such as:
 - i) what categories of cultural objects can be traded (if any), and whether a preliminary authorization by national authorities (Ministry of Culture etc.) is required; and
 - ii) what categories of cultural objects may leave and/or enter the national territory, as well as the conditions (authorization, purpose, storage conditions, insurance etc.), and the time period (temporary or permanent export or import) under which this may take place;
 - e. Subject any export (and possibly import) of certain categories of cultural objects to a certificate, possibly using the UNESCO-WCO Model Export Certificate for Cultural Objects (see I. C. below);
 - f. Establish a national inventory system of cultural heritage (in particular public and private cultural property whose loss, destruction and/or export would constitute an impoverishment of the national cultural heritage);
 - g. Recommend or ensure more broadly the making of inventories, and the use of the Object ID standard (to be distinguished from inventorying), to facilitate prompt circulation of information in case of crime (see II. F. below);
 - h. Ensure that antique dealers keep a registry of all transactions of cultural objects, including name of seller/buyer, date, description of the object, price, provenance, and export (or import if required) certificate. Such records are to be kept for a reasonable period of time and made accessible to national authorities;
 - i. Establish and finance national services/units focused on the protection of cultural heritage, in particular against illicit trafficking, and increase national institutional capacity building in cultural heritage protection, including public education campaigns and sensitization on cultural heritage importance, laws and protection measures;
 - j. Elaborate and require policies for museums and collections that prevent acquisition of stolen, looted, or illegally exported cultural objects and facilitate returns thereof (see for instance the ICOM Code of Ethics for Museums 2004)³;

3. Selected Articles from the ICOM Code of Ethics for Museums 2004:

2.2 Valid Title

No object or specimen should be acquired by purchase, gift, loan, bequest, or exchange unless the acquiring museum is satisfied that a valid title is held. Evidence of lawful ownership in a country is not necessarily valid title.

2.3 Provenance and Due Diligence

Every effort must be made before acquisition to ensure that any object or specimen offered for purchase, gift, loan, bequest, or exchange has not been illegally obtained in or exported from, its country of origin or any intermediate country in which it might have been owned legally (including the museum's own country). Due diligence in this regard should establish the full history of the item from discovery or production. ➤

- k. Impose sanctions (criminal and/or administrative and/or civil) to deter wrongdoers and to serve justice on violators in a manner compatible with the national/local socio-economic situation; and
- l. Elaborate specific measures for the protection of underwater cultural heritage⁴.

3. Proper Implementation

With strong national legislation on the protection of cultural property enacted, States should take all necessary steps to ensure that it is properly implemented. In general, this requires:

- a) adequate human and financial resources, expertise, as well as cooperation and networking with stakeholders (co-interested States, relevant organizations, police forces, customs etc.) at the local, regional, national, and international level;
- b) an effective national policy (political, legislative, administrative) with its specific operational units and programs in place;
- c) accessibility of the legislation to facilitate better knowledge of it so that potential purchasers and dealers may consult the legislation and thereby perform preventively part of their due diligence exercise. This is possible, in particular, through the
 - elaboration of official government web sites on the Internet that present national policies and include the legislation; and
 - the posting of the legislation on the UNESCO Cultural Heritage Laws Database (see II. B. below).



2.4 *Objects and Specimens from Unauthorised or Unscientific Fieldwork*

Museums should not acquire objects where there is reasonable cause to believe their recovery involved the unauthorised, unscientific, or intentional destruction or damage of monuments, archaeological or geological sites, or species and natural habitats. In the same way, acquisition should not occur if there has been a failure to disclose the finds to the owner or occupier of the land, or to the proper legal or governmental authorities.

6.2 *Return of Cultural Property*

Museums should be prepared to initiate dialogues for the return of cultural property to a country or people of origin. This should be undertaken in an impartial manner, based on scientific, professional and humanitarian principles as well as applicable local, national and international legislation, in preference to action at a governmental or political level.

6.3 *Restitution of Cultural Property*

When a country or people of origin seek the restitution of an object or specimen that can be demonstrated to have been exported or otherwise transferred in violation of the principles of international and national Conventions, and shown to be part of that country's or people's cultural or natural heritage, the museum concerned should, if legally free to do so, take prompt and responsible steps to co-operate in its return.

6.4 *Cultural Objects From an Occupied Country*

Museums should abstain from purchasing or acquiring cultural objects from an occupied territory and respect fully all laws and Conventions that regulate the import, export and transfer of cultural or natural materials.

7.1 *National and Local Legislation*

Museums should conform to all national and local laws and respect the legislation of other states as they affect their operation.

4. See the UNESCO 2001 Convention for the Protection of the Underwater Cultural Heritage, in particular Articles 4 (law of salvage and of finds) and 14 (measures to prevent importation, the dealing in, or the possession of, underwater cultural heritage illicitly exported and/or recovered).

B Joining International Conventions

1. Nature, Scope and Effects

International Conventions (“treaties”) are essentially legal instruments elaborated and adopted by States. Even though adopted by a high number of States (for instance, within the UNESCO General Conference), they only become binding on those States that decide to join, which is usually done through the State’s ratification, accession, acceptance or approval of the Convention.⁵ Each international convention is legally binding only within its specific scope of application, which is generally determined by: i) its States parties (*ratione personae*); ii) the timeframe it covers (*ratione temporis*) since Conventions usually do not apply retroactively; and iii) its subject-matter (*ratione materiae*) (for example, cultural property as defined in the convention).



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2. Importance of Conventions and Interest for Member States to Consider Joining Them

International Conventions serve distinct purposes and are of crucial importance. Within their scope of application (see above), international conventions generally:

- a) provide an internationally agreed upon, and therefore uniform, framework, set of principles, and technical provisions that States Parties commit to operate under and implement domestically⁶. The benefit of such a uniform regime is that it regulates directly the subject matter within all the States Parties – everyone operates under the same rules so there are no disagreements or surprises when an action is taken pursuant to a provision of the Convention⁷, differently from what may occur when conventions do not apply⁸;
- b) entail revising or enacting new national legislation so as to meet the requirements of the treaty’s provisions; and
- c) may serve (for States not yet “Party”) as a basic guideline for the elaboration and/or strengthening of national legislation in the subject matter.

In view of their importance, UNESCO strongly encourages its Member States to consider joining its international conventions for the protection of cultural heritage in its

5. The International Standards Section in the Division of Cultural Heritage of UNESCO is available for consultations on the procedures for joining conventions and has available model instruments for this purpose.

6. Two main principles of the law of treaties are i) every treaty in force is binding upon the parties to it and must be performed by them in good faith; and ii) a party may not invoke the provisions of its internal law as justification for its failure to perform a treaty (1969 Vienna Convention, Articles 26 and 27).

7. For example, claims for restitution of stolen cultural objects made through one of the relevant conventions are all regulated in the same, uniform manner among States Parties (pursuant to that convention’s restitution provisions).

8. But the same restitution claim, when made **outside** a convention, would instead be regulated by whatever law that each forum would consider applicable under its conflict of laws rules, and depending on the content of the applicable law, the restitution claim may be either rejected – if the current possessor in good faith is deemed the new owner – or admitted if the claimant is still considered the owner of the object.

different forms⁹ so that legal protection of cultural heritage is strengthened at the national level and developed uniformly at the international level among States Parties.

3. How to Join Conventions

With due consideration to the specificity of each country and its legal system, the procedure for joining a convention generally involves:

a) *At national level:*

- i) a *political phase* in which the concerned ministries (Culture, Foreign Affairs, etc.) study the Convention and decide whether it is desirable to become a party to it; and
- ii) a *legal implementation phase* in which, depending on the legal system of the country concerned, the Convention's provisions are enacted domestically either by an all-encompassing reference to the Convention's text or by incorporating its provisions (except its final clauses) into the national law.

b) *At international level:*

- i) the *deposit of the instrument* expressing the consent of the State to be bound by the Convention (the instrument of ratification, acceptance, approval or accession) with the Director-General of UNESCO (or with the Government of the Italian Republic for the 1995 UNIDROIT Convention); and
- ii) the Convention enters into force vis-à-vis each new State Party generally three or six months after the date of deposit of its respective instrument.

4. Conventions Relevant to Illicit Trafficking

With regard to illicit trafficking in cultural objects, two international conventions and one protocol should be considered for ratification (if a State has not yet done so). These are: the 1954 Protocol to the *Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict*; the 1970 UNESCO Convention; and the 1995 UNIDROIT Convention. **Several important features** of these instruments are **highlighted below**, however the **entire text** should be considered.¹⁰

a) *The 1954 Protocol to the Hague Convention*

The Hague Convention of 1954 is the only international instrument aimed specifically at protecting cultural property during armed conflict and occupation. These situations are often accompanied by looting and illicit export of cultural property from occupied territories. The 1954 Protocol to the Hague Convention (which interested States may join separately from the

9. Consult the 1954 (armed conflict), 1970 (illicit traffic), 1972 (world heritage), 2001 (underwater), 2003 (intangible), and 2005 (cultural diversity) UNESCO Conventions at www.unesco.org/culture/whlp.

10. Full texts, States Parties, and other information are available on the UNESCO and UNIDROIT web sites: www.unesco.org/culture/whlp and www.unidroit.org.



1954 Convention itself) specifically states that cultural property shall never be retained as war reparation, and requires each State Party, among other things, to:

- (i) prevent the exportation of cultural property from a territory occupied by it during an armed conflict;
- ii) take into its custody cultural property imported into its territory either directly or indirectly from any occupied territory; and
- iii) return, at the close of hostilities to the competent authorities of the territory previously occupied, such cultural property which is in its territory, and pay an indemnity to the holders in good faith of such property.

b) The UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1970)



This is the pioneer and most broadly ratified international convention that exists on the issue of illicit trafficking in cultural property. Its role is three-fold, providing its States Parties with:

- i) *Preventive measures to be taken:* in particular, inventories, export certificates, monitoring trade, the imposition of penal or administrative sanctions, and educational campaigns. Per the Convention's Article 7, States Parties undertake:
 - (a) to take the necessary measures, consistent with national legislation, to **prevent** museums and similar institutions within their territories from acquiring cultural property originating in another State Party which has been **illegally exported** after entry into force of this Convention, in the States concerned;
 - (b) to **prohibit the import** of cultural property stolen from a museum or a religious or secular public monument or similar institution in another State Party to this Convention after the entry into force of this Convention for the States concerned, provided that such property is documented as appertaining to the inventory of that institution.
- ii) *Restitution provisions:* Per Article 7 (b) (ii) of the Convention, States Parties undertake, at the request of the State Party of origin, to take appropriate steps to recover and return any such cultural property imported after the entry into force of this Convention in both States concerned, provided, however, that the requesting State shall pay just compensation to an innocent purchaser or to a person who has valid title to that property. Requests for recovery and return shall be made through diplomatic offices.

This important provision covers only inventoried objects stolen from a museum, religious or secular public monument or similar institution (objects issuing from an illicit excavation or stolen from a private home are excluded).

More indirectly and subject to domestic legislation, Article 13 of the Convention also provides provisions on restitution and cooperation. It reads as follows:

“The States Parties to this Convention also undertake, consistent with the laws of each State:

- (a) to prevent by all appropriate means transfers of ownership of cultural property likely to promote the illicit import or export of such property;
- (b) to ensure that their competent services co-operate in facilitating the earliest possible restitution of illicitly exported cultural property to its rightful owner;
- (c) to admit actions for recovery of lost or stolen items of cultural property brought by or on behalf of the rightful owners;
- (d) to recognize the indefeasible right of each State Party to this Convention to classify and declare certain cultural property as inalienable which should therefore ipso facto not be exported, and to facilitate recovery of such property by the State concerned in cases where it has been exported.”

iii) *International cooperation framework*: If the idea of strengthening cooperation among and between States Parties is present throughout the Convention, in case cultural patrimony is in jeopardy from pillage Article 9 provides a possibility for more specific undertakings such as a call for import and export controls:

“Any State Party to this Convention whose cultural patrimony is in jeopardy from pillage of archaeological or ethnological materials may call upon other States Parties who are affected. The States Parties to this Convention undertake, in these circumstances, to participate in a concerted international effort to determine and to carry out the necessary concrete measures, including the control of exports and imports and international commerce in the specific materials concerned. Pending agreement each State concerned shall take provisional measures to the extent feasible to prevent irremediable injury to the cultural heritage of the requesting State.”

This Article, for instance, has been used by the United States as the basis for certain bilateral treaties.



c) *The UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects (1995)*

UNESCO strongly promotes this important instrument, as it is complementary to the 1970 UNESCO Convention from a private law perspective. Indeed, it was UNESCO that commissioned the International Institute for the Unification of Private Law to study private law issues that were not directly regulated by and that could hinder proper implementation of the 1970 UNESCO Convention.

- i) *Content*: unlike the 1970 UNESCO Convention, under the 1995 UNIDROIT Convention:
 - focus is on a uniform treatment for restitution of stolen or return of illegally exported cultural objects;
 - claims are processed directly through national courts (or other competent authorities) of States Parties. In case of theft claimants may be individuals,

entities, or States (Parties), while in case of illicit export, claimants are exclusively States (Parties);

- time limitations for bringing restitution or return claims are set (Articles 3 and 5);
- all stolen and/or illicitly exported cultural objects are covered, not just inventoried objects (as under Article 7 (b) (ii) of the 1970 UNESCO Convention) and are to be returned under the relevant provisions;
- cultural objects that have been unlawfully excavated are to be considered stolen and protected (i.e. restituted) as such if this is consistent with the law of the State where the excavation took place. Therefore, if a State Party has specified in its legislation the State's ownership of illicitly excavated objects, then this State may request restitution and benefit from the regime applicable to stolen objects vis-à-vis a possessor in another State Party; and
- return of even illegally exported cultural objects is due if the requesting State establishes that the object is of a significant cultural importance for it (see Article 5 (3)).

- ii) *Good faith holders, innocent purchasers, and compensation*: under the 1954 Protocol to the Hague Convention indemnity is to be paid to “holders in good faith”, and under the 1970 UNESCO Convention “just compensation” is to be paid to “the innocent purchaser or person who has valid title”. To prevent misreading of these provisions, attention is to be drawn to the fact that they give a right to indemnity or compensation not to the thief or to the receiver of a stolen object but to a third person that acquired the object in good faith (i.e. without knowledge of its illicit provenance).

The 1995 UNIDROIT Convention goes further, moralizing trade by conditioning compensation to (due or reasonable) diligence: “The possessor of a stolen cultural object required to return it shall be entitled, at the time of its restitution, to payment of fair and reasonable compensation provided that the possessor neither knew nor ought reasonably to have known that the object was stolen and can prove that it exercised due diligence when acquiring the object” (Article 4 (1)). This diligence test may include a review of the character of the parties, the price paid, whether accessible registers of stolen cultural objects and other relevant documentation were consulted, and whether accessible agencies were consulted (Article 4 (4)). Similar, but distinct, provisions for restitution of illegally exported cultural objects are also set out in the Convention (Article 6).



C Using the UNESCO-WCO Model Export Certificate for Cultural Objects

Developed jointly between UNESCO and the World Customs Organization, the Model Export Certificate is another useful measure to fight against illicit trafficking in cultural property. It is designed specifically for cultural objects because in most countries the same export form is used for “ordinary” objects (computers, clothes etc.) as well as for cultural objects. This model fulfils requirements useful to identifying and tracing cultural objects, yet it is not overly burdensome for exporters and customs officials. If it is extensively adopted worldwide and therefore operates as an international standard, it will benefit States and facilitate the work of police and customs officials. Issued to their respective Member States in 2005, UNESCO and the WCO recommend adopting the model, in its entirety or in part, as the national export certificate specifically for cultural objects. Both the 1970 UNESCO and the 1995 UNIDROIT Conventions refer to the use of export certificates for cultural objects. The Model Export Certificate and Explanatory Notes are available on line at <http://www.unesco.org/culture/laws/illicit> in Arabic, Chinese, English, French, Russian and Spanish, and States may down-load the certificate and adapt it to their needs, using their own heading, paper and other formalities.



D Facilitating Bilateral Negotiations through the UNESCO Intergovernmental Committee

A State that lost certain cultural objects of fundamental significance and that is calling for their restitution (or return) in cases where international conventions cannot be applied (in particular because they do not apply retroactively) may wish to take forward bilateral negotiations thereon within the *Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in case of Illicit Appropriation*. The Committee was established by UNESCO’s General Conference in 1978, is composed of 22 UNESCO Member States and meets every two years. It is an intergovernmental body that provides a unique framework for discussion, and facilitates negotiation for restitution of cultural property, thus contributing to non-judicial settlement of disputes. Its mandate includes mediation and conciliation options, as well as public information campaigns on illicit trafficking and restitution issues. For further information on the Committee, please consult on the Internet: <http://www.unesco.org/culture/laws/returncommittee>

PART II PRACTICAL MEASURES AND TOOLS

A A Basic Check-List of Practical Measures



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Most of the legal measures discussed in Part I above manifest themselves as practical measures when implemented. Whether they derive from national legislation or not, at least the following basic practical and protective measures, in addition to the legal measures discussed above, should be considered by States and other relevant entities:

- a) Establish and keep up to date inventories of categories of national cultural heritage;
- b) Encourage use of the Object ID standard (see II. F. below);
- c) Include national legislation dealing with the protection of all forms of cultural heritage or property, and currently in force, on the UNESCO Cultural Heritage Laws Database (see II. B. below);
- d) Provide specialized training to police and customs agents, familiarizing them with the stolen works of art databases, as INTERPOL's (see II. E. below), and establish a working network among them at the national, regional and international levels;
- e) Form and fund specific and active cultural heritage protection units within the government and relevant entities;
- f) Protect and police archaeological sites;
- g) Encourage contact/cooperation with dealers and recommend them to regularly consult relevant legislation on the UNESCO Cultural Heritage Laws Database (see II. B below) as well as stolen cultural property databases, and take a clear position against illicit trafficking by adhering to the UNESCO International Code of Ethics for Dealers in Cultural Property (see II. C. below) or equivalent professional rules;
- h) Undertake regular educational campaigns targeting the public at large to stimulate and develop respect for cultural heritage and raise awareness of laws and issues relating to illicit trafficking;
- i) Monitor sales of cultural objects on the Internet; and
- j) Ensure broad use of anti-theft and other security measures.

B Preventive Consultation of Legislation on the UNESCO Cultural Heritage Laws Database

<http://www.unesco.org/culture/natlaws>

II. B

This Database aims at making the cultural heritage legislation of States easily available via the Internet. It is particularly useful to organizations, institutions, private entities or individuals having a legal question concerning an object that may have been stolen, pillaged or illegally excavated, illegally exported or imported, and/or be subject to State ownership under the relevant legislation. In particular, it provides purchasers and dealers with easy access to legislative texts, thereby facilitating their due diligence efforts.

The Database aims at making available for a given State: i) all cultural heritage legislation currently in force (whether for heritage sites, archaeological sites, moveable cultural objects, underwater cultural heritage or intangible cultural heritage); ii) their import or export certificate if required by law; iii) their contact information so that one may address specific questions to the correct government office responsible for cultural heritage; and iv) the link to their official website if they have one.

UNESCO strongly encourages its Member States to submit their legislation in electronic format for inclusion in the Database.¹¹

C The UNESCO International Code of Ethics for Dealers in Cultural Property

Differently from legal texts (law, decrees etc.), codes of ethics are not per se accompanied by a legal sanction in case of non-compliance. The growing concern for illicit trafficking in cultural property has led part of the trade in such property to accept as morally binding ethical principles of professional practice intended to distinguish between cultural property being illicitly and licitly traded, and to seek to eliminate the former. Adopted by the UNESCO Intergovernmental Committee for Promoting the Return of Cultural Property (see I. D. above), and endorsed by the 30th General Conference of UNESCO in 1999, this Code of Ethics states, among others, in its Article 1, that “professional traders in cultural property will not import, export or transfer the ownership of this property when they have reasonable cause to believe it has been stolen, illegally alienated, clandestinely excavated or illegally exported.” UNESCO encourages its Member States to promote and disseminate the Code of Ethics for consideration and acceptance among dealers in cultural objects¹².

11. For more information contact the International Standards Section in the Division of Cultural Heritage, UNESCO.

12. The complete text of the UNESCO International Code of Ethics for Dealers in Cultural Property is included in the *Resource Materials* of this handbook.



D The International Council of Museums (ICOM)

a) The ICOM *Code of Ethics for Museums 2004*¹³ guides museum practice by professionals and institutions, and provides a means of professional self-regulation in a key area of public provision where legislation at a national level is variable and far from consistent. It sets minimum standards of conduct and performance, which museum professional staff throughout the world is encouraged to implement. Museums and individuals wishing to become ICOM members must agree to adopt its principles.

b) The ICOM *“Red List”* is a representative list of general **types** or **categories** of objects, generally protected by legislation, that are severely threatened by and most likely to be subjected to illicit trafficking. It is designed to help customs officials, police officers, art dealers and collectors to recognize such objects: it cautions potential buyers from purchasing them if no provenance papers are available, and it should cause the authorities to seize them when there is presumption of illicit provenance pending further enquiries. Drawn up by international experts, the Red List is in no way exhaustive in terms of objects at risk and requiring particular attention. As of March 2006, ICOM has produced the following three Red Lists: African Archaeological Cultural Objects at Risk (2000); Latin American Cultural Objects at Risk (2003); and Iraqi Antiquities at Risk (2003), with a fourth focused on Afghanistan underway.

c) The *“100 Missing Objects” Series* of publications presents a selection of objects that have been illegally removed from public collections or archaeological sites. Excerpts from the relevant laws of the countries concerned are also provided. The series helps raise public awareness as well as identify objects. As of March 2006, the series includes four publications: Looting in Angkor (1997); Looting in Africa (1997); Looting in Latin America (1997); and Looting in Europe (2001), with a fifth publication focusing on Arab countries underway.

E The INTERPOL Stolen Works of Art Database

Interpol has established a stolen works of art database.¹⁴ While the vast majority of information concerns stolen cultural property, some information is related to objects that have been seized by law enforcement agencies with a view to identifying their legitimate owners. Following the rules of data processing, the information for the Database is provided by the Interpol National Central Bureaus of the Organization’s member countries, and on the basis of specific co-operation agreements, by UNESCO and ICOM. Information covers all types of works of art, cultural property and antiques that are linked to a criminal offence and that are uniquely identifiable. That is why, with a few exceptions, the recorded items are all backed up with photographs. All Interpol member countries have a direct remote access, and the National Central Bureaus are invited to grant access to as many other law enforcement agencies within their countries as possible. Whereas the Database is only accessible by law enforcement, the Interpol General Secretariat provides access to the same type of information to other institutions, cultural bodies, art trade professionals and the wider public by a CD-ROM, which is updated every two months and available by subscription, thus enabling a check prior to an acquisition.

13. All texts are available from ICOM or may be consulted on the ICOM website: <http://www.icom.museum>

14. Please see the Interpol web site at <http://www.interpol.int> then select “other crime areas”, then select “property crime”.



F Prompt Identification using the Object ID Standard

INTRODUCTION¹⁵

II. F

I. What is Object ID?

Object ID is an easy-to-use standard for recording data about cultural and natural objects. It helps institutions, communities, and individuals understand how to document art and antiques in a uniform manner and can assist in recovering cultural and natural objects in the event of theft, illicit export, loss, as well as recomposing such objects in case of partial destruction or deterioration.

The Object ID project was initiated in 1993 by the J. Paul Getty Trust, a leading institution in the promotion of the arts and the protection of cultural heritage. The Getty developed the standard, which was officially launched in 1997¹⁶ and incorporates the outcome of expert meetings and international surveys of existing practices, as well as consultations with law enforcement and customs agencies, museums, cultural heritage institutions, art trade and art appraisal organizations, and insurance companies. International agencies (UNESCO, ICOM, Interpol, etc.) promote the use of the Object ID standard, for which ICOM has currently the worldwide non-exclusive administrative rights.



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Relationship with Inventorying:

Object ID in no way replaces inventories based on higher scientific criteria, and better knowledge of the object. Object ID is therefore a minimum standard for identification purposes primarily to ensure prompt transmission of specific information to and from law-enforcement authorities and customs officials. It may also be used to complement inventories that, made according to various standards worldwide (depending on national and/or local scientific/financial/legal inputs), may not include photographs of the object or may be less informative than Object ID (in particular if the latter is enriched also with recommended supplementary information, see below). In such cases it is recommended that these inventories integrate required Object ID information.

II. Why this brief user's guide?

As part of the practical tools in the fight against illicit trafficking in cultural property, Object ID is briefly presented here in a way to enable specialists and non-specialists alike to record such property using: i) the official Object ID standard nine key points; and ii) the Object ID written description and photographs. A list of recommended supplemental information (not

¹⁵ The contribution of Ms Kara Abramson for a first draft of this section on Object ID is acknowledged and appreciated.

¹⁶ In partnership with the United Nations Educational, Scientific, and Cultural Organization (UNESCO); Interpol; the Council of Europe; the International Council of Museums; the Conference for Security and Cooperation in Europe; and the United States Information Agency.

formally part of the Object ID standard) is also provided. For more information please contact UNESCO¹⁷ or ICOM¹⁸ and consult resources¹⁹.

III. How to use Object ID

A. Tools required:

Implementing the Object ID standard is simple. Essentially, it requires no more equipment than a pen, paper, tape measure, and camera. Object ID can be adapted to both paper and digital record-keeping systems and is compatible with other art-identification standards.

B. Complete the Object ID record:

The checklist of nine categories, the written description, and photographs, using the explanations and record sheet provided herein.

C. File the Object ID record:

- Whether in hardcopy or in electronic format (and possibly in both formats), the completed record should be filed in a safe, central location from which it can be retrieved easily.
- If possible, it is useful to have a second copy of the record filed in a second location (e.g. one copy with the museum and another with the relevant ministry or local authority).

D. Retrieve and transmit the record:

- The person(s) maintaining the file should know what specific steps to take in the event the record needs to be retrieved following the object's theft (and possibly illicit export or loss) or for another purpose (e.g., updating the record).
- It is imperative that this record be immediately provided to police, customs officials and other relevant actors in the event the object is stolen (and possibly illicitly exported or lost), so that they can act quickly to try to identify the current possessor and recover the object. Local police must inform the Interpol National Central Bureaus, which forward the information to the Interpol General Secretariat in Lyon, France²⁰ in order that the relevant data and photographs will be inserted into the Interpol Works of Art Database.



17. International Standards Section, UNESCO, 1, rue Miollis, 75732 Paris Cedex 15, France; Tel: +33 (1) 45 68 44 37; Fax: +33 (1) 45 68 55 96; Email: ins.culture@unesco.org

18. The International Council of Museums (ICOM), 1, rue Miollis, 75015 Paris, France; Tel: +33 (0)1 47 34 05 00; Fax: +33 (0)1 43 06 05 54; Email: secretariat@icom.museum.

19. J. Paul Getty Foundation [<http://www.getty.edu>].

ICONCLASS Website [<http://www.iconclass.nl/>].

J. Paul Getty Trust, *Art & Architecture Thesaurus® Online* [http://www.getty.edu/research/conducting_research/vocabularies/aat/].

J. Paul Getty Trust, *Union List of Artist Names® Online* [http://www.getty.edu/research/conducting_research/vocabularies/ulan/].

Object ID Check-List available in English, French, Spanish, Russian, Arabic, and Chinese from the International Council of Museums (ICOM), Maison du l'UNESCO, or from UNESCO, or on the Internet in English at [<http://www.icom.museum/object-id>].

Thornes, R. et al. *Introduction to Object ID*. Los Angeles: Getty Information Institute, 1999.

20. INTERPOL General Secretariat, 200, quai Charles de Gaulle, 69006 Lyon, France, Fax: (33) 4 72 44 76 32, E-mail: woa@interpol.int

THE NINE OBJECT ID INFORMATION CATEGORIES

CATEGORY 1: **Type of Object**

What is the object in question? This information can be provided by a single word. Thereafter, more precision may also be provided with a descriptive phrase.

Examples

<i>Single-word description</i>	<i>Descriptive phrase</i>
* Painting	* Romano-Egyptian triptych
* Cup	* Silver eighteenth-century Kiddush cup
* Book	* Illustrated fourth edition of <i>Paradise Lost</i>
* Statue	* Gupta-era standing Buddha
* Vase	* Decorated centennial vase
* Ring	* Cameo gem ring

II. F



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If an object is known by several names, it is useful to include them as synonyms to the most widely used expression, which is known as the “preferred term”. Listing multiple names can increase the chances of retrieval. See the J. Paul Getty Trust’s Art & Architecture Thesaurus® Online [http://www.getty.edu/research/conducting_research/vocabularies/aat/] for a searchable database of terms that describe cultural objects.

Examples

- * polycandela (preferred term). Also known as: polycandelon; lamp-dishes, pendant; pendant lamp-dishes.
- * Armenian lace (preferred term). Also known as: *Bebilla*; Armenian knotted lace; lace, Armenian.
- * sixpence (preferred term). Also known as: pieces, sixpenny; sixpences; sixpenny pieces.

For an object made of several separate parts (e.g., a tea service or jewellery set), the items may be documented individually or grouped together into a single entry; in the latter case, a list of each item in the set should be included within the record’s written description (see p.23, below, for more information on preparing this description).

CATEGORY 2: **Materials & Techniques**

This category notes what an object is made of (e.g., wood, paper, glass) and how it is made (e.g., etched, moulded, hand-sewn). Materials may be expressed in general terms, but where possible, more specific information is helpful (e.g., “pine” instead of “wood,” or “parchment” instead of “paper”). If there is uncertainty about the exact material, use the broad term (e.g. “metal”) and provide the possible qualifications (e.g., “bronze or brass”). When determining this information, be aware that some objects may be made from multiple materials or through multiple techniques. If a single color or a few colors dominate the object, this may be included in the record, however if there are many colors (as in most paintings) then including them in the record is not recommended.

Examples

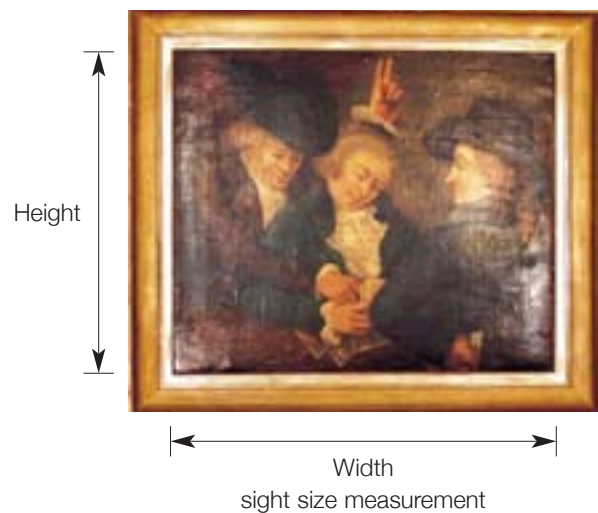
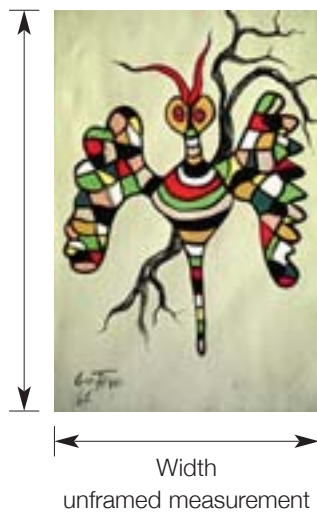
- * glazed hand-built bowl atop gilt-embossed silver base
- * carved wooden mask (looks like mahogany or ironwood), top half bordered by peacock feathers
- * woven yellow silk exterior padded with cotton and lined in the back with purple cotton cloth

CATEGORY 3: Measurements

The way measurements are made varies depending on the type of object in question. In all cases, however, it is important to note the unit of measurement used (e.g., centimeters, inches, grams, ounces, pounds, kilos,) and the dimensions measured (e.g., height, width). Precise measurements are best, but if this is not possible, record the approximate measurement, making note in the record that the measurement is estimated and not exact.



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Examples

Paintings, prints, and drawings: List height and width in that order. Be sure to specify whether the measurement is of the “sight size” (the portion visible within a picture frame) or of the item unframed. If a painting can be easily detached from its frame, it is better to record the unframed measurement.

Sculptures: Record the weight, if possible, and certainly the height, width, and depth, as well as length of the object if its length exceeds its height. Measure at the highest and widest points of the object. For irregularly shaped objects, note at what locations on the object the measurements are made (e.g., height 44 inches, width 23 inches from tip of the figure’s bent elbow to outstretched hand of child sitting in the figure’s lap).

Circular objects: Measure the diameter.

Furniture: Record the height first, followed by width and depth (e.g., height 45 x width 20 x depth 15 cm).

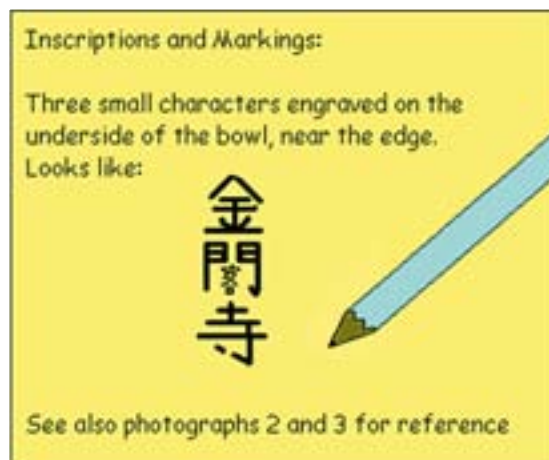
Carpets and Tapestries: Record length and width, or diameter in the case of circular objects.

Precious metals: Record both the size and weight.



CATEGORY 4: **Inscriptions & Markings**

Examples of inscriptions and markings to be recorded include serial numbers, visual images, security markings, inventory numbers, signatures, and textual inscriptions. Be sure not only to copy down what the marking says or looks like, but also to note where the mark or inscription is located on the object. Record text exactly as it is written, even if there are mistakes, which may be noted in the record by use of the [sic] sign, or even if it is illegible in whole or in part. Record the text in its original language, including, where possible, a translation. If the inscription is in an unfamiliar script that is difficult to reproduce, you may describe its appearance or note whatever features you can about the writing; drawing a sketch or taking a photograph (see p. 24) can aid in recording the details. Note that some inscriptions, such as a title or distinctive feature, should be cross-listed in other Object ID categories.



Examples

- * Small flower, approximately 1-inch high, engraved on the bottom of the front right leg.
- * Two lines of text in Arabic script on upper left corner of tray. See photograph for reference.
- * Inscription in German on front base of statue: ‘Ich unglücksel’ger Atlas! Eine Welt, Die ganze Welt der Schmerzen muß ich tragen, Ich trage Unerträgliches, und brechen Will mir das Herz im Leibe.’ Translation: ‘I, the unfortunate Atlas! A world, the whole world of pain, is my burden; that which cannot be born, I bear, and my heart within longs to break.’
- * Inscription on underside of plate: “Made for the Honorable [sic] [name mostly illegible – ends in “ie”?] on this da[y] June [3 or 8] [year illegible].

CATEGORY 5: **Distinguishing Features**

This category refers to any unique feature that sets an object apart from items of similar design. This includes physical defects, signs of repairs, and manufacturing defects. The best way to note a distinguishing feature is to accompany a written description of it with a photograph and a sketch; the written description should record the location of the feature. The distinguishing features selected for the record should be visible to the plain eye; it is also best to choose features that cannot be easily altered in the event of theft. The features chosen will vary according to the object in question and may include:

Paintings: Cracks, repairs, border irregularities, holes, distinctive brush strokes, stains. Some features, such as stamps or inscriptions, may be found on the reverse side of the painting.

Paper: Rips, holes, stains, watermarks, repairs, abrasions, edge patterns, creases, restorations, cropping.

Wood: Grain patterns, saw-mark patterns, joinery details, surface coatings, irregularities in inlay details.

Metals: Casting flaws, scratches, dents, abrasions, irregular welds.

Textiles: Tears, stains, color blotches, holes, repairs, worn spots, irregular weave.

Glass: Chips, cracks, bubbles, scratches, irregular surface textures or colors, glaze cracks, repairs.

CATEGORY 6: **Title**

Some, but not all objects, will have titles, and some objects may be known by several different titles. Sometimes the object will have no formal title, but has come to be known by a specific name. An object also may be known by different names in different countries. Try to note as many of the titles known, and if possible, to record the title in its original language as well as in translation. A title visible on an object should also be noted under the category for Inscriptions & Markings. The title is distinct from the subject (landscape, portrait, still-life, etc. are subjects). However, if the title describes the object's subject matter, it should be recorded **again** in the Subject category.

Examples

- * The Gleaners (original: Les Glaneuses)
- * Portrait of Piotr Bakin at Age 5 (artist's title); Boy with the Red Cap (popular title).
- * The al-Mughira Pyxide.

CATEGORY 7: **Subject**

This category describes what the cultural object aims to represent, and is potentially one of the most important ways of identifying the object. It is essential to use terms that are obvious to others, knowing that different individuals may describe the same object in different ways. While a more specific or technical description may convey the most information, it is important to provide a description accessible to non-specialists. The subject is recorded through keywords that provide a more accurate retrieval of or match with records.

Examples

- * Virgin and child
- * Standing figure of a man
- * Exterior scene with dogs
- * Still-life with fruit
- * Seascape with vessels
- * Monetary designs, sovereigns





CATEGORY 8: **Date or Period**

If a specific date (e.g., 1789; seventh year of the reign of the Kangxi Emperor) cannot be established, note the approximate date by using date ranges (e.g., 1469-1473), dynastic periods (e.g., late Shilla, Sassanian, early Aztec), parts of the century (late fourteenth century, first quarter of the sixteenth century), or cultural periods (e.g., Yayoi). Qualifiers like “probably” and “circa” may be added to refine a date. Period names specific to one country are to be avoided when providing information for international circulation.

If a cultural object has been altered at a later date, note both relevant dates (e.g., late fifteenth century, reworked probably early twentieth century). Similarly, if an object consists of component parts made in different eras, note the different dates (e.g., altarpiece early thirteenth century, base of altar late sixteenth century).

CATEGORY 9: **Maker**

The maker of a particular object may include a person or persons, a community, a company, or a workshop. Because some artists may be known by different names or spellings, it is useful to list the variations. See the J. Paul Getty Foundation’s *Union List of Artist Names® Online* [http://www.getty.edu/research/conducting_research/vocabularies/ulan/] for a database of names and variant spellings. Adding the dates an individual maker lived, or the dates in which she or he worked, is useful in the case of well-known artists. If different individuals worked on different parts of a cultural object, note this as well. If the maker is not clear, qualifiers such as “attributed to”, “school of/studio of”, may be added.

Examples

- * Kosrof, Wosene (preferred); see also Wosene Kosrof; Kosrof Wosene Worke
- * Zhuang people, Southwest China
- * American Pottery Manufacturing Company
- * Attributed to Abu’l-Hassan (preferred); see also Abu’l Hassan
- * Cabinet maker: Adam Weisweiler; porcelain gilder: Henry-François Vincent, le jeune

OBJECT ID WRITTEN DESCRIPTION

In addition to the nine categories explained above, Object ID requires a written description of the object and documenting the object with photographs.

A brief narrative description of the object’s appearance and condition is useful, including details not noted elsewhere. To establish ownership, it is also important to include other information concerning provenance and ownership history (including dates and location of ownership of the object and its display history, if any), and references to any works written about the object, if this information is known but is not included as separate categories within the record. Also, when possible, indicate the existence of provenance documents.

OBJECT ID PHOTOGRAPHS

Good photographs are vital for identifying cultural or natural objects that have been stolen (and possibly illicitly exported or lost). It is important to photograph an object in a way that reveals the most information about the piece, in the most accurate manner. To achieve this, keep in mind the following points:

- For paintings and other flat objects, the ideal viewpoint is 90 degrees from the center of the object. Multisided objects are best documented from a three-quarter view. Objects such as bowls are best viewed from a shallow angle above the item, so that part of the top of the object, as well as its sides, are visible. Taking more than one photo, from different angles, will also help provide a more complete visual record of an object.
- Placing a photographic scale and color reference card upright alongside the object (without touching it) can help document its precise color and size.
- The best background for photographing depends on the color of the object; black or white backgrounds typically provide the most suitable contrast.
- In general, the source of light for the photograph should come from above, top left. Daylight is often the best source, although lamplight is also feasible. Use of a flash should be avoided as it can interfere with the clarity of the object. Ensure that no hard shadows are thrown across the body of the object.
- Glass objects are particular and are hard to photograph. Using different backgrounds and lighting from the side and/or below may be useful.



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SUPPLEMENTARY USEFUL INFORMATION

As explained, Object ID is a minimum standard. However you may wish to include the following supplementary information in your record, listed as separate entries within a record, or integrated into the written description of the object. Supplementary information recommended by the J. Paul Getty Foundation, UNESCO and ICOM:

- Inventory number: If this is physically present on the object, it should also be noted in the Inscriptions & Markings category;
- Related written material: References to written works about this object;
- Place of Origin/Discovery: The location where the object was made or first discovered;
- Cross Reference to Related Objects: May include references to similar objects within other collections;
- Date Documented: Provide the date the Object ID record was made and its author;
- Present condition of the object;
- Permanent Location;
- Name of institution that houses the object;
- Location within the institution;
- Date of acquisition or accession;
- Acquisition or accession method;
- Date of inventory;
- Most recent update of inventory;
- Loan history, including:
 - Places/institutions/individuals to which the item has been loaned (if any)
 - Date of loan approval
 - Starting date of loan
 - Duration of loan
 - Date of return



MODELS FOR RECORDING DATA

On the following pages are several models for recording data using Object ID.

1. The first item is a Record Sheet based on the Object ID standard, providing space to record all of the nine Object ID checkpoints, written description and photographs.
2. The second item is a page providing room for additional, useful, optional information.
3. The third item is a sample entry prepared using the record sheets.
4. The final example illustrates how the Object ID standard may be incorporated into an existing record-keeping system.

Supplementary Useful Information (optional)

(Recommended by the J. Paul Getty Foundation, UNESCO and ICOM)

1. Inventory Information:

a. Inventory Number:

b. Date of Inventory:

c. Most Recent Update of Inventory:

2. Related written materials:

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3. Place of Origin/Discovery:

4. Cross Reference to Related Objects:

5. Present Condition of the Object:

6. Permanent Location of the Object:

7. Institution:

8. Location within the Institution:

9. Date of Acquisition or Accession:

10. Acquisition or Accession Method:

11. Loan History

a. Places/institutions/individuals to which the item has been loaned (if any):

b. Date of loan approval:

c. Starting date of loan:

d. Duration of loan:

e. Date of return:

12. Author and Date Record Prepared:

Prepared by:

Affiliation or title:

Address:

Telephone:

Fax:

Email:

Date:

Example 1: Record of painting prepared using the Object ID Record Sheet
Object ID Record Sheet

1. Type of Object:

PAINTING

2. Materials and Techniques:

OIL ON CANVAS

3. Measurements:

_____ height 70 (cm) by _____ width 52 (cm) by _____ ()
height or length unit of measure width unit of measure depth unit of measure

diameter _____ () weight _____ ()
unit of measure unit of measure

Additional notes or measures:

MEASUREMENT ABOVE IS FOR SIGHT SIZE.

4. Inscriptions & Markings:

WRITTEN AT BOTTOM CENTER OF PAINTING :

"DR. SARAH JOSHI IN HER OFFICE."

5. Distinguishing Features:

TWO-INCH CRACK ON BOTTOM RIGHTHAND SIDE OF IMAGE.

6. Title:

"PORTRAIT OF DR. SARAH JOSHI."

7. Subject:

PORTRAIT OF WOMAN

8. Date or Period:

LAST DECADE OF NINETEENTH CENTURY

9. Maker:

UNKNOWN

Short Description (attach additional sheets if necessary):

PORTRAIT OF THE WOMAN IS THREE-QUARTER LENGTH, THREE-QUARTERS VIEW. RIGHT HAND IS IN HER LAP, LEFT HAND IS HOLDING A STETHOSCOPE AND IS RESTING ON A DESK. PAINTING COLORS ARE SOMBER – MOSTLY BLUE, GREEN, GREY, BLACK AND BROWN. OTHER THAN THE SMALL CRACK, PAINTING IS IN GOOD CONDITION AND HAS BEEN WELL CARED FOR. PAINTING RECEIVED BY ANJALI JOSHI FROM GITU JOSHI, IN 1987. IT IS A PORTRAIT OF GITU JOSHI'S AUNT, DR. SARAH JOSHI (1845?-1903), WHO WAS ONE OF THE FIRST FEMALE PHYSICIANS IN BOMBAY AT THE END OF THE NINETEENTH CENTURY. GITU JOSHI LOANED THE PAINTING TO THE BOMBAY MEDICAL HISTORICAL SOCIETY FOR ITS 100TH ANNIVERSARY EXHIBITION, MARCH 1 – APRIL 15, 1984. A REPRODUCTION AND DESCRIPTION OF IT WERE PRODUCED IN THE CATALOGUE MADE FOR THIS EVENT, *A MISSION TO HEAL: THE MEDICAL PROFESSION IN BOMBAY 1884 – 1984*.

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Items attached (indicate number of each item):

2 photographs; 0 sketches; 1 other attachments (specify):

PAGES 13 – 15 OF A *MISSION TO HEAL*,

WHICH DESCRIBE THE PORTRAIT AND ITS SUBJECT.

Supplementary Useful Information (optional)

(Recommended by the J. Paul Getty Foundation, UNESCO and ICOM)

1. Inventory Information:

a. Inventory Number:

b. Date of Inventory:

c. Most Recent Update of Inventory:

2. Related written materials:

SEE SHORT DESCRIPTION, ABOVE

3. Place of Origin/Discovery:

COMMISSIONED BY DR. SARAH JOSHI IN BOMBAY

4. Cross Reference to Related Objects:

NONE

5. Present Condition of the Object:

VERY GOOD

6. Permanent Location of the Object:

HUNG ON THE LIVING ROOM WALL OF MY APARTMENT

7. Institution:

8. Location within the Institution:

9. Date of Acquisition or Accession:

 SEE SHORT DESCRIPTION, ABOVE

10. Acquisition or Accession Method:

 SEE SHORT DESCRIPTION, ABOVE

11. Loan History

a. Places/institutions/individuals to which the item has been loaned (if any):

 BOMBAY MEDICAL HISTORICAL SOCIETY

b. Date of loan approval:

 MY MOTHER, GITU JOSHI, AGREED TO LOAN THE PAINTING IN 1983,

 AFTER RECEIVING A LOAN REQUEST FROM THE MEDICAL HISTORICAL SOCIETY

c. Starting date of loan:

 FEBRUARY 15, 1984

d. Duration of loan:

 TWO AND A HALF MONTHS

e. Date of return:

 MAY 1, 2005

12. Author and Date Record Prepared:

Prepared by: ANJALI JOSHI

Affiliation or title:

Address: H.T. STREET, MUMBAI 410003, INDIA

Telephone: 95558755

Fax: 95558756

Email: A.JOSHI@STAR.NET

Date: MARCH 30, 2006

Example 2: Record of bowl that incorporates the Object ID standard into an existing record-keeping system

Record Number 493

Acquisition number 45681

MOUNTED TWO-HANDLED BOWL

General Information

1. Hard paste porcelain with enamel decoration and gilt bronze mounting
2. Height: 17.7 centimetres, Diameter: 38.1 centimetres
3. Mount attributed to Thomire, Pierre-Philippe (preferred); see also: Pierre Philippe Thomire; Thomire, Pierre Philippe
4. Bowl is Chinese, probably last quarter of seventeenth century. Mount is French, probably 1785.
5. Details
 - a. Bowl is pale blue with no pattern or design. See photograph of handles for detail work.
 - b. Underside of mount has crossed L mark engraved on it; initials underneath are impossible to read due to scratches.
 - c. Enamel is chipped in three places on lip of bowl.

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Cross Reference to Related Objects:

See item 45682 in museum collection. Also similar to mounted lidded bowl in the S. Diop collection, Dakar.

Provenance

This item was acquired by the museum on October 4, 2005 via a gift from an anonymous donor. According to the provenance record provided by the donor, the bowl was part of a collection from a southern French chateau, sold to a Parisian collector in 1830 and bought by the Jean-Etienne DuPont family in 1834. It remained in the family until 1954, when Paul DuPont sold it to the Tavares Art Gallery, Macao. The gallery sold it to its most recent owner in 1959, who in turn contacted the museum in July 2005 to discuss donating her collection. The final donation included a bowl of similar design (45682) but in poor condition. This bowl is scheduled to be displayed in Winter of 2006.

Attachments to this record: 4

- a. Photograph of bowl, standard view
- b. Photograph of detail work on right handle (identical to detail work on left handle)
- c. Photograph of chips on lip of bowl
- d. Photograph of mark and scratches on underside of mount

Record prepared by:

Y. Hamed, Acquisitions Department, November 30, 2005

Protocol to the Convention for the Protection of Cultural Property in the Event of Armed Conflict 1954

The Hague, 14 May 1954

The High Contracting Parties are agreed as follows:

I.

1. Each High Contracting Party undertakes to prevent the exportation, from a territory occupied by it during an armed conflict, of cultural property as defined in Article 1 of the Convention for the Protection of Cultural Property in the Event of Armed Conflict, signed at The Hague on 14 May, 1954.
2. Each High Contracting Party undertakes to take into its custody cultural property imported into its territory either directly or indirectly from any occupied territory. This shall either be effected automatically upon the importation of the property or, failing this, at the request of the authorities of that territory.
3. Each High Contracting Party undertakes to return, at the close of hostilities, to the competent authorities of the territory previously occupied, cultural property which is in its territory, if such property has been exported in contravention of the principle laid down in the first paragraph. Such property shall never be retained as war reparations.
4. The High Contracting Party whose obligation it was to prevent the exportation of cultural property from the territory occupied by it, shall pay an indemnity to the holders in good faith of any cultural property which has to be returned in accordance with the preceding paragraph.

II

5. Cultural property coming from the territory of a High Contracting Party and deposited by it in the territory of another High Contracting Party for the purpose of protecting such property against the dangers of an armed conflict, shall be returned by the latter, at the end of hostilities, to the competent authorities of the territory from which it came.

III

6. The present Protocol shall bear the date of 14 May, 1954 and, until the date of 31 December, 1954, shall remain open for signature by all States invited to the Conference which met at The Hague from 21 April, 1954 to 14 May, 1954.
7. (a) The present Protocol shall be subject to ratification by signatory States in accordance with their respective constitutional procedures.
(b) The instruments of ratification shall be deposited with the Director General of the United Nations Educational, Scientific and Cultural Organization.
8. From the date of its entry into force, the present Protocol shall be open for accession by all States mentioned in paragraph 6 which have not signed it as well as any other State invited to accede by the Executive Board of the United Nations

Educational, Scientific and Cultural Organization. Accession shall be effected by the deposit of an instrument of accession with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

9. The States referred to in paragraphs 6 and 8 May declare, at the time of signature, ratification or accession, that they will not be bound by the provisions of Section I or by those of Section II of the present Protocol.
10. (a) The present Protocol shall enter into force three months after five instruments of ratification have been deposited.
(b) Thereafter, it shall enter into force, for each High Contracting Party, three months after the deposit of its instrument of ratification or accession.
(c) The situations referred to in Articles 18 and 19 of the Convention for the Protection of Cultural Property in the Event of Armed Conflict, signed at The Hague on 14 May, 1954, shall give immediate effect to ratifications and accessions deposited by the Parties to the conflict either before or after the beginning of hostilities or occupation. In such cases, the Director-General of the United Nations Educational, Scientific and Cultural Organization shall transmit the communications' referred to in paragraph 14 by the speediest method.
11. (a) Each State Party to the Protocol on the date of its entry into force shall take all necessary measures to ensure its effective application within a period of six months after such entry into force.
(b) This period shall be six months from the date of deposit of the instruments of ratification or accession for any State which deposits its instrument of ratification or accession after the date of the entry into force of the Protocol.
12. Any High Contracting Party may, at the time of ratification or accession, or at any time thereafter, declare by notification addressed to the Director General of the United Nations Educational, Scientific and Cultural Organization, that the present Protocol shall extend to all or any of the territories for whose international relations it is responsible. The said notification shall take effect three months after the date of its receipt.
13. (a) Each High Contracting Party may denounce the present Protocol, on its own behalf, or on behalf of any territory for whose international relations it is responsible.
(b) The denunciation shall be notified by an instrument in writing, deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.
(c) The denunciation shall take effect one year after receipt of the instrument of denunciation. However, if, on the expiry of this period, the denouncing Party is involved in an armed conflict, the denunciation shall not take effect until the end of hostilities, or until the operations of repatriating cultural property are completed, whichever is the later.

14. The Director-General of the United Nations Educational, Scientific and Cultural Organization shall inform the States referred to in paragraphs 6 and 8, as well as the United Nations, of the deposit of all the instruments of ratification, accession or acceptance provided for in paragraphs 7, 8 and 15 and the notifications and denunciations provided for respectively in paragraphs 12 and 13.
15. (a) The present Protocol may be revised if revision is requested by more than one-third of the High Contracting Parties.
- (b) The Director-General of the United Nations Educational, Scientific and Cultural Organization shall convene a Conference for this purpose.
- (c) Amendments to the present Protocol shall enter into force only after they have been unanimously adopted by the High Contracting Parties represented at the Conference and accepted by each of the High Contracting Parties.
- (d) Acceptance by the High Contracting Parties of amendments to the present Protocol, which have been adopted by the Conference mentioned in sub-paragraphs (b) and (c), shall be effected by the deposit of a formal instrument with

the Director-General of the United Nations Educational, Scientific and Cultural Organization.

- (e) After the entry into force of amendments to the present Protocol, only the text of the said Protocol thus amended shall remain open for ratification or accession.

In accordance with Article 102 of the Charter of the United Nations, the present Protocol shall be registered with the Secretariat of the United Nations at the request of the Director-General of the United Nations Educational, Scientific and Cultural Organization.

IN FAITH WHEREOF the undersigned, duly authorized, have signed the present Protocol.

Done at The Hague, this fourteenth day of May, 1954, in English, French, Russian and Spanish, the four texts being equally authoritative, in a single copy which shall be deposited in the archives of the United Nations Educational, Scientific and Cultural Organization, and certified true copies of which shall be delivered to all the States referred to in paragraphs 6 and 8 as well as to the United Nations.

Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property

Paris, 14 November 1970

The General Conference of the United Nations Educational, Scientific and Cultural Organization, meeting in Paris from 12 October to 14 November 1970, at its sixteenth session, *Recalling* the importance of the provisions contained in the Declaration of the Principles of International Cultural Co-operation, adopted by the General Conference at its fourteenth session, *Considering* that the interchange of cultural property among nations for scientific, cultural and educational purposes increases the knowledge of the civilization of Man, enriches the cultural life of all peoples and inspires mutual respect and appreciation among nations, *Considering* that cultural property constitutes one of the basic elements of civilization and national culture, and that its true value can be appreciated only in relation to the fullest possible information regarding its origin, history and traditional setting, *Considering* that it is incumbent upon every State to protect the cultural property existing within its territory against the dangers of theft, clandestine excavation, and illicit export, *Considering* that, to avert these dangers, it is essential for every State to become increasingly alive to the moral obligations to respect its own cultural heritage and that of all nations, *Considering* that, as cultural institutions, museums, libraries and archives should ensure that their collections are built up in accordance with universally recognized moral principles, *Considering* that the illicit import, export and transfer of ownership of cultural property is an obstacle to that understanding between nations which it is part of UNESCO's mission to promote by recommending to interested States, international conventions to this end, *Considering* that the protection of cultural heritage can be effective only if organized both nationally and internationally among States working in close co-operation, *Considering* that the UNESCO General Conference adopted a Recommendation to this effect in 1964,

Having before it further proposals on the means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property, a question which is on the agenda for the session as item 19,

Having decided, at its fifteenth session, that this question should be made the subject of an international convention,

Adopts this Convention on the fourteenth day of November 1970.

Article 1

For the purposes of this Convention, the term 'cultural property' means property which, on religious or secular grounds, is specifically designated by each State as being of importance for archaeology, prehistory, history, literature, art or science and which belongs to the following categories:

- (a) Rare collections and specimens of fauna, flora, minerals and anatomy, and objects of palaeontological interest;
- (b) property relating to history, including the history of science and technology and military and social history, to the life of national leaders, thinkers, scientists and artists and to events of national importance;
- (c) products of archaeological excavations (including regular and clandestine) or of archaeological discoveries;
- (d) elements of artistic or historical monuments or archaeological sites which have been dismembered;
- (e) antiquities more than one hundred years old, such as inscriptions, coins and engraved seals;
- (f) objects of ethnological interest;
- (g) property of artistic interest, such as:
 - (i) pictures, paintings and drawings produced entirely by hand on any support and in any material (excluding industrial designs and manufactured articles decorated by hand);
 - (ii) original works of statuary art and sculpture in any material;

- (iii) original engravings, prints and lithographs;
- (iv) original artistic assemblages and montages in any material;
- (h) rare manuscripts and incunabula, old books, documents and publications of special interest (historical, artistic, scientific, literary, etc.) singly or in collections;
- (i) postage, revenue and similar stamps, singly or in collections;
- (j) archives, including sound, photographic and cinematographic archives;
- (k) articles of furniture more than one hundred years old and old musical instruments.

Article 2

1. The States Parties to this Convention recognize that the illicit import, export and transfer of ownership of cultural property is one of the main causes of the impoverishment of the cultural heritage of the countries of origin of such property and that international co-operation constitutes one of the most efficient means of protecting each country's cultural property against all the dangers resulting there from.
2. To this end, the States Parties undertake to oppose such practices with the means at their disposal, and particularly by removing their causes, putting a stop to current practices, and by helping to make the necessary reparations.

Article 3

The import, export or transfer of ownership of cultural property effected contrary to the provisions adopted under this Convention by the States Parties thereto, shall be illicit.

Article 4

The States Parties to this Convention recognize that for the purpose of the Convention property which belongs to the following categories forms part of the cultural heritage of each State:

- (a) Cultural property created by the individual or collective genius of nationals of the State concerned, and cultural property of importance to the State concerned created within the territory of that State by foreign nationals or stateless persons resident within such territory;
- (b) cultural property found within the national territory;
- (c) cultural property acquired by archaeological, ethnological or natural science missions, with the consent of the competent authorities of the country of origin of such property;
- (d) cultural property which has been the subject of a freely agreed exchange;
- (e) cultural property received as a gift or purchased legally with the consent of the competent authorities of the country of origin of such property.

Article 5

To ensure the protection of their cultural property against illicit import; export and transfer of ownership, the States Parties to this Convention undertake, as appropriate for each country, to set up within their territories one or more national services, where such services do not already exist, for the protection of the cultural heritage, with a qualified staff sufficient in number for the effective carrying out of the following functions:

- (a) contributing to the formation of draft laws and regulations designed to secure the protection of the cultural heritage and particularly prevention of the illicit import, export and transfer of ownership of important cultural property;
- (b) establishing and keeping up to date, on the basis of a national inventory of protected property, a list of important public and private cultural property whose export would constitute an appreciable impoverishment of the national cultural heritage;
- (c) promoting the development or the establishment of scientific and technical institutions (museums, libraries, archives, laboratories, workshops...) required to ensure the preservation and presentation of cultural property;
- (d) organizing the supervision of archaeological excavations, ensuring the preservation 'in situation' of certain cultural

property, and protecting certain areas reserved for future archaeological research;

- (e) establishing, for the benefit of those concerned (curators, collectors, antique dealers, etc.) rules in conformity with the ethical principles set forth in this Convention; and taking steps to ensure the observance of those rules;
- (f) taking educational measures to stimulate and develop respect for the cultural heritage of all States, and spreading knowledge of the provisions of this Convention;
- (g) seeing that appropriate publicity is given to the disappearance of any items of cultural property.

Article 6

The States Parties to this Convention undertake:

- (a) To introduce an appropriate certificate in which the exporting State would specify that the export of the cultural property in question is authorized. The certificate should accompany all items of cultural property exported in accordance with the regulations;
- (b) to prohibit the exportation of cultural property from their territory unless accompanied by the above-mentioned export certificate;
- (c) to publicize this prohibition by appropriate means, particularly among persons likely to export or import cultural property.

Article 7

The States Parties to this Convention undertake:

- (a) To take the necessary measures, consistent with national legislation, to prevent museums and similar institutions within their territories from acquiring cultural property originating in another State Party which has been illegally exported after entry into force of this Convention, in the States concerned. Whenever possible, to inform a State of origin Party to this Convention of an offer of such cultural property illegally removed from that State after the entry into force of this Convention in both States;
- (b) (i) to prohibit the import of cultural property stolen from a museum or a religious or secular public monument or similar institution in another State Party to this Convention after the entry into force of this Convention for the States concerned, provided that such property is documented as appertaining to the inventory of that institution;
- (ii) at the request of the State Party of origin, to take appropriate steps to recover and return any such cultural property imported after the entry into force of this Convention in both States concerned, provided, however, that the requesting State shall pay just compensation to an innocent purchaser or to a person who has valid title to that property. Requests for recovery and return shall be made through diplomatic offices. The requesting Party shall furnish, at its expense, the documentation and other evidence necessary to establish its claim for recovery and return. The Parties shall impose no customs duties or other charges upon cultural property returned pursuant to this Article. All expenses incident to the return and delivery of the cultural property shall be borne by the requesting Party.

Article 8

The States Parties to this Convention undertake to impose penalties or administrative sanctions on any person responsible for infringing the prohibitions referred to under Articles 6(b) and 7(b) above.

Article 9

Any State Party to this Convention whose cultural patrimony is in jeopardy from pillage of archaeological or ethnological materials may call upon other States Parties who are affected. The States Parties to this Convention undertake, in these circumstances, to participate in a concerted international effort to determine and to carry out the necessary concrete measures, including the control

of exports and imports and international commerce in the specific materials concerned. Pending agreement each State concerned shall take provisional measures to the extent feasible to prevent irremediable injury to the cultural heritage of the requesting State.

Article 10

The States Parties to this Convention undertake:

- (a) To restrict by education, information and vigilance, movement of cultural property illegally removed from any State Party to this Convention and, as appropriate for each country, oblige antique dealers, subject to penal or administrative sanctions, to maintain a register recording the origin of each item of cultural property, names and addresses of the supplier, description and price of each item sold and to inform the purchaser of the cultural property of the export prohibition to which such property may be subject;
- (b) to endeavour by educational means to create and develop in the public mind a realization of the value of cultural property and the threat to the cultural heritage created by theft, clandestine excavations and illicit exports.

Article 11

The export and transfer of ownership of cultural property under compulsion arising directly or indirectly from the occupation of a country by a foreign power shall be regarded as illicit.

Article 12

The States Parties to this Convention shall respect the cultural heritage within the territories for the international relations of which they are responsible, and shall take all appropriate measures to prohibit and prevent the illicit import, export and transfer of ownership of cultural property in such territories.

Article 13

The States Parties to this Convention also undertake, consistent with the laws of each State:

- (a) To prevent by all appropriate means transfers of ownership of cultural property likely to promote the illicit import or export of such property;
- (b) to ensure that their competent services co-operate in facilitating the earliest possible restitution of illicitly exported cultural property to its rightful owner;
- (c) to admit actions for recovery of lost or stolen items of cultural property brought by or on behalf of the rightful owners;
- (d) to recognize the inalienable right of each State Party to this Convention to classify and declare certain cultural property as inalienable which should therefore ipso facto not be exported, and to facilitate recovery of such property by the State concerned in cases where it has been exported.

Article 14

In order to prevent illicit export and to meet the obligations arising from the implementation of this Convention, each State Party to the Convention should, as far as it is able, provide the national services responsible for the protection of its cultural heritage with an adequate budget and, if necessary, should set up a fund for this purpose.

Article 15

Nothing in this Convention shall prevent States Parties thereto from concluding special agreements among themselves or from continuing to implement agreements already concluded regarding the restitution of cultural property removed, whatever the reason, from its territory of origin, before the entry into force of this Convention for the States concerned.

Article 16

The States Parties to this Convention shall in their periodic reports submitted to the General Conference of the United Nations Educational, Scientific and Cultural Organization on dates and in a manner to be determined by it, give information on the legislative and administrative provisions which they have adopted and other action which they have taken for the application of this Convention, together with details of the experience acquired in this field.

Article 17

1. The States Parties to this Convention may call on the technical assistance of the United Nations Educational, Scientific and Cultural Organization, particularly as regards:
 - (a) Information and education;
 - (b) consultation and expert advice;
 - (c) co-ordination and good offices.
2. The United Nations Educational, Scientific and Cultural Organization may, on its own initiative conduct research and publish studies on matters relevant to the illicit movement of cultural property.
3. To this end, the United Nations Educational, Scientific and Cultural Organization may also call on the co-operation of any competent non-governmental organization.
4. The United Nations Educational, Scientific and Cultural Organization may, on its own initiative, make proposals to States Parties to this Convention for its implementation.
5. At the request of at least two States Parties to this Convention which are engaged in a dispute over its implementation, UNESCO may extend its good offices to reach a settlement between them.

Article 18

This Convention is drawn up in English, French, Russian and Spanish, the four texts being equally authoritative.

Article 19

1. This Convention shall be subject to ratification or acceptance by States members of the United Nations Educational, Scientific and Cultural Organization in accordance with their respective constitutional procedures.
2. The instruments of ratification or acceptance shall be deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Article 20

1. This Convention shall be open to accession by all States not members of the United Nations Educational, Scientific and Cultural Organization which are invited to accede to it by the Executive Board of the Organization.
2. Accession shall be effected by the deposit of an instrument of accession with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Article 21

This Convention shall enter into force three months after the date of the deposit of the third instrument of ratification, acceptance or accession, but only with respect to those States which have deposited their respective instruments on or before that date. It shall enter into force with respect to any other State three months after the deposit of its instrument of ratification, acceptance or accession.

Article 22

The States Parties to this Convention recognize that the Convention is applicable not only to their metropolitan territories but also to all territories for the international relations of which they are responsible; they undertake to consult, if necessary, the governments or other competent authorities of these territories on or before ratification, acceptance or accession with a view to securing the application of the Convention to those territories, and to notify the Director-General of the United Nations Educational, Scientific and Cultural Organization of the territories to which it is applied, the notification to take effect three months after the date of its receipt.

Article 23

1. Each State Party to this Convention may denounce the Convention on its own behalf or on behalf of any territory for whose international relations it is responsible.
2. The denunciation shall be notified by an instrument in writing, deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.
3. The denunciation shall take effect twelve months after the receipt of the instrument of denunciation.

Article 24

The Director-General of the United Nations Educational, Scientific and Cultural Organization shall inform the States members of the Organization, the States not members of the Organization which are referred to in Article 20, as well as the United Nations, of the deposit of all the instruments of ratification, acceptance and accession provided for in Articles 19 and 20, and of the notifications and denunciations provided for in Articles 22 and 23 respectively.

Article 25

1. This Convention may be revised by the General Conference of the United Nations Educational, Scientific and Cultural Organization. Any such revision shall, however, bind only the States which shall become Parties to the revising convention.
2. If the General Conference should adopt a new convention revising this Convention in whole or in part, then, unless the new convention otherwise provides, this Convention shall cease to

be open to ratification, acceptance or accession, as from the date on which the new revising convention enters into force.

Article 26

In conformity with Article 102 of the Charter of the United Nations, this Convention shall be registered with the Secretariat of the United Nations at the request of the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Done in Paris this seventeenth day of November 1970, in two authentic copies bearing the signature of the President of the sixteenth session of the General Conference and of the Director-General of the United Nations Educational, Scientific and Cultural Organization, which shall be deposited in the archives of the United Nations Educational, Scientific and Cultural Organization, and certified true copies of which shall be delivered to all the States referred to in Articles 19 and 20 as well as to the United Nations.

UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects

Rome, 24 June 1995

THE STATES PARTIES TO THIS CONVENTION,

Assembled in Rome at the invitation of the Government of the Italian Republic from 7 to 24 June 1995 for a Diplomatic Conference for the adoption of the draft Unidroit Convention on the International Return of Stolen or Illegally Exported Cultural Objects,

Convinced of the fundamental importance of the protection of cultural heritage and of cultural exchanges for promoting understanding between peoples, and the dissemination of culture for the well-being of humanity and the progress of civilisation,

Deeply Concerned by the illicit trade in cultural objects and the irreparable damage frequently caused by it, both to these objects themselves and to the cultural heritage of national, tribal, indigenous or other communities, and also to the heritage of all peoples, and in particular by the pillage of archaeological sites and the resulting loss of irreplaceable archaeological, historical and scientific information,

Determined to contribute effectively to the fight against illicit trade in cultural objects by taking the important step of establishing common, minimal legal rules for the restitution and return of cultural objects between Contracting States, with the objective of improving the preservation and protection of the cultural heritage in the interest of all,

Emphasising that this Convention is intended to facilitate the restitution and return of cultural objects, and that the provision of any remedies, such as compensation, needed to effect restitution and return in some States, does not imply that such remedies should be adopted in other States,

Affirming that the adoption of the provisions of this Convention for the future in no way confers any approval or legitimacy upon illegal transactions of whatever kind which may have taken place before the entry into force of the Convention,

Conscious that this Convention will not by itself provide a solution to the problems raised by illicit trade, but that it initiates a process that will enhance international cultural co-operation and maintain a proper role for legal trading and inter-State agreements for cultural exchanges,

Acknowledging that implementation of this Convention should be accompanied by other effective measures for protecting cultural objects, such as the development and use of registers, the physical protection of archaeological sites and technical co-operation, *Recognising* the work of various bodies to protect cultural property, particularly the 1970 UNESCO Convention on illicit traffic and the development of codes of conduct in the private sector,

Have Agreed as follows:

CHAPTER I – SCOPE OF APPLICATION AND DEFINITION

Article 1

This Convention applies to claims of an international character for:

- (a) the restitution of stolen cultural objects;
- (b) the return of cultural objects removed from the territory of a Contracting State contrary to its law regulating the export of cultural objects for the purpose of protecting its cultural heritage (hereinafter "illegally exported cultural objects").

Article 2

For the purposes of this Convention, cultural objects are those which, on religious or secular grounds, are of importance for archaeology, prehistory, history, literature, art or science and belong to one of the categories listed in the Annex to this Convention.

CHAPTER II – RESTITUTION OF STOLEN CULTURAL OBJECTS

Article 3

- (1) The possessor of a cultural object which has been stolen shall return it.
- (2) For the purposes of this Convention, a cultural object which has been unlawfully excavated or lawfully excavated but unlawfully retained shall be considered stolen, when consistent with the law of the State where the excavation took place.

- (3) Any claim for restitution shall be brought within a period of three years from the time when the claimant knew the location of the cultural object and the identity of its possessor, and in any case within a period of fifty years from the time of the theft.
- (4) However, a claim for restitution of a cultural object forming an integral part of an identified monument or archaeological site, or belonging to a public collection, shall not be subject to time limitations other than a period of three years from the time when the claimant knew the location of the cultural object and the identity of its possessor.
- (5) Notwithstanding the provisions of the preceding paragraph, any Contracting State may declare that a claim is subject to a time limitation of 75 years or such longer period as is provided in its law. A claim made in another Contracting State for restitution of a cultural object displaced from a monument, archaeological site or public collection in a Contracting State making such a declaration shall also be subject to that time limitation.
- (6) A declaration referred to in the preceding paragraph shall be made at the time of signature, ratification, acceptance, approval or accession.
- (7) For the purposes of this Convention, a "public collection" consists of a group of inventoried or otherwise identified cultural objects owned by:
 - (a) a Contracting State
 - (b) a regional or local authority of a Contracting State;
 - (c) a religious institution in a Contracting State; or
 - (d) an institution that is established for an essentially cultural, educational or scientific purpose in a Contracting State and is recognised in that State as serving the public interest.
- (8) In addition, a claim for restitution of a sacred or communally important cultural object belonging to and used by a tribal or indigenous community in a Contracting State as part of that community's traditional or ritual use, shall be subject to the time limitation applicable to public collections.

Article 4

- (1) The possessor of a stolen cultural object required to return it shall be entitled, at the time of its restitution, to payment of fair and reasonable compensation provided that the possessor neither knew nor ought reasonably to have known that the object was stolen and can prove that it exercised due diligence when acquiring the object.
- (2) Without prejudice to the right of the possessor to compensation referred to in the preceding paragraph, reasonable efforts shall be made to have the person who transferred the cultural object to the possessor, or any prior transferor, pay the compensation where to do so would be consistent with the law of the State in which the claim is brought.
- (3) Payment of compensation to the possessor by the claimant, when this is required, shall be without prejudice to the right of the claimant to recover it from any other person.
- (4) In determining whether the possessor exercised due diligence, regard shall be had to all the circumstances of the acquisition, including the character of the parties, the price paid, whether the possessor consulted any reasonably accessible register of stolen cultural objects, and any other relevant information and documentation which it could reasonably have obtained, and whether the possessor consulted accessible agencies or took any other step that a reasonable person would have taken in the circumstances.
- (5) The possessor shall not be in a more favourable position than the person from whom it acquired the cultural object by inheritance or otherwise gratuitously.

CHAPTER III –

RETURN OF ILLEGALLY EXPORTED CULTURAL OBJECTS

Article 5

- (1) A Contracting State may request the court or other competent authority of another Contracting State to order the return of a cultural object illegally exported from the territory of the requesting State.
- (2) A cultural object which has been temporarily exported from the territory of the requesting State, for purposes such as exhibition, research or restoration, under a permit issued according to its law regulating its export for the purpose of protecting its cultural heritage and not returned in accordance with the terms of that permit shall be deemed to have been illegally exported.
- (3) The court or other competent authority of the State addressed shall order the return of an illegally exported cultural object if the requesting State establishes that the removal of the object from its territory significantly impairs one or more of the following interests:
 - (a) the physical Preservation of the object or of its context;
 - (b) the integrity of a complex object;
 - (c) the preservation of information of, for example, a scientific or historical character;
 - (d) the traditional or ritual use of the object by a tribal or indigenous community, or establishments that the object is of significant cultural importance for the requesting State.
- (4) Any request made under paragraph 1 of this article shall contain or be accompanied by such information of a factual or legal nature as may assist the court or other competent authority of the State addressed in determining whether the requirements of paragraphs 1 to 3 have been met.
- (5) Any request for return shall be brought within a period of three years from the time when the requesting State knew the location of the cultural object and the identity of its possessor, and in any case within a period of fifty years from the date of the export or from the date on which the object should have been returned under a permit referred to in paragraph 2 of this article.

Article 6

- (1) The possessor of a cultural object who acquired the object after it was illegally exported shall be entitled, at the time of its return, to payment by the requesting State of fair and reasonable compensation, provided that the possessor neither knew nor ought reasonably to have known at the time of acquisition that the object had been illegally exported.
- (2) In determining whether the possessor knew or ought reasonably to have known that the cultural object had been illegally exported, regard shall be had to the circumstances of the acquisition, including the absence of an export certificate required under the law of the requesting State.
- (3) Instead of compensation, and in agreement with the requesting State, the possessor required to return the cultural object to that State may decide:
 - (a) to retain ownership of the object; or
 - (b) to transfer ownership against payment or gratuitously to a person of its choice residing in the requesting State who provides the necessary guarantees.
- (4) The cost of returning the cultural object in accordance with this article shall be borne by the requesting State, without prejudice to the right of that State to recover costs from any other person.
- (5) The possessor shall not be in a more favourable position than the person from whom it acquired the cultural object by inheritance or otherwise gratuitously.

Article 7

- (1) The provisions of this Chapter shall not apply where:
- the export of a cultural object is no longer illegal at the time at which the return is requested; or
 - the object was exported during the lifetime of the person who created it or within a period of fifty years following the death of that person.
- (2) Notwithstanding the provisions of sub-paragraph (b) of the preceding paragraph, the provisions of this Chapter shall apply where a cultural object was made by a member or members of a tribal or indigenous community for traditional or ritual use by that community and the object will be returned to that community.

CHAPTER IV – GENERAL PROVISIONS**Article 8**

- (1) A claim under Chapter II and a request under Chapter III may be brought before the courts or other competent authorities of the Contracting State where the cultural object is located, in addition to the courts or other competent authorities otherwise having jurisdiction under the rules in force in Contracting States.
- (2) The parties may agree to submit the dispute to any court or other competent authority or to arbitration.
- (3) Resort may be had to the provisional, including protective, measures available under the law of the Contracting State where the object is located even when the claim for restitution or request for return of the object is brought before the courts or other competent authorities of another Contracting State.

Article 9

- (1) Nothing in this Convention shall prevent a Contracting State from applying any rules more favourable to the restitution or the return of stolen or illegally exported cultural objects than provided for by this Convention.
- (2) This article shall not be interpreted as creating an obligation to recognise or enforce a decision of a court or other competent authority of another Contracting State that departs from the provisions of this Convention.

Article 10

- (1) The provisions of Chapter II shall apply only in respect of a cultural object that is stolen after this Convention enters into force in respect of the State where the claim is brought, provided that:
- the object was stolen from the territory of a Contracting State after the entry into force of this Convention for that State; or
 - the object is located in a Contracting State after the entry into force of the Convention for that State.
- (2) The provisions of Chapter III shall apply only in respect of a cultural object that is illegally exported after this Convention enters into force for the requesting State as well as the State where the request is brought.
- (3) This Convention does not in any way legitimise any illegal transaction of whatever which has taken place before the entry into force of this Convention or which is excluded under paragraphs (1) or (2) of this article, nor limit any right of a State or other person to make a claim under remedies available outside the framework of this Convention for the restitution or return of a cultural object stolen or illegally exported before the entry into force of this Convention.

CHAPTER V – FINAL PROVISIONS**Article 11**

- (1) This Convention is open for signature at the concluding meeting of the Diplomatic Conference for the adoption of the draft Unidroit Convention on the International Return of Stolen or

Illegally Exported Cultural Objects and will remain open for signature by all States at Rome until June 1996.

- (2) This Convention is subject to ratification, acceptance or approval by States which have signed it.
- (3) This Convention is open for accession by all States which are not signatory States as from the date it is open for signature.
- (4) Ratification, acceptance, approval or accession is subject to the deposit of a formal instrument to that effect with the depositary.

Article 12

- (1) This Convention shall enter into force on the first day of the sixth month following the date of deposit of the fifth instrument of ratification, acceptance, approval or accession.
- (2) For each State that ratifies, accepts, approves or accedes to this Convention after the deposit of the fifth instrument of ratification, acceptance, approval or accession, this Convention shall enter into force in respect of that State on the first day of the sixth month following the date of deposit of its instrument of ratification, acceptance, approval or accession.

Article 13

- (1) This Convention does not affect any international instrument by which any Contracting State is legally bound and which contains provisions on matters governed by this Convention, unless a contrary declaration is made by the States bound by such instrument.
- (2) Any Contracting State may enter into agreements with one or more Contracting States, with a view to improving the application of this Convention in their mutual relations. The States which have concluded such an agreement shall transmit a copy to the depositary.
- (3) In their relations with each other, Contracting States which are Members of organisations of economic integration or regional bodies may declare that they will apply the internal rules of these organisations or bodies and will not therefore apply as between these States the provisions of this Convention the scope of application of which coincides with that of those rules.

Article 14

- (1) If a Contracting State has two or more territorial units, whether or not possessing different systems of law applicable in relation to the matters dealt with in this Convention, it may, at the time of signature or of the deposit of its instrument of ratification, acceptance, approval or accession, declare that this Convention is to extend to all its territorial units or only to one or more of them, and may substitute for its declaration another declaration at any time.
- (2) These declarations are to be notified to the depositary and are to state expressly the territorial units to which the Convention extends.
- (3) If, by virtue of a declaration under this article, this Convention extends to one or more but not all of the territorial units of a Contracting State the reference to:
- the territory of a Contracting State in Article 1 shall be construed as referring to the territory of a territorial unit of that State;
 - a court or other competent authority of the Contracting State or of the State addressed shall be construed as referring to the court or other competent authority of a territorial unit of that State;
 - the Contracting State where the cultural object is located in Article 8 (1) shall be construed as referring to the territorial unit of that State where the object is located;
 - the law of the Contracting State where the object is located in Article 8 (3) shall be construed as referring to the law of the territorial unit of that State where the object is located; and
 - a Contracting State in Article 9 shall be construed as referring to a territorial unit of that State.

- (4) If a Contracting State makes no declaration under paragraph 1 of this article, this Convention is to extend to all territorial units of that State.

Article 15

- (1) Declarations made under this Convention at the time of signature are subject to confirmation upon ratification, acceptance or approval.
- (2) Declarations and confirmations of declarations are to be in writing and to be formally notified to the depositary.
- (3) A declaration shall take effect simultaneously with the entry into force of this Convention in respect of the State concerned. However, a declaration of which the depositary receives formal notification after such entry into force shall take effect on the first day of the sixth month following the date of its deposit with the depositary.
- (4) Any State which makes a declaration under this Convention may withdraw it at any time by a formal notification in writing addressed to the depositary. Such withdrawal shall take effect on the first day of the sixth month following the date of the deposit of the notification.

Article 16

- (1) Each Contracting State shall at the time of signature, ratification, acceptance, approval or accession, declare that claims for the restitution, or requests for the return, of cultural objects brought by a State under Article 8 May be submitted to it under one or more of the following procedures:
- directly to the courts or other competent authorities of the declaring State;
 - through an authority or authorities designated by that State to receive such claims or requests and to forward them to the courts or other competent authorities of that State;
 - through diplomatic or consular channels.
- (2) Each Contracting State may also designate the courts or other authorities competent to order the restitution or return of cultural objects under the provisions of Chapters II and III.
- (3) Declarations made under paragraphs 1 and 2 of this article may be modified at any time by a new declaration.
- (4) The provisions of paragraphs 1 to 3 of this article do not affect bilateral or multilateral agreements on judicial assistance in respect of civil and commercial matters that may exist between Contracting States.

Article 17

Each Contracting State shall, no later than six months following the date of deposit of its instrument of ratification, acceptance, approval or accession, provide the depositary with written information in one of the official languages of the Convention concerning the legislation regulating the export of its cultural objects. This information shall be updated from time to time as appropriate.

Article 18

No reservations are permitted except those expressly authorised in this Convention.

Article 19

- (1) This Convention may be denounced by any State Party, at any time after the date on which it enters into force for that State, by the deposit of an instrument to that effect with the depositary.
- (2) A denunciation shall take effect on the first day of the sixth month following the deposit of the instrument of denunciation with the depositary. Where a longer period for the denunciation to take effect is specified in the instrument of denunciation it shall take effect upon the expiration of such longer period after its deposit with the depositary.
- (3) Notwithstanding such a denunciation, this Convention shall nevertheless apply to a claim for restitution or a request for return of a cultural object submitted prior to the date on which the denunciation takes effect.

Article 20

The President of the International Institute for the Unification of Private Law (Unidroit) may at regular intervals, or at any time at

the request of five Contracting States, convene a special committee in order to review the practical operation of this Convention.

Article 21

- (1) This Convention shall be deposited with the Government of the Italian Republic.
- (2) The Government of the Italian Republic shall:
- inform all States which have signed or acceded to this Convention and the President of the International Institute for the Unification of Private Law (Unidroit) of:
 - each new signature or deposit of an instrument of ratification, acceptance approval or accession, together with the date thereof;
 - each declaration made in accordance with this Convention;
 - the withdrawal of any declaration;
 - the date of entry into force of this Convention;
 - the agreements referred to in Article 13;
 - the deposit of an instrument of denunciation of this Convention together with the date of its deposit and the date on which it takes effect;
 - transmit certified true copies of this Convention to all signatory States, to all States acceding to the Convention and to the President of the International Institute for Unification of Private Law (Unidroit);
 - perform such other functions customary for depositaries.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorised, have signed this Convention.

DONE at Rome, this twenty-fourth day of June, one thousand nine hundred and ninety-five, in a single original, in the English and French languages, both texts being equally authentic.

ANNEX

- Rare collections and specimens of fauna, flora, minerals and anatomy, and objects of palaeontological interest;
- property relating to history, including the history of science and technology and military and social history, to the life of national leaders, thinkers, scientists and artists and to events of national importance;
- products of archaeological excavations (including regular and clandestine) or of archaeological discoveries;
- elements of artistic or historical monuments or archaeological sites which have been dismembered;
- antiquities more than one hundred years old, such as inscriptions, coins and engraved seals;
- objects of ethnological interest;
- property of artistic interest, such as:
 - pictures, paintings and drawings produced entirely by hand on any support and in any material (excluding industrial designs and manufactured articles decorated by hand);
 - original works of statuary art and sculpture in any material;
 - original engravings, prints and lithographs;
 - original artistic assemblages and montages in any material;
- rare manuscripts and incunabula, old books, documents and publications of special interest (historical, artistic, scientific, literary, etc.) singly or in collections;
- postage, revenue and similar stamps, singly or in collections;
- archives, including sound, photographic and cinematographic archives;
- articles of furniture more than one hundred years old and old musical instruments.

International Code of Ethics for Dealers in Cultural Property

UNESCO, November 1999

Article 1

Professional traders in cultural property will not import, export or transfer the ownership of this property when they have reasonable cause to believe it has been stolen, illegally alienated, clandestinely excavated or illegally exported.

Article 2

A trader who is acting as agent for the seller is not deemed to guarantee title to the property, provided that he makes known to the buyer the full name and address of the seller. A trader who is himself the seller is deemed to guarantee to the buyer the title to the goods.

Article 3

A trader who has reasonable cause to believe that an object has been the product of a clandestine excavation, or has been acquired illegally or dishonestly from an official excavation site or monument will not assist in any further transaction with that object, except with the agreement of the country where the site or monument exists. A trader who is in possession of the object, where that country seeks its return within a reasonable period of time, will take all legally permissible steps to co-operate in the return of that object to the country of origin.

Article 4

A trader who has reasonable cause to believe that an item of cultural property has been illegally exported will not assist in any further transaction with that item, except with the agreement of the country of export. A trader who is in possession of the item, where the country of export seeks its return within a reasonable period of time, will take all legally permissible steps to co-operate in the return of that object to the country of export.

Article 5

Traders in cultural property will not exhibit, describe, attribute, appraise or retain any item of cultural property with the intention of promoting or failing to prevent its illicit transfer or export. Traders will not refer the seller or other person offering the item to those who may perform such services.

Article 6

Traders in cultural property will not dismember or sell separately parts of one complete item of cultural property.

Article 7

Traders in cultural property undertake to the best of their ability to keep together items of cultural heritage that were originally meant to be kept together.

Article 8

Violations of this Code of Ethics will be rigorously investigated by (a body to be nominated by participating dealers). A person aggrieved by the failure of a trader to adhere to the principles of this Code of Ethics may lay a complaint before that body, which shall investigate that complaint before that body, which shall investigate that complaint. Results of the complaint and the principles applied will be made public.

Adopted by the UNESCO intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation at its Tenth Session, January 1999 and endorsed by the 30th General Conference of UNESCO, November 1999.