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REPORT BY THE INTERGOVERNMENTAL COMMITTEE FOR PROMOTING  
THE RETURN OF CULTURAL PROPERTY TO ITS COUNTRIES OF  
ORIGIN OR ITS RESTITUTION IN CASE OF ILLICIT APPROPRIATION

Sixth Session

Unesco Headquarters, Paris, 24-27 April 1989

FINAL REPORT

SUMMARY

Since the twenty-fourth session of the General Conference the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation has met once, when it held its sixth session in Paris from 24 to 27 April 1989.

The Committee herewith submits to the General Conference its final report on that session, in accordance with Article 4, paragraph 8, of its Statutes.

28 JUNE 1989

## I. INTRODUCTION

1. The sixth session of the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation was held at Unesco Headquarters in Paris from 24 to 27 April 1989. It was attended by 15 of the 20 States that are members of the Committee. The Secretary-General of the International Council of Museums (ICOM) attended the meeting in an advisory capacity. Forty-seven Member States of Unesco that are not on the Committee, together with three non-Member States of Unesco and several international organizations, including the International Criminal Police Organization (INTERPOL) and the International Institute for the Unification of Private Law (UNIDROIT), were represented at the meeting by observers.

## II. OPENING OF THE SESSION

2. The Assistant Director-General for Culture and Communication, after welcoming the participants, observed that since its establishment ten years before, the Committee's work had yielded encouraging results and that attitudes to the question of the return or restitution of cultural property had taken a very encouraging turn. After highlighting a number of important features of the Committee's work he drew the attention of participants to the problem of the illicit traffic in cultural property in the Asia and Pacific region, which was caused largely by poverty and ignorance. It was a traffic that partook less and less of the cottage industry and more and more of big business, with profits that could be of the order of those to be gained from drugs. Nevertheless, the situation in the region was not hopeless: there were examples of public awareness of the problem and media backing in Australia, the Philippines and Thailand, to mention only three countries there. The Assistant Director-General emphasized the paramount importance of drawing up inventories of cultural property, which were essential safeguards against pillage and also enabled the origin of such property to be established. He also highlighted the importance of setting up more museums and of intensifying specialist training programmes, citing as exemplars the Asian Cultural Centre for Unesco in Japan, the aggiornamento of museums being actively prosecuted in Malaysia, and work in China, where several museums are engaged in a process of renewal. With regard to the return or restitution of cultural property, the Assistant Director-General mentioned two cases that had had a happy outcome: the return to Thailand by the Art Institute of Chicago of a Khmer Dynasty stone lintel, and the return to Canada by the Australian Museum in Sydney of a group of objects pertaining to the Kwakiutl ethnic group.

3. In conclusion, the Assistant Director-General invited participants, on behalf of the Director-General, to reflect during the session on the problems facing the Committee and on its future prospects, urging them to consider a number of questions. To what extent had the Committee succeeded since its establishment in attaining the objectives assigned to it by its Statutes? What were the Committee's most worthwhile achievements, and what factors had contributed most to them? What problems and obstacles had most hampered the Committee's work? What reasonable measures might be taken - by the Committee itself, by the governments represented on the Committee, by those of the other Member States, by the international governmental and non-governmental organizations that had been associated in the Committee's work, and by the Unesco Secretariat - to improve the functioning of the Committee, and in particular to render it yet more dynamic and effective? Finally, from a more strictly budgetary standpoint, how might the resources available for Unesco action in the Committee's spheres of competence be put to better use?

### III. ELECTION OF THE CHAIRPERSON

4. On the proposal of a Committee member, which was widely supported, Ms L. Prott (Australia) was elected Chairwoman, replacing the outgoing Chairman, Mr Luis Villoro Toranzo, whose term of office could not - in accordance with the Statutes - be renewed.

### IV. ADOPTION OF THE AGENDA

5. The provisional agenda of the session contained in document CC-99/CONF.213/2 was adopted without any change.

### V. ELECTION OF THE VICE-CHAIRPERSONS AND THE RAPPORTEUR

6. The delegates of the following four Member States, members of the Committee, were elected Vice-Chairpersons: Côte d'Ivoire, Egypt, Guatemala and Democratic Kampuchea. The delegate of the German Democratic Republic expressed a reservation regarding the re-election of the representative of Democratic Kampuchea as Vice-Chairperson. The Committee then elected Mr A. Strelets, delegate of the Union of Soviet Socialist Republics, Rapporteur. Finally, the Bureau decided to associate the delegate of Canada closely in the drafting of the recommendations.

### VI. SECRETARIAT REPORT ON THE MEASURES TAKEN TO IMPLEMENT THE RECOMMENDATIONS FORMULATED BY THE INTERGOVERNMENTAL COMMITTEE AT ITS FIFTH SESSION

7. The representative of the Secretariat began by asking participants to bear in mind during the session the questions posed by Mr Lopes, Assistant Director-General, and if possible to suggest solutions to the problems raised in those questions. He then gave a brief summary of the Secretariat's report (CC-89/CONF.213/3) and informed participants about progress in the two most recent cases referred to the Committee. With regard to the 'Elgin Marbles', currently held in the British Museum, he informed participants of the mission to London undertaken in June 1987 by the Committee's then Chairman, Mr Luis Villoro Toranzo, whose conclusions could be found in paragraph 3 of Part I of the Secretariat's report. After drawing the Committee's attention to the existence of document CC-89/CONF.213/3 Add.1, he informed them of the two requests from Turkey received by the Secretariat in April 1987, one concerning a sphinx and the other concerning 7,400 cuneiform tablets located in the German Democratic Republic. There had been a satisfactory outcome to the latter request, but the one concerning the sphinx was still the subject of discussion.

8. With regard to the exportation to Belgium of a collection of items from the site of Khurvin, in Iran, this case having been brought before the Belgian courts, he informed the Committee that, according to the latest report, the Islamic Republic of Iran intended to lodge an appeal against the verdict of the Belgian court. This was subsequently confirmed by the representative of the Islamic Republic of Iran, who went on to explain that the lawyer for the Islamic Republic of Iran had not disputed the ownership of the items before the Belgian court because the State of Iran reserved the right to do so subsequently before the appropriate courts.

9. The representative of the Secretariat also informed the Committee about other cases of return or restitution, which had not been referred directly to the Committee but in regard to which Unesco's intervention appeared to have been decisive (such as the return to Carthage in Tunisia of a collection of jewels and the provisional injunction placed by the court of first instance in Paris on the sale of objects of Iranian origin). He explained that the reference to the eleventh and twelfth centuries 'avant J.C.' (before Christ) in paragraph 10 of the French version of the Secretariat's report should read 'après J.C.' (after Christ).

10. He informed the Committee of a number of bilateral and multilateral agreements concluded at regional level for the purpose of jointly combating illicit trafficking in cultural property, as for example the agreement between the United States of America and Guatemala, and the agreement made by several Socialist countries. These documents were available to the Committee for consultation.

11. Turning to the question of illicit traffic, he notified the Committee that 65 States were already parties to the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. He too drew attention to the importance of inventories, remarking that the process of preparing them was a very lengthy and complex one and citing as example the case of Gabon referred to in paragraphs 14 and 15 of the Secretariat's report. He further referred to what was being done by Unesco to improve museum services, for example through the training of museum staff. Still in regard to activities to curb illicit traffic, the representative of the Secretariat emphasized the value of the publications reproducing the national legislations of many countries that had been made available to the public by the Unesco Secretariat, as had a handbook in English presenting a summary of national export laws and regulations in force in over 150 States. This work, entitled Handbook of National Regulations Concerning the Export of Cultural Property, was published in January 1989.

12. With regard to public information, he highlighted the role played by the periodical Museum in publishing articles on the return and restitution of cultural property and on illicit traffic in such property; he also informed the Committee about forthcoming articles. In conclusion, the representative of the Secretariat invited the members of the Committee, who had all received copies of the Secretariat's report, to supplement it by volunteering any further information in their possession that might be useful to the Committee in its work.

## VII. INTERNATIONAL TECHNOLOGICAL CO-OPERATION

13. During the discussion of item 5, and with particular regard to international co-operation in the areas falling within the Committee's competence, the majority of the delegates put forward proposals for making the Committee's activity more energetic and stressed the essential role to be played by Member States in the World Decade for Cultural Development by way of backing up the Committee's work, in particular by increasing public awareness of the matter. Finally, many delegates urged Unesco and the Member States to encourage the mass media and educational and cultural institutions to promote a greater and more general awareness of the issue of the return or restitution of cultural property to its countries of origin. The participants were unanimous in their desire that the Committee, in co-operation with the other international organizations concerned (ICOM, UNIDROIT and others), consider any practical steps that might be taken to stem the illicit traffic in cultural property.

VIII. STEPS TO CURB THE ILLICIT TRAFFIC IN CULTURAL PROPERTY

14. A large number of participants expressed disquiet regarding the illicit traffic in cultural property, the representative of ICOM stating that his organization was also concerned by the question and was working on it with INTERPOL and with Unesco. A symposium on the consequences on the circulation of cultural property of the advent of the Single European Market had been organized by the French Committee of ICOM in Bordeaux. One member of the Secretariat, who had taken part in the symposium, said that a representative of the European Communities had stated on that occasion that the Commission was studying the question but that it was a matter on which political decisions would have to be taken by the Council of Ministers, as the sphere of competence of the Communities in cultural matters was at present extremely limited. Article 36 of the Treaty of Rome, which provided for an exception to the free circulation of property where national treasures were concerned, would have to be interpreted in the light of the new regulations governing the Single European Market. The Chairwoman added that this matter created a problem in so far as the circulation of cultural property among the members of the European Communities was concerned, and stated that Unesco had long been drawing the attention of the Communities to the need to study such matters carefully. Several members of the Committee expressed their concern and announced their intention of preparing a draft recommendation on the subject; one member proposed that Unesco's Executive Board make an in-depth study of it. The representative of Canada said the situation was similar to the one following the agreement on free circulation that had recently entered into force between Canada and the United States of America.

15. The representative of the International Confederation of Art Dealers (CINOA) drew attention to the existence of a code of ethics that formed an integral part of his organization's Statutes but added that many countries had no professional association of art dealers. The representative of the Director-General pointed out that even in countries in which there was no association of art dealers the State could lay down ethical standards governing the art trade, adding that Unesco was in fact currently preparing a study on the subject.

16. Several members of the Committee expressed their disquiet regarding the ever-increasing illicit traffic in cultural property from the developing countries; they did not always have the necessary resources to combat the traffickers, who were frequently hand in glove with drug traffickers. Other members drew attention to the importance of teaching the public about the damaging effects of the illicit traffic.

17. The representative of the Director-General also announced that Unesco's draft third Medium-Term Plan (1990-1995) provided for continuation of the Committee's activities and their evaluation, and for continuation of the programme for the development of museums, of the application of the 1970 Convention, of support for national measures through the Participation Programme and of relations with ICOM on matters of common interest. In addition, there were plans to organize practical workshops for the managers of provincial museums. However, the Division of Cultural Heritage had only a very small staff to carry out all these tasks.

18. Several members reported on national measures taken to combat illicit trafficking, in particular seminars on the inventorying of cultural property.

19. The representative of INTERPOL gave an extremely comprehensive presentation of the structure of his organization and of its activities in connection with offences involving works of art, citing a number of examples.

He announced INTERPOL's intention to organize an international symposium on the matter, for which assistance had been requested from Unesco and ICOM.

20. Several members pointed out that the problem of illicit traffic was not the same in Europe as it was in other regions. In Europe, it took the form primarily of thefts of inventoried items in museums, which were widely reported in the press, whereas the developing countries were victims above all of clandestine excavations. It followed that items stolen in this way had not been inventoried.

21. Several members emphasized the need to bring about a new attitude of mind among collectors and antique dealers and to subject national art markets to regulations. The Chairwoman confirmed that she was currently preparing a study on ethical standards for dealers; she advocated taking a realistic and flexible approach, in order to ensure that such standards had a chance of actually being applied. She pointed out that museums and private collectors were becoming increasingly aware of the seriousness of illicit traffic. It was her hope that the study requested by Unesco would be ready in time for the next session of the Committee.

22. Several members referred to the lack of certainty that dealers and collectors would apply such ethical standards as might be formulated.

23. Many members drew attention to the need to demand the production of certificates of origin for transactions involving works of art. However, even in the absence of such documents, the parties concerned should apply for information to the State of origin of the property. One member added that purchasers could not be regarded as innocent, under the terms of Article 7(b) of the 1970 Convention, if they had not attempted to obtain such information from the State of origin. Several members pointed to cases where the State of origin had provided information on the illicit nature of the exportation of an item but where it had nevertheless not been possible to recover the item because a certificate of origin could not be produced. Other members, however, cited cases in which it had been possible to reach a satisfactory outcome.

24. The representative of CINOA said it was a pity that the INTERPOL data sheets concerning stolen items did not always reach dealers, as a result of domestic problems in Member States. The representatives of Greece and Turkey announced that a Protocol of Agreement between their two countries, modelled upon the provisions of the 1970 Convention, was currently being planned.

25. The representative of the Secretariat stated that the Customs Co-operation Council was invited to attend all the sessions of the Committee and had sent a representative to the first session. The Secretariat had established excellent working relations with that organization. The Secretariat's limited resources, however, did not allow these links to be developed further. The representative of Australia said he was hopeful that his country would shortly ratify the 1970 Convention.

26. The representative of the International Institute for the Unification of Private Law (UNIDROIT) described the work currently being undertaken by his organization, which, at Unesco's request, had prepared two studies on aspects of private law that were relevant to the protection of cultural property. She also alluded to the work of the committee set up by UNIDROIT to study new norms of private law intended to supplement the private-law provisions already contained in the 1970 Convention. The representative of the Director-General thanked UNIDROIT for this work, to which Unesco was contributing actively.

27. Several members emphasized the need to recognize the general right of States not to be the victims of illicit trafficking, particularly as a result of clandestine excavations, and the need to increase the Committee's resources and those of the Unesco Secretariat.

#### IX. CASE STUDIES

28. The Committee examined the following cases: the request submitted by Greece to the United Kingdom concerning the return of the 'Elgin Marbles', which are held in the British Museum, and the request submitted by Turkey to the German Democratic Republic concerning a sphinx. It then discussed the case of the illicit exportation to Belgium of a collection from the archaeological site of Khurvin in Iran.

29. The Chairwoman of the Committee, in close association with the Bureau, engaged in consultations on these cases with the parties concerned attending the session which led to the unanimous adoption of the relevant recommendations annexed to this report.

30. The Committee furthermore took note of the concern expressed by a number of delegates regarding the legal implications of contentious cases concerning objects whose return to their countries of origin had been requested.

31. One representative proposed that Member States consider making provision in their national legislation for sanctions against public or private holders of cultural property that had been transferred without authorization from its country of origin. In order to avoid all misunderstanding, and in view of the inestimable value of such property, such sanctions might take the form of compensatory contributions to Unesco's budget.

#### X. PUBLIC INFORMATION

32. With regard to public information, the representative of the Secretariat emphasized that it was a long-term operation and that its results were not always visible. He informed participants that the periodical Museum would devote a regular and more comprehensive column in future issues to the subjects of the return and restitution of, and illicit traffic in, cultural property. The Committee's members were unanimous in urging that the Committee's work be publicized in order to make the public aware of the practical and worthwhile results it achieved. One participant highlighted the importance of ensuring that the public was kept informed not only by the media but also by museums, in particular through their educational and social activities.

#### XI. OTHER BUSINESS

33. With regard to the questions posed by the Assistant Director-General for Culture and Communication in his opening address (see para. 3 above), the Committee was unanimously in favour of a critical scrutiny of its own functioning. While supporting the principle of an evaluation of its achievements and its functioning, the Committee formulated a number of recommendations based on the statements of several members and observers, which are reproduced in Part V of the Annex to this report. The Committee expressed the wish to be consulted in writing for the purposes of the evaluation provided for in the Draft Programme and Budget for 1990-1991.

34. The Committee further decided that the Final Report of the sixth session would be submitted as the Report of the Committee to the General Conference of Unesco at its twenty-fifth session, in accordance with Rule 9.3 of the Rules of Procedure.

## XII. DATE AND PLACE OF THE SEVENTH SESSION OF THE COMMITTEE

35. The Committee cordially thanked the representative of Greece for his Government's invitation to hold the seventh session of the Committee in Athens and suggested to the Director-General that the invitation be accepted. It decided that the seventh session would take place in the spring of 1991.

## XIII. INVITATIONS TO THE SEVENTH SESSION OF THE COMMITTEE

36. After considering the list of organizations to be invited (which had been drawn up at the fifth session of the Committee, in 1987) and taking account of the extent of participation on previous occasions, the Committee adopted the following new list:

### 1. Intergovernmental organizations

Agency for Cultural and Technical Co-operation (ACCT)  
 International Centre for the Study of the Preservation and  
 Restoration of Cultural Property (ICCROM)  
 Customs Co-operation Council (CCC)  
 Council of Europe  
 African Cultural Institute (ACI)  
 International Institute for the Unification of Private Law (UNIDROIT)  
 The Arab League Educational, Cultural and Scientific Organization  
 (ALECSO)  
 International Criminal Police Organization (INTERPOL)

### 2. Non-governmental organizations

International Association of Art Critics  
 International Council on Archives  
 International Council on Monuments and Sites (ICOMOS)  
 International Council of Museums (ICOM) (consultative status)  
 Organization of Museums, Monuments and Sites of Africa (OMMSA)  
 (consultative status)  
 International Union of Local Authorities

### 3. Other organizations

Commonwealth Parliamentary Institution  
 International Confederation of Art Dealers (CINOA)  
 International Foundation for Art Research (IFAR)

## XIV. ADOPTION OF THE RECOMMENDATIONS OF THE SESSION

37. The draft recommendations approved by the Bureau and presented by the Chairwoman were examined one by one. Having considered the amendments proposed by several members, and after endorsing a number of them, the Committee adopted by consensus the draft recommendations as amended. The recommendations thus adopted are contained in the Annex to this report. Finally, the Rapporteur presented orally the main lines of this report, which had previously been examined by the Bureau.



XV. CLOSURE OF THE SESSION

38. The Chairwoman thanked all the participants for their co-operation and for the many contributions they had made to the work of this session of the Committee, which had adopted a large number of useful recommendations. She then revealed to the Committee some of her own observations and doubts concerning its functioning, both during its sessions and between them, welcoming the fact that the Secretariat was planning to evaluate the Committee's work. With that she declared the sixth session of the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation closed.

ANNEX

RECOMMENDATIONS

I. PROMOTION OF BILATERAL NEGOTIATIONS FOR THE RETURN OR RESTITUTION OF CULTURAL PROPERTY

Recommendation 1

With respect to the issue of the Parthenon marbles:

Recalling Recommendation No. 55 of the World Conference on Cultural Policies of 1982 that the Parthenon marbles be returned to Greece, the Committee:

Expresses its thanks and appreciation to Ambassador L. Villoro-Toranzo, Chairperson of the Fifth Session, for the efforts he made on behalf of the Committee;

Recommends that the Committee

1. take cognizance, with the assistance of the Greek authorities, of the final plan, including blueprints and technical specifications, of the new museum in Athens that might in time house the Parthenon marbles;
2. review similar technical data and information as to the resources relating to the current location of the marbles, which information may be obtained from the British Museum and elsewhere;
3. seek an opinion from impartial museological experts of the highest international level, appointed with the advice and assistance of ICOM, and supplied with all relevant historical, legal aesthetic and museological data, about the place where the marbles could best be situated;

Invites the Chairman of the Committee to use the information provided to continue to persevere in negotiations.

Recommendation 2

With respect to Turkey's request for the return of the cuneiform tablets and for the return of the sphinx from the German Democratic Republic, the Committee:

Notes with great pleasure that the remaining cuneiform tablets are now in the hands of the Republic of Turkey;

Considers that this forms part of a renewal of the historical co-operation between the scientific institutions of the two countries;

Expresses its sincere hope that the pending Turkish request with regard to the sphinx will be solved amicably and notes with satisfaction the willingness of both parties to find a mutually acceptable solution;

Takes note of the position of both parties described in paragraphs 4, 5, 6 and Addendum 1 of the Secretariat's Report;

Also notes that the authorities of the German Democratic Republic have expressed their willingness to send a mission to Turkey with a view to solving the pending problem;

Recommends that the Committee, through its Secretariat, be kept closely informed of the progress of the case and its outcome.

#### Recommendation 3

With respect to the objects from the necropolis of Khurvin sought from their holder in Belgium by the Islamic Republic of Iran, the Committee:

Notes the result of the litigation in Brussels and the lodging of an appeal by the Islamic Republic of Iran;

Regards the case as raising issues of great importance for the work of this Committee;

Expresses the wish that the Islamic Republic of Iran keep the Committee, through its Secretariat, closely and completely informed as to the further stages of the litigation;

Expresses the hope that the litigation will result in a satisfactory resolution of the claim of Iran, in accordance with the spirit and the objectives of this Committee.

#### Recommendation 4

The Committee

Welcomes the successful outcome of other cases reported to it (e.g. the return of Punic artefacts to Tunisia by a person of French nationality, and the return of the lintel 'Birth of Brahma with Reclining Vishnu' to Thailand by the Art Institute of Chicago U.S.A.);

Considers such cases proof that divisive issues of return or restitution of cultural property can, with mutual goodwill and perseverance, be solved.

#### Recommendation 5

The Committee

Requests both the Chairperson of the Committee and the Secretariat of Unesco to hold themselves ready, on a continuing basis, to undertake such good offices missions as may be appropriate regarding the above cases still to be resolved and others that may be brought to the Committee's attention.

## II. INTERNATIONAL CO-OPERATION

#### Recommendation 6

The Committee

Emphasizes yet again the legitimacy of the aspiration of Member States to recover cultural property that has been illegally appropriated;

Warmly welcomes the attention accorded to questions of return or restitution by the United Nations Assembly, and deems that this attention underscores the legitimacy of the aims, role and action of the Committee, which is part and parcel of Unesco's efforts to preserve and promote culture, particularly in the framework of the World Decade for Cultural Development.

Recommendation 7

The Committee

Once again stresses that inventories are a necessary, albeit complex, costly and not of themselves sufficient, means of identifying and thus protecting movable cultural property;

Underscores in this regard, the importance of certificates of origin, as well as an authorization for export from the country of origin, which should be viewed as a usual and indispensable precondition to establishing the prima facie legality or illegality of the loan, sale, donation, purchase or other form of transfer of cultural property, whether in public or private hands;

Emphasizes, while recognizing the difficulty of the problem, the need to curb clandestine excavations, which are by nature not subject to inventories;

Deems that inventories should cover holdings of both national and foreign origin.

Recommendation 8

The Committee

Reiterates its conviction that a healthy museum structure is one major rampart in efforts to maintain cultural property in its countries of origin and to ensure its return or restitution to them;

Warmly welcomes, in this context, and urges the wide dissemination in many languages (including Arabic) of the ICOM of Professional Ethics;

Supports and encourages Unesco's action to promote museum development, while regretting that the means available - or likely to become available - to this end are extremely limited;

Commends the holding by ICOM of regional workshops to train museum staff and other professionals, including customs and police officers, and expresses the hope that further such regional meetings will be organized.

III. MEASURES ADOPTED TO RESTRICT ILLICIT TRAFFICKING IN CULTURAL PROPERTY

Recommendation 9

The Committee

Regrets that in the Treaty of Rome cultural property is classed as merchandise and thus subjected to the rules governing the free market;

Expresses its concern about the harm that could be done to the cultural heritage by the free circulation, uncontrolled by the custom authorities of each State, of such property, already undermined by illicit trafficking both within States parties to the Treaty of Rome and elsewhere;

Expresses the wish that a broad consultation of cultural leaders in the countries concerned be undertaken to achieve an agreement with a view to safeguarding the vestiges of the past in each country.

Recommendation 10

The Committee

Emphasizes the importance of ethical standards for dealers in cultural property;

Welcomes the adoption by the International Confederation of Art Dealers (CINOA) of a Code of Practice for its members to prevent their involvement with illicit trade;

Invites Member States where there are no associations of dealers which can adopt and enforce such a code to consider legislation requiring adherence to these standards;

Looks forward to the conclusion of a study initiated by Unesco into codes of ethics for dealers;

Expresses the hope that such codes of ethics as well as that drafted for museums by ICOM will serve as a standard for acquisitions by private as well as public collectors.

Recommendation 11

The Committee

Urges all States not yet parties, including collecting States, to become parties to the 1970 Unesco Convention on the Means of Prohibiting and Preventing the Illegal Import, Export and Transfer of Ownership of Cultural Property; and

Invites all States parties to the Convention to keep the Secretariat informed of measures taken at national level to ensure effective enforcement of measures provided for in the Convention and of cases related to the return or restitution of cultural property;

Recommends to the Member States of Unesco that they include in their national legislation, where necessary, measures forbidding persons to whom the legislation applies, under pain of penalties, to import, hold or deal in cultural property belonging to another country without a prior authorization in each case for each country concerned.

Recommendation 12

The Committee

Notes with regret the abuse of diplomatic and military privileges and immunities for the illegal export of cultural property;

Urges Member States to instruct fully their diplomatic and military staff in the observance of their legal obligations to their host countries.

Recommendation 13

The Committee

Expresses its appreciation of the work of INTERPOL in combating the illicit traffic in cultural property;

Urges Member States to ensure the widest possible dissemination of INTERPOL's notices of stolen cultural objects not only to police and customs authorities but also to museums and dealers;

Wishes to encourage further development of the existing co-operation between Unesco, INTERPOL and ICOM in relation to stolen goods.

Recommendation 14

The Committee

Recommends that countries subject to clandestine excavations consider regional arrangements for the certification of excavated cultural property where its locality but not its State of origin can be traced.

Recommendation 15

The Committee

Welcomes the work of UNIDROIT in drafting rules to complement and complete the 1970 Unesco Convention, in particular by seeking to harmonize the rules of private law on the acquisition in good faith or significant objects of the cultural heritage that have been stolen or illegally exported;

Requests that it be closely and fully informed of the progress of the work of the UNIDROIT Study Group.

IV. PUBLIC INFORMATION

Recommendation 16

The Committee

Recognizes the crucial importance of public information as a major preventive measure in areas under its purview (recalling for example, efforts to raise the awareness of world public opinion in the struggle against the abuse of narcotics);

Appeals to mass media and cultural and educational institutions to accord greater attention to issues of return or restitution;

Stresses that silence on issues of return or restitution of - and illicit trafficking in - cultural property is tantamount to complicity with the unacceptable present state of affairs in this regard.

Recommendation 17

The Committee

Urges Unesco to step up, within the limits of resources at its disposal, efforts to inform and educate both specialized and general audiences (including poverty-stricken local populations who may be tempted through ignorance to take part in illicit trafficking) about the problems posed - and progress achieved - in the areas within the Committee's mandate;

Stresses in particular the importance of ensuring full coverage - and wide and active dissemination - of accurate information on these questions and on exchanges of cultural property in Unesco-managed or Unesco-aided organs such as the Museum magazine, the Unesco Courier, Unesco radio and video programmes and ICOM News;

Requests interested governments and international governmental and non-governmental organizations both to provide information to such organs and strenuously to promote their diffusion.

V. THE FUNCTIONING OF THE COMMITTEE

Recommendation 18

The Committee

Welcomes the opportunity afforded, both by the introductory remarks of the Assistant Director-General for Culture and Communication and by the inclusion in the Draft Programme and Budget for 1990-1991 (25 C/5, para. 03220) of provision for evaluating the Committee, to initiate a constructively critical review of the Committee's functioning as an organ of Unesco in its role to promote the return or restitution of cultural property.

Recommendation 19

The Committee

Recognizes that some Committee members and some Member States may not be making full use of the services, expertise and experience of the Committee;

Recommends that questions or problems of return or restitution be referred to the Committee in accordance with the provisions of its Statutes.

Recommendation 20

The Committee, taking into account the particular contribution of ICOM in its advisory capacity with the Committee

Recommends that the Committee and Member States accept its generous assistance and continue to avail themselves of the opportunity to draw upon the vast resources of the ICOM Documentation Centre and the expertise of the network of professionals, through the ICOM Secretariat.

Recommendation 21

The Committee

Acknowledges that the current period of fiscal restraint at Unesco imposes restrictions;

Stresses the need for continuity between meetings of the Intergovernmental Committee, and further stresses the increasing awareness of the problem of illicit traffic in cultural property;

Recommends that additional resources be allocated by the General Conference to the Secretariat, specifically to promote the work of the Committee, in order to ensure that both the Committee and the Secretariat more completely fulfil their mandates, and to ensure that the work of the Committee receives the recognition it rightly deserves. This could possibly also be achieved through the secondment or 'loan' of personnel from Member States to the Secretariat.

Recommendation 22

The Committee

Recommends that each Member State identify an individual or organization to act as the liaison between it and the Secretariat in the period between meetings of the Committee. This individual or organization would provide continuity in the activities of the Committee, the Member States and the Secretariat, thereby enabling the Committee to function more effectively.

Recommendation 23

The Committee.

Recommends that renewed and continuous efforts be made to encourage Member States to enact legislation to protect cultural property, and that they also be encouraged to accept the 1970 Unesco Convention;

Further recommends that all Member States strive to achieve uniformity in the wording of their legislation by using the terminology of the General Conference of Unesco regarding matters of cultural heritage.

Recommendation 24

The Committee

Recognizing that its work would be facilitated if there were a fuller appreciation of the value to a community of the cultural heritage it has created,

Recommends that the Secretariat initiate and continue to promote public-awareness campaigns to stress the damage done by illicit traffic in cultural property, to counter illicit traffic, and to promote accurate information on the issues of return or restitution of cultural property and on the functions of this Committee.

Recommendation 25

The Committee

Recommends that the reports prepared by the Secretariat for the Committee include the legal arguments on which States have based their requests or - in the case of holding States - their responses, so that a better understanding of the issues involved can be achieved.