

UNITED NATIONS EDUCATIONAL,
SCIENTIFIC AND CULTURAL ORGANIZATION

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

**Study on an International Code of Ethics for Dealers in Cultural Property
for the Purpose of More Effective Control of Illicit Traffic in Cultural Property**

**TENTH SESSION
(Paris, 25 - 28 January 1999)**

1. The ninth 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 (Paris, 16 - 19 September 1996) adopted, among others Recommendations, Recommendation No. 6 concerning an international code of ethics for art dealers (copy enclosed). This Recommendation supplemented Recommendation No. 5 on the same issue adopted at the previous session of the Committee (copy enclosed) and was based on a consultant's study *Feasibility of an International Code of Ethics for Dealers in Cultural Property for the Purpose of More Effective Control of Illicit Traffic in Cultural Property* (UNESCO document CLT-94/WS/11) which has been widely distributed on several occasions.
2. The motivation behind the drafting of this Code was to provide a harmonized version of numerous national dealers' codes relating to illicit traffic, to avoid problems which some existing provisions in such codes had revealed, and to give international recognition to dealers who adopted it. It was intended as a voluntary Code not imposed by legislation. Codes of ethics have increased importance since the UNIDROIT *Convention on Stolen or Illegally Exported Cultural Objects* 1995 has a provision (Art. 4 (4)) according to which the acquisition of cultural property from a reputable art dealer voluntarily bound by a professional code of conduct may play an important role in determining whether the possessor exercised due diligence for the purposes of establishing a right to compensation for an object which has been illegally traded and has to be returned.
3. Following Recommendation No. 6 of the ninth session of the Committee concerning an international code of ethics for art dealers, which recommended the Director-General to invite UNESCO Member States and States Parties to the 1970 Convention to express their views on the code, the Secretariat has received, to date, replies from **eight** countries (the Czech Republic, Italy, Mexico, Norway, Pakistan, Sri Lanka, the United Kingdom and Venezuela) with their comments.
4. All but one State expressed their full support for the adoption of such a Code, the systematic application of which would hinder the appearance and laundering of stolen or illegally

exported cultural property in national art markets, thus creating an obstacle to the use of the legitimate trade for the sale of illicitly trafficked cultural property. Two States (Italy and the United Kingdom) also provided the Secretariat with a copy of codes used by art dealers' associations in their countries.

5. The substantial comments on the UNESCO draft Code may be summarized as follows:

- Such a Code, which could serve as a model for national codes, should not be imposed on the art dealer community; it should be adopted voluntarily and in close co-operation with art dealers' associations;
- Art dealers bound by such a Code should not assist in transactions of art objects of dubious provenance and, in particular, they should not buy, sell or appraise cultural objects which may be stolen, illegally exported or originate in countries where hostilities are currently taking place or from territory which is occupied;
- Art dealers bound by this Code should be entitled to use a special logo or mark so that potential clients would be aware of the commitment of those dealers to a lawful origin of cultural objects offered for sale. Thus, the display of such a logo or mark would give evidence of credibility of those dealers;
- National art dealers' associations should establish a register of art dealers who have stated their intention to abide by this Code. Such a Register would prevent an abusive use of the special logo or mark and dealers misusing the logo or mark would be subject to sanctions in accordance with relevant provisions of the art dealers association.

6. One State (the United Kingdom) expressed its reservations as to the recommendation that States should establish which art dealers are not covered by the provisions of the Code because some art dealers are not members of art trade associations. It also expressed its reservations to the adoption of a standard export certificate because of the experience of the European Union in this regard.

7. The question of voluntary codes of ethics for art dealers is now widely discussed within the art market profession in order to prevent the supply of stolen or illegally trafficked cultural objects in licit art trade. For example, a whole issue of the *International Journal of Cultural Property* (1/1998), one of the most reputable professional journal in this field, was devoted to this question. Annex 1 contains a copy of the list of contents.

8. It should be also noted that when discussing the issue of the return and restitution of cultural property to the countries of origin at the fifty-second session of the United Nations General Assembly, several countries stressed the importance of adopting such a code.

9. Finally, the second Conference on Traffic in Works of Art Stolen in Eastern and Central Europe (Budapest, Hungary, 9 - 11 June 1998) discussed, among other things, national experience of several countries with respect of the codes of ethics for art dealers. Recommendation No. 2 of that meeting recommended that "UNESCO be asked to examine the code of due diligence developed by the Council for the Prevention of Art Theft (United

Kingdom), while preparing its draft Code of Ethics for Dealers in Cultural Property.”

10. In view of the above, it is proposed that the Committee adopt the below recommendation:

“The Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in case of Illicit Appropriation;

Recalling Recommendation No. 6 of the Committee’s ninth session and Recommendation No. 5 of the Committee’s eight session, respectively, on the international code of ethics for art dealers;

Stressing the role of art dealers and licit art trade in the fight against illicit traffic in cultural property;

Emphasizing the supplementary role of non-binding codes of ethics in regulating art market;

Thanking States which provided the Committee with their views on the code;

Recommends that the Committee’s Member States and other UNESCO Member States which are not members of the Committee adopt this Code and encourage the voluntary adoption of this code by art dealers in their respective countries;

Invites the Director-General to bring the Recommendation to the attention of the General Conference with a view to its endorsement by that body.”