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**RULES OF PROCEDURE FOR MEDIATION
AND CONCILIATION IN ACCORDANCE WITH ARTICLE 4, PARAGRAPH 1,
OF THE STATUTES OF THE INTERGOVERNMENTAL COMMITTEE
FOR PROMOTING THE RETURN OF CULTURAL PROPERTY TO ITS
COUNTRIES OF ORIGIN OR ITS RESTITUTION IN CASE
OF ILLICIT APPROPRIATION**

Article 1. Scope of the Rules of Procedure for Mediation and Conciliation

1. In accordance with Article 4.1 of the Statutes of the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in case of Illicit Appropriation (hereinafter the "Statutes"), any request-for the return or restitution of cultural property, as defined under Article 3 of the Statutes, which are submitted to the Intergovernmental Committee (hereinafter "the Committee"), may also be dealt with under a mediation or a conciliation procedure if the parties to the dispute (hereinafter "the parties") so agree.
2. The rules contained herein apply both to the mediation and conciliation procedures before the Committee unless the Parties agree to amend them before the procedure.

Article 2. Nature of the Procedures and Roles of the Mediator and of the Conciliator

1. For purposes of these Rules, "Mediation" means a process whereby, with the prior consent of the parties concerned, an outside party intervenes to bring them together and to assist them in reaching an amicable solution of their dispute with respect to the restitution or return of cultural property.
2. A mediation procedure shall require the involvement of one or more individuals who shall act as mediators, chosen by the Parties preferably among independent experts on the return and restitution of cultural property.
3. For purposes of these Rules, "Conciliation" means a process whereby, subject to their prior consent, the parties concerned submit their dispute with respect to restitution or return of cultural property to a constituted organ for investigation and for efforts to effect an amicable settlement of their dispute.
4. A conciliation commission shall be composed of conciliators who are preferably independent experts on restitution and return of cultural properties whose number shall be mutually agreed upon by the parties concerned.

5. Each party to the dispute shall appoint one or two conciliators. An additional conciliator, which shall be of a nationality different from that of the parties involved, shall be chosen jointly by the parties and will be the President of the conciliation commission. If the parties cannot agree on that person within 60 days the procedure provided under Article 7.2 below will be followed.
6. A list of potential mediators and conciliators shall be drawn up and maintained by the Secretariat for the information of, and possible use by, the Parties in appointing mediators or conciliators. To that end, each Member State of UNESCO shall be invited to nominate two individuals who could fulfil the role of mediator or conciliator in international cultural property disputes. The list shall be reviewed at two-year intervals when Member States may confirm existing nominations or submit new nominations. The Parties to a mediation or conciliation procedure shall remain free to appoint mediators or conciliators not included in this list.

Article 3. Basic Principles

1. Mediation and conciliation procedures require the consent in writing of the Parties before they may be initiated.
2. Mediation and conciliation procedures shall be conducted in conditions of confidentiality and in accordance with the general principles of fairness, impartiality and good faith.
3. The Parties shall participate in a responsible manner and cooperate in order to proceed as expeditiously as possible.
4. The Parties, the Mediator(s) or the Conciliator(s) shall participate with a view to facilitate an amicable and just solution or settlement of the dispute having due regard to international law and recognized principles.

Article 4. Parties

1. Only UNESCO Member States and Associate Members of UNESCO may have recourse to a mediation or conciliation procedure pursuant to these rules of procedure
2. States may represent the interests of public or private institutions located in their territory or the interests of their nationals.
3. A request to initiate a mediation or conciliation procedure may be submitted by a member state or associate member of UNESCO with regard to a public or private institution, if the latter are in possession of the cultural property concerned, and if the state mentioned in paragraph 2 has been immediately informed of the request by the initiating member state or associated member of UNESCO and does not object.
4. A representative of each Party shall be present at mediation meetings. Subject to Article 10, paragraph 4, each Party's representative shall have the requisite authority to prepare, with the assistance of the Mediator(s), the terms and conditions of a settlement.

Article 5. Rules of conduct for Mediator(s) and Conciliators

The Mediator(s) and Conciliators shall:

- (a) act according to the principles listed in Article 3 paragraph 2.
- (b) not act as a representative or counsel of either Party in any proceedings concerning the dispute at issue.

Article 6. Commencement of a Mediation or Conciliation Procedure

1. A mediation or conciliation procedure may be commenced only upon mutual consent of the parties concerned to resort to such procedure. Upon such mutual consent, either party shall submit in writing a request to initiate a mediation or conciliation procedure to the Director-General who shall acknowledge receipt and inform the Chairman of the Committee.
2. The Committee, pursuant to article 4.1 of its Statutes, may also recommend to parties which have a case pending before it to make use of mediation or conciliation procedure.
3. The request shall contain the names and contact information of the parties, including the State mentioned in art. 4 paragraph 2, if any, an indication of the subject of the dispute and the relevant supporting documents.
4. If a mediation or conciliation procedure is initiated, it shall not prejudice the application and the effects of any other procedure or other means of dispute settlement that the parties have undertaken or wish to undertake concurrently or at a later stage.
5. No procedure of mediation or conciliation may prevent or delay any legal proceedings in pursuance of applicable national legislation.

Article 7. Appointment and Replacement of the Mediator(s) or Conciliators

1. The Parties shall appoint (a) Mediator(s) or Conciliators within 60 days of the written request to initiate a procedure of mediation or conciliation and shall inform the Chairman of the Committee accordingly.
2. Failing such appointment, the Director-General of UNESCO shall, after consultation with the Parties concerned, appoint (a) Mediator(s) or Conciliator(s). Such an appointment shall be made as soon as possible.
3. Mediator(s) or Conciliators shall be selected taking into consideration their expertise in the field of restitution and/or their knowledge with regard to the nature of the dispute or the specificity of the cultural property at stake.
4. Any Party, after consultation with the other party, may, in case of breach of any of the obligations set forth under Article 3 (2), request at any stage of the procedure the replacement of the Mediator(s) or Conciliators. The grounds for the requested replacement must be set out clearly. In such a case, the new Mediator(s) or Conciliators must be appointed according to the same procedure originally used.

5. Any vacancies which may occur during a procedure as a result of death, resignation or any other cause shall be filled as soon as possible according to the procedure originally used for appointing these individuals.

Article 8. Conduct of the mediation or conciliation

1. The Parties shall submit to the Mediator(s) or Conciliators the issue which is the subject of the dispute, their position thereon and all relevant documentation. All documentation will be transmitted to the other Party.
2. In consultation with the Parties, the Mediator(s) or Conciliators shall then set the times, places and dates of their meetings and specify in which language(s) documentation and evidence shall be submitted.
3. The Mediator(s) or Conciliators may conduct their own inquiries and research to determine the facts of the dispute.
4. Following the request of a Party, the Mediator(s) or Conciliators may allow witnesses, experts or third parties to provide documentation or evidence.
5. Each Party shall have the right to submit new arguments and documents in writing before the procedure is concluded.
6. Consultations are confidential, no recording shall be made, and information or documents obtained during the procedure shall not be disclosed, unless the Parties agree otherwise.
7. While complying fully with the principles listed in Article 3, paragraph 2, the Mediator(s) or Conciliators may meet and communicate separately with each Party. The information given in this way shall not be disclosed without the express authorization of the Party providing the information.
8. Within a conciliation procedure, unless the parties to the dispute otherwise agree, the Conciliators may decide whether to adopt specific rules of procedure, including with respect to the submission of written pleadings by the Parties.
9. The Mediator(s) or Conciliators shall endeavour to bring the Parties to reach an amicable settlement of the dispute within one year from the date of his/her appointment unless otherwise agreed by the Parties. At the end of the procedure, the Conciliators submit to the Parties a report which includes their recommendations.
10. The Parties may set a time limit for the conclusion of the procedure, beyond which, if no settlement has been reached, the procedure shall be deemed to have been concluded. The Parties may extend the time limit.

Article 9. Information

The Parties shall jointly inform the Committee on the state of progress of the procedure at its following session and its subsequent sessions.

Article 10. Conclusion of the Procedure(s)

1. A mediation or conciliation procedure shall be deemed to have been concluded in one of the following cases:
 - (a) when all Parties deem that an amicable settlement to that dispute has been reached;
 - (b) when all of the Parties concerned consent in writing to deem the procedure concluded;
 - (c) when all Parties to the dispute have set a time limit, and the time limit has expired without a settlement having been reached;
 - (d) when one of the Parties has notified in writing its withdrawal from the procedure.
2. The Parties shall promptly inform the Chairman of the Committee, who shall inform the Director-General of UNESCO and the Members of the Committee at the next session, of the result of the mediation or conciliation procedure. Any communication of a settlement reached should be done in a coordinated manner.
3. When a procedure has been concluded without a settlement, the issue which is the subject of the dispute shall remain before the Committee as any other unsolved question which has been submitted to it.
4. The outcome of the procedure shall be binding on the Parties only when they reach a binding agreement on it.

Article 11. Costs

1. The Parties shall bear in equal share the costs of the mediation or conciliation procedure unless another arrangement has been agreed. In the event of a withdrawal by a Party, this will not have an affect on the obligation of the Party in question to pay the expenses incurred up to the date of notification of withdrawal.
2. Expenses incurred for witnesses, experts, or legal assistance when requested by only one Party, shall be borne by that Party, unless another arrangement has been agreed.