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

**FINAL REPORT OF THE SEVENTEENTH SESSION
(30 June-1 July 2011)**

I. Introduction

1. The seventeenth 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 (hereafter "the Committee") was held at UNESCO Headquarters in Paris from 30 June to 1 July 2011. The 22 States Members of the Committee were represented. Fifty-five Member States of UNESCO not Members of the Committee were also registered as observers, as were two permanent observer missions, five intergovernmental organizations, one non-governmental organization, 23 experts and four individual observers.

II. Opening of the Session – Election of the Bureau – Adoption of the agenda

2. Mr Francesco Bandarin, Assistant Director-General for Culture, opened the meeting on behalf of the Director-General, Ms Irina Bokova. He paid tribute to Professor Constantin Economidès (Greece), the former Chairperson of the Committee, who had died a few weeks earlier, and a minute of silence was observed. Ms Artemis A. Papathanassiou (Greece) was elected Chairperson. Taking the Chair, Ms Papathanassiou in turn paid tribute to Professor Economidès. Responding to these expressions of appreciation for Professor Economidès, the delegation of the United States of America proposed that a Recommendation be prepared, officially expressing the Committee's gratitude to the Professor and recalling his outstanding contribution to the realization of the goals of UNESCO and the implementation of its activities. That proposal was approved by the Committee (see Annex).

3. Ms Cecilia Villanueva Bracho, Deputy Permanent Delegate of Mexico, was elected Rapporteur in place of Mr Folarin Shyllon (Nigeria), who was unable to attend the current session.

4. Following discussions, Libya, Nigeria, the Republic of Korea and Romania were elected Vice-Chairpersons, and the agenda was adopted as amended.

III. Secretariat Report¹

5. In accordance with the agenda, the Secretariat submitted to the Committee its report on significant events in the past nine months relating to the promotion of the return of cultural property to its countries of origin or its restitution in case of illicit appropriation and on progress in implementing the Recommendations adopted at the sixteenth session. It also reported on activities conducted by the Organization with its partners, including the International Criminal Police Organization (INTERPOL), the International Institute for the Unification of Private Law (UNIDROIT), the United Nations Office on Drugs and Crime (UNODC), the International Council of Museums (ICOM), the *Carabinieri* (Italy) and the *Office Central de Lutte contre le Trafic des Biens Culturels* (OCBC – France) and on progress achieved in the framework of that collaboration.

6. The Secretariat drew the Committee's attention to two corrections requested by delegations. The first related to the paragraph concerning the Boğazköy Sphinx: the observer delegation of Germany had informed the Committee that the use of "restitution" was incorrect; a bilateral agreement had been concluded between Germany and Turkey. The second correction had been requested by the observer delegation of France to the annex to the report, specifically the paragraph relating to the agreement between France and the Republic of Korea on the subject of Korean manuscripts. The delegation of France had pointed out that restitution had not been involved. The manuscripts had been lent for a period of five years, renewable for a further five-year period by written notification by each of the parties. The representative of France stressed that his Government retained ownership of the manuscripts, which were part of the of the *Bibliothèque nationale* collection, and had been formally lent to the Korean National Museum. The items lent comprised 297 volumes of archives. The Secretariat duly took account of those corrections in the revised version of its report.²

7. The delegation of the United States of America requested that a correction be made to paragraph 19 of the report so that the word "return" would appear next to the word "restitution".

(a) Annex to the Secretariat Report

8. The delegation of the United States of America requested that the term "restitution" be replaced by the word "return" in three of the cases described in the annex to the report: the return of a collection of Peruvian cultural objects by the customs and immigration services of the United States of America in May 2011, the return of archaeological items from Machu Picchu (Peru) by Yale University and the return to Italy of the Venus Morgantina by the Getty Museum.

9. The delegation of Germany, speaking as an observer and commenting on the choice of cases contained in the annex to the report, requested that a questionnaire be prepared for submission to States by the Secretariat, to collect reliable information on such cases of return or restitution. It wished that greater visibility would be given to its efforts to return cultural property to Latin American countries and to Iraq.

10. The delegation of France, speaking as an observer, after thanking the Secretariat for having made the requested corrections relating to the case of the Korean manuscripts, expressed its surprise that information relating to the annex to the report had been obtained in part from press releases. In future, the States concerned should be contacted so that reliable information could be obtained. As to the bilateral agreement concerning the Korean manuscripts, the delegation of France noted that that example could appear in the annex to the report, but should be worded differently in order to avoid creating confusion and ambiguity.

11. The observer delegation of Switzerland informed the Committee of its doubts concerning the annex and the choice of the cases outlined. It added that it would be preferable for the Committee

¹ CLT-2011/CONF.208/COM.17/2.

² CLT-2010/CONF.208/COM.17/2REV.

to rely on a questionnaire to be sent to States, which would be the subject of a recommendation by the Committee.

(b) Other reports circulated to the Committee by the Secretariat

12. A number of delegations drew the Committee's attention to alterations which should be made to documents provided by the Secretariat.

- Final report of the sixteenth session of the Committee (CLT-2010/CONF.203/COM.16/6).

13. The delegation of Mexico made some observations concerning the final report of the sixteenth session, stating that the document had not been adopted by the Committee. The delegation of Mexico requested that its statements, in addition to those made by other African, Asian and Latin American States, be faithfully transcribed in that document, which had been submitted as a working document for the seventeenth session, to ensure that statements by the various experts and representatives of entities from the art market, as well as discussions between experts and States, were reflected in a more balanced manner. In future, the Secretariat should submit the minutes of Committee meetings and those minutes should be discussed before being considered for adoption at the following session. For example, in relation to page 6 of the English-language version of the report on the sixteenth session, and in particular the paragraph relating to ethical principles and legal rules applicable to cultural property, the delegation of Mexico reaffirmed the importance of establishing a discussion forum, in the light of the obvious shortcomings of the current treaty-based framework; this was particularly important in relation to illegal or clandestine excavations of archaeological and palaeontological sites. Its appropriate concerns should be reflected, given the problems posed by the registration of archaeological items from illegal digs, their subsequent transfer to foreign countries and their auctioning by galleries. The potential adoption of a series of principles such as those outlined by Mr Scovazzi during the sixteenth session was no obstacle to consideration of ways of strengthening bilateral cooperation mechanisms and exploring other solutions, especially in the light of the problem of the clandestine or illegal collection of archaeological and palaeontological objects and the underwater heritage. In that framework, Mexico was giving in-depth consideration to the issue in a number of international forums. The Committee itself, in its Recommendation No. 7, had requested the Director-General of UNESCO to take those questions into consideration and to organize a round-table discussion on the occasion of the fortieth anniversary of the 1970 Convention. Mexico also expressed gratitude to the Director-General, the Assistant Director-General for Culture and the UNESCO Secretariat as a whole for their efforts to bring about that discussion, which had been held on 15 and 16 March 2011 and which had been of great importance to the implementation of Recommendation No. 5 relating to the convening of the seventeenth session. The fortieth anniversary of the 1970 Convention had shown that, for many countries, combating the specific problem of clandestine archaeological digs was a foreign-policy priority relating to the preservation of cultural heritage. For those reasons, the delegation of Mexico would submit amendments to the Secretariat to rectify those omissions. The *Carabinieri* (Italy) had submitted a written amendment relating to their activities, and it had been duly taken into account in the report on the sixteenth session.

- Final report on the commemoration of the fortieth anniversary of the 1970 Convention: "The fight against the illicit traffic of cultural property: the 1970 Convention, past and future" (CLT/2011/CONF.207/8)

14. The delegation of the United States of America regretted that insufficient reference had been made to discussions concerning the implementation of the 1970 Convention and the possibility that it might need to be revised.

15. The delegation of Mexico thanked the Secretariat, the Director-General and the Assistant Director-General for Culture for taking into consideration the concerns expressed in the Committee, and mentioned the formal request which had been made to the Secretariat for the report on the session commemorating the fortieth anniversary of the 1970 Convention to be circulated in advance to the members of the Committee. It also raised a fundamental concern on

behalf of the Latin American and Caribbean States, which were requesting the Organization and the Secretariat to begin an in-depth investigation into the insufficient protection afforded by the 1970 Convention in relation to the looting of cultural property through clandestine and illegal excavations. It was regrettable that delegations had not had the opportunity to give detailed consideration to the report on the fortieth anniversary and that its contents gave insufficient space to Latin American countries and their major concerns. This conflicted with the positive position of the Secretariat, which had caused the Director-General to propose that the Executive Board of UNESCO take a series of measures to strengthen the Convention.

16. As a strong supporter of the Convention and its implementation, and convinced of the need to protect the heritage of museums and private collections and make appropriate inventories of cultural property, and of the role of international cooperation in its restitution, the delegation of Mexico wished to express its concern regarding the gaps in the Convention, the gravest of which was the impossibility of preparing registers and inventories of looted archaeological and palaeontological property. Unlike theft from museums, the very nature of clandestine and illegal excavations was to steal the heritage of peoples secretly and place the stolen items on art markets in major world capitals. That reflected a situation of powerlessness in terms of legality and international jurisprudence for dealing effectively with that type of crime. To that end, there should be greater international cooperation under the leadership of UNESCO. Agencies and entities in many countries, independently of UNESCO, were seeking other ways of solving the problem, but cooperation was needed. The intention was not to invoke any convention or create problems for any museum or gallery, but to bring about increased international action and cooperation, guided by UNESCO. The purpose of the fortieth-anniversary forum had been to bring about shared discussions with a view to working together more effectively towards strengthening the Convention and solving problems, particularly in respect of cooperation in combating trafficking in archaeological property.

17. Lastly, the delegation of Mexico announced that it would submit a written note to the Secretariat and congratulated UNESCO and the Secretariat on the considerable work accomplished with limited means; it then called on States to provide increased support. In conclusion, it requested the Chairperson to ensure that its statement was included in the record so that the latter would reflect its position, its willingness to cooperate, its support for the 1970 Convention and the legitimate concerns expressed by 26 countries during the discussions held in 2011.

IV. Consideration of cases pending before the Committee and promotion of bilateral negotiations

(a) The Parthenon Sculptures

18. The discussions relating to the Parthenon Sculptures were chaired by Professor Lee (Republic of Korea), Vice-Chairperson, instead of the Chairperson, who was a Greek national.

19. A representative of Greece briefly reviewed the facts and his Government's request for restitution of the Parthenon Sculptures. The new Acropolis museum was described, in particular its location at the foot of the Acropolis, in visual and physical contact with the Parthenon. The Sculptures were exhibited in a special gallery and had all been placed (whether originals or replicas) exactly in their original positions and in direct contact thanks to large glass bays. A short film was shown to the Committee in order to illustrate the above information.

20. The delegation of the United Kingdom of Great Britain and Northern Ireland, speaking as an observer, said that any decision relating to the Parthenon Sculptures exhibited at the British Museum would be for the museum's trustees, which were independent of the Government. The British Museum was the holder of a legal title to the sculptures and was also responsible for their preservation. The trustees believed that the British Museum, a world-famous institution and accessible free of charge to six million people per year, remained the best location for the items, which played a part in the history of humanity as a whole. It was the goal of the museum,

established in 1753 to assemble a collection from the whole world, which would be open to all and would reflect all the cultures of humanity in order to reflect links among peoples. Those connections and that sharing still continued to bear fruit within the museum. The United Kingdom delegation added that the British Museum had long cooperated with the authorities in Greece, particularly for the restoration of the monuments of the Acropolis. Furthermore, the museum continued to promote further research relating to the Sculptures. Visits were organized regularly to the British Museum for members of the archaeological team of the Acropolis Museum, and vice versa. The Government of the United Kingdom supported the position taken by the museum trustees but also wished to continue its dialogue with the Government of Greece in order to facilitate widespread understanding on the subject.

21. Pursuant to Recommendation No. 1 adopted at its sixteenth session, the Committee continued to encourage the holding of meetings between Greece and the United Kingdom and to offer its assistance. A new Recommendation was adopted during the seventeenth session, recognizing the fruitful cooperation between Greece and the United Kingdom in the cultural sphere and encouraging the various initiatives on scientific and technical cooperation designed to continue the study of the monument. Lastly, the Committee renewed its invitation to the Director-General of UNESCO to offer assistance in organizing the necessary meetings between the Governments of Greece and the United Kingdom in order to arrive at a mutually acceptable solution in relation to the Parthenon Sculptures.

(b) The Boğazköy Sphinx

22. The representative of Turkey, speaking as an observer, confirmed to the Committee that the issue of the Boğazköy Sphinx, which had been on the Committee's agenda since 1987, had been resolved in 2011 through a mutually acceptable solution agreed upon with Germany. Bilateral meetings held in the two countries, together with a spirit of cooperation, had led to the conclusion of a bilateral agreement under which the Sphinx was to be moved to Turkey from the Berlin Museum by 28 November 2011. Experts would agree on the work schedule and collect practical information to prepare the Sphinx for its return to Turkey, and the Committee would be informed when the item actually arrived there. The date of 28 November 2011 had been chosen owing to the celebration of the twenty-fifth anniversary of the inclusion of Bogâzkale, the former capital of the Hittite civilization, in the World Heritage List. 2012 would also be a symbolic year, marking the one hundredth anniversary of the finding of the Boğazköy Sphinx during the excavation in 1912 of the Ottoman Imperial Museum in Boğazköy. The Sphinx was part of a set of pieces, also comprising 10,000 cuneiform tablets and one other sphinx. All of those objects had been shipped to Germany between 1915 and 1917 to be cleaned and restored, and had featured in publications. All of them, except the Sphinx, whose case was under consideration, had been returned to Turkey between 1924 and 1942 and in 1987, when the case had been considered by the Committee. With the arrival of the second sphinx, the set would be complete; the case could then, during the next session of the Committee in 2012, be officially removed from the agenda. Although it had taken many years to achieve that result, the representative of Turkey emphasized that the entire process had taken place in a spirit of cooperation and friendship between the two countries and hoped that such an amicable solution could serve as a model for other cases pending before the Committee. The representative of Turkey, noting that the encouragement and support received from the Committee and the Secretariat had played an important part, expressed his Government's gratitude and, reaffirming his delegation's interest in the Committee's work, said that it would be a candidate for full membership.

23. The representative of Germany, speaking as an observer, noted the historical context of the case and provided additional information to the Committee, including the fact that a copy of the Boğazköy Sphinx would be made for the Pergamon Museum in Berlin. The delegations of Germany and Turkey noted that the transfer of the Sphinx was an act of mutual goodwill and a token of friendship between the two countries. The bilateral agreement would also strengthen cultural cooperation between them, particularly through archaeological projects and exhibitions. Lastly, the delegation of Germany reaffirmed its support for the efforts of UNESCO and its Member States in their activities on the Committee and in protecting the cultural heritage of humanity.

24. The representative of Zimbabwe, commending the Government of Germany for the resolution of that case, thanked it for having facilitated the return to Zimbabwe of the “soapstone bird”; that had been a further example of the importance of mutual cooperation.³

25. In its Recommendation, the Committee welcomed that solution, invited the parties to keep it informed and invited the Director-General to report to the Committee at its eighteenth session.

(c) Objects from the Khorvin Necropolis

26. In 1985, a case between the Islamic Republic of Iran and a private citizen of Belgium had been submitted to the Committee in relation to a request for restitution of Iranian cultural property from a collection located in Belgium. When the case had been brought before the courts, its examination by the Committee had been suspended, in accordance with its Statutes, until such time as all internal means of redress had been exhausted. In the late 1980s, at the request of the Islamic Republic of Iran, a UNESCO observer had been present at the proceedings of the Court of First Instance of Brussels. On 4 and 5 April 2011, when the case had been heard by the fourth chamber of the Appeal Court of Brussels, the delegation of the Islamic Republic of Iran had once again requested the Secretariat to send a UNESCO observer to attend the court proceedings, and that request had been granted.

V. Reports of partner institutions

27. UNESCO continues its fruitful cooperation with a variety of international bodies, both *intergovernmental and non-governmental*, such as *INTERPOL, UNIDROIT, UNODC and ICOM*, in the area of combating trafficking in cultural property. Those bodies communicate with each other almost daily, to develop tools to ensure the return and restitution of cultural property, resolve cases involving its theft and illicit export worldwide, and develop modalities for its restitution. In that context, the Secretariat invited the representatives of those institutions to take the floor during the seventeenth session in order to present their activities.

(a) The International Criminal Police Organization (INTERPOL)

28. Mr Karl-Heinz Kind, coordinator of the Works of Art Unit of the INTERPOL General Secretariat, mentioned the cooperation agreement in force between INTERPOL and UNESCO since 1999, the implementation of which took the form of practical and effective collaboration in combating trafficking in cultural property. His presentation focused on two major subjects: the development of databases of stolen works of art and the work of INTERPOL during crisis periods.

29. The INTERPOL database of stolen works of art comprised some 37,200 records from 125 countries. The information provided, however, was not evenly spread; nearly 75% of the data were from European countries. New information was regularly added to the database: the number of records had doubled in 10 years. The rules of procedure for adding new information were relatively strict: only the competent authorities (INTERPOL national central bureaux in the 188 Member States) and some organizations (UNESCO and ICOM) could add new data. While the need for such a database was not in doubt, it must be admitted that the mechanism was underused and a number of national databases, such as those in France, Germany and Italy, were larger in terms of the numbers of records. INTERPOL encouraged all countries to establish effective mechanisms for the transmission to the INTERPOL General Secretariat of information from reports of thefts, prepared by their national police services. Furthermore, in order to improve its accessibility and therefore its effectiveness, the INTERPOL database had been opened to the public as from August 2009. Since then, 2,200 fee-free accesses had been granted and 18,000 searches had been made.

³ The case of the soapstone bird, which has mobilized many stakeholders in Germany and Zimbabwe, illustrates certain dynamics involved in the repatriation and restitution of cultural property to its country of origin. (For further information, see *Museum International* 241-2, “The reunification of a national symbol”, by D. Munjeri).

30. INTERPOL also offered its technical expertise in crisis situations. In April 2011, for example, a mission comprising experts from UNESCO, ICOM and INTERPOL had been dispatched to Egypt to assess the situation in some museums and on a number of archaeological sites. The members of the mission had conducted a security audit at five museums, six archaeological sites and one church, followed by the submission of a report and practical recommendations.

(b) The International Institute for the Unification of Private Law (UNIDROIT)

31. Ms Marina Schneider stressed the importance of collaboration among various partners in combating trafficking and promoting restitution of cultural property. That close cooperation was reflected in a number of activities. In the Expert Committee on State Ownership of Cultural Heritage, UNIDROIT had been involved in drafting model provisions defining State ownership of cultural property (see VII (a), below). In May 2011, the Governing Council, the scientific organ of UNIDROIT, had noted the progress achieved in the Expert Committee and had reaffirmed its support for and involvement in the project. UNIDROIT was also involved in the HERMES 11 project, a study commissioned by the European Commission, on ways of preventing and combating trafficking in cultural property in Europe (see VII (b), below).

32. There were currently 32 States Parties to the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects (1995), an increase of two since the sixteenth session of the Committee in September 2010 (Denmark on 1 February 2011 and Sweden on 28 June 2011). The Convention would enter into force for those countries six months after their respective ratifications.⁴ Three States were finalizing procedures for accession to the Convention and others were giving more or less close consideration to possible accession.

33. As to the implementation of the Convention and the issue of the effectiveness of existing instruments in combating trafficking in cultural property, UNIDROIT was actively involved in various discussions on the practical application of the instruments. Its Governing Council, at its meeting in May 2011, had decided to convene a meeting of the 1995 Convention monitoring body in the spring of 2012. That would provide an opportunity for outlining and explaining its mechanisms, its contributions and its interactions with the UNESCO Convention of 1970.

(c) The United Nations Office on Drugs and Crime (UNODC)

34. Ms Mounia Ben Hammou reaffirmed the importance that UNODC attached to cooperation in combating trafficking in cultural property, particularly with UNESCO, and other organizations in the network such as INTERPOL, UNIDROIT, ICOM and the World Customs Organization (WCO).

35. UNODC's recent mandate to combat such trafficking was derived from two resolutions of the Economic and Social Council of the United Nations, adopted in 2004 and 2008. The Council had requested UNODC, in close collaboration with the Council, to convene an intergovernmental expert group to submit appropriate recommendations to the Commission on Crime Prevention and Criminal Justice (CCPCJ). The expert group had met in 2009 and its recommendations had been submitted to CCPCJ at its nineteenth session in 2010; they related to prevention, definition of criminal offences, cooperation, awareness-raising, capacity-building, technical assistance and use of new technologies. In its recommendations, the expert group had invited States to ratify and implement the United Nations Convention against Transnational Organized Crime (Palermo Convention), adopted at Palermo in 2000, which had entered into force in 2003. The Convention had to date been ratified by 162 States, making it an important instrument in international law, particularly regarding international cooperation for extradition, mutual judicial assistance and confiscation, which were particularly important tools in combating trafficking in cultural property. The role of UNODC was to promote ratification and implementation of that Convention for cases of trafficking in cultural property which were connected with transnational organized crime. The activities of UNODC in that regard complemented those of UNESCO, the lead organization in the overall protection of cultural property.

⁴ See UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects (1995), Article 12.

36. She said that, as the Economic and Social Council had requested, the main theme of the session of CCPCJ held at Vienna in 2010 had been the prevention of trafficking in cultural property. During that session, States had stressed that transnational criminal groups were more and more active in trafficking in cultural property and that the art market was transnational by its very nature. It was on that basis that States had considered that such offences could be dealt with under the Palermo Convention, and that consideration should be given to drafting a new protocol to the Convention to help States to combat trafficking in cultural property more specifically. The protocol could treat trafficking in cultural goods as a more serious offence and include provisions on the definition of the offence, on cooperation and on the recovery of goods in cases where no inventory had been prepared. States had not, however, reached consensus on the proposal. Some considered that a protocol was not the best way to deal with the problem because regulatory aspects relating to the protection of cultural property (such as databases, the licensing of dealers, due diligence and awareness-raising) should not be part of an instrument of criminal law. Those States believed that, before considering the drafting of a new instrument, CCPCJ should pay greater attention to ways of improving and making more effective the application of existing ones. Lastly, preparing a new protocol would involve a long and tedious process of negotiation, adoption and ratification, which those States did not consider to be really necessary. The same issue had been discussed in April 2011 during the twentieth session of CCPCJ. A draft resolution had been agreed for adoption by the Council at its forthcoming plenary session in July 2012.

37. The problem of trafficking in cultural property had also been debated at the latest session of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime (Vienna, 18-22 October 2010). That session had been a particularly significant event, marking the tenth anniversary of the adoption of the Convention. A resolution had been adopted in which States emphasized the importance of using the Convention for international cooperation in combating criminal offences against cultural property.

38. Lastly, an expert meeting had been to be held in November 2011, to work on draft guidelines relating to the prevention and punishment of trafficking in cultural property. Partner organizations such as UNESCO had been invited to take part.

(d) The International Council of Museums (ICOM)

39. Ms France Desmarais, ICOM's Director of Programmes, outlining its activities for the protection of cultural heritage, drew attention to the ICOM-World Intellectual Property Organization (WIPO) project on forms of alternative dispute resolution relating to cultural property ("Art and Cultural Heritage Mediation"), which was the outcome of collaboration between ICOM and WIPO. ICOM had sought to respond to growing demand for restitution processes for cultural property. The ICOM-WIPO art and cultural heritage mediation procedure had been designed to meet museums' needs for an alternative dispute settlement procedure adapted to the area of art and cultural heritage, particularly in relation to issues of restitution and intellectual property. Having proposed its good offices in May 2010, together with UNESCO, for the donation by the Barbier-Mueller Museum (Geneva) of the Makonde Mask to the National Museum of Tanzania, ICOM wished to offer advice and assistance to enable parties to disputes to resolve them amicably with emphasis on direct communication and culture, involving specialized, neutral mediators. The procedure provided for in the ICOM-WIPO Mediation Rules ensured respect for the ethical standards contained in the ICOM Code of Ethics for Museums, highlighting creative approaches to extrajudicial settlement of cases, while preserving friendly relations between the parties to the dispute.

40. Upstream from the area of restitution of illegally acquired objects, ICOM worked with UNESCO to prevent trafficking in cultural property, a matter of the highest importance to the world community and a problem whose international and complex nature contrasted with the modest financial and technical resources available for dealing with it. As a member of the group of experts recognized by the United Nations in combating trafficking in cultural property, ICOM sought to deal with the problem both upstream and downstream through the publication of Red Lists, a tool which had demonstrated its usefulness and earned an international reputation. An instrument of both

awareness-raising and prevention, Red Lists had made it possible to take concrete measures against trafficking in the form of numerous seizures and arrests. The publication of the Red List of Afghan Antiquities at Risk had enabled the customs authorities in the United Kingdom of Great Britain and Northern Ireland to intercept hundreds of antiquities from Afghanistan and to return to the National Museum of Afghanistan a total of 3.4 tons of stolen antiquities, comprising 1,500 items confiscated at Heathrow Airport. In 10 years, ICOM had published 10 Red Lists of cultural property at risk, listing items in danger of being trafficked worldwide. In response to recent events endangering cultural heritage in many parts of the world, three Red Lists had been published in 2010, namely the Red Lists of cultural property at risk from China and Colombia, and the Emergency Red List of Haitian Cultural Objects at Risk. In 2011, responding directly to events in Egypt, and after participating in a joint mission to Cairo with UNESCO, ICOM had published the Emergency Red List of Egyptian Cultural Objects at Risk, with assistance from national and international experts. Complementing the list relating to Haiti, a Red List concerning the Dominican Republic was being compiled. In the light of the looting and clandestine excavations taking place in West Africa, there was also a project to produce a Red List for that subregion. The production of those lists was supported by the Federal Office of Culture (Switzerland) and the Bureau of Educational and Cultural Affairs of the Department of State (United States of America).

41. ICOM was also engaged in capacity-building for the protection of cultural heritage through e-learning tools and seminars. Workshops were designed for professionals, police and customs officers, art dealers and museum representatives. In 2010, ICOM had provided such workshops in China, Colombia, Haiti and Mexico. All of those activities were concrete examples of the tools that States Parties could develop in connection with the 1970 Convention.

(e) Specialized police corps

42. During the seventeenth session, UNESCO sought to promote awareness of the activities of specialized police corps in combating trafficking in cultural property and to inform the members of the Committee of those organizations' accomplishments. In addition to the usual partners, representatives of the Italian *Carabinieri*, the *Office Central de lutte contre le trafic des biens culturels* (OCBC) of France and the Historical Heritage Brigade of the National Police Force of Spain and a public prosecutor from Bulgaria were also invited to take the floor.

➤ *Comando Carabinieri Tutela Patrimonio Culturale, Italy*

43. Lieutenant-Colonel Alberto Deregibus, *Carabinieri* Chief of Staff responsible for the protection of cultural heritage, reminded the Committee that in the past 20 years his department had developed specific experience in prevention, surveillance of archaeological sites, verification of security measures used by national museums, libraries and archive centres, and checking of auction-house catalogues.

44. Since the 1980s, the *Carabinieri* also had their own database containing information on hundreds of thousands of stolen or looted items. This constantly updated tool was extremely useful and had been used to solve numerous cases of theft. Given the proven effectiveness of such databases, a new project to improve international sharing of information on stolen works of art had been approved and would be funded by the European Union. Led by the *Carabinieri*, the project was supported by INTERPOL and many European States.

45. In addition to searching for Italian cultural property, the *Carabinieri* had discovered and returned many items that had been imported illegally into a variety of countries. The countries to which such returns had been made included Belgium, Costa Rica, Ecuador, France, Mexico, Peru and Spain.

46. The *Carabinieri* had also developed cooperation with other countries and with international organizations such as UNESCO. Many regional training workshops had been held in countries such as Ecuador, El Salvador and Mongolia to share experience in the protection of cultural heritage.

47. The delegation of Mexico expressed its Government's gratitude to the *Carabinieri* for the extraordinary cooperation they had always shown, not only on the occasion of the return and restitution of pre-Columbian objects in March 2011, but also in training officers of Mexico's security forces to combat trafficking in cultural property.

➤ *Office central de lutte contre le trafic de biens culturels (OCBC) (France)*

48. Speaking as deputy chief of OCBC, Ms Corinne Chartrelle outlined the legislative and material tools available to France to combat trafficking in cultural property. She also described difficulties encountered when conducting investigations outside France and gave examples of successful cooperation at the international level.

49. As to legislative and material tools, she said that preventive legislation had been adopted in order to permit effective market supervision through the traceability of goods, particularly by means of a police register. The latter, compulsory for all art dealers but also dealers in second-hand goods, required an extremely precise description of each object and the identity of the dealer. A new law had been enacted in 2008, strengthening further still the protection of the national heritage.⁵ The OCBC database ("TREIMA") included nearly 32,000 cases and some 85,000 photographs of stolen items. The particularity of that database was that it could be transported to the site of a police search and was therefore especially effective in combating trafficking in cultural property.

50. The difficulties encountered by OCBC during international investigations were caused by the lack of a police register or similar document in most other countries, which led to problems with the traceability of goods, dishonesty on the part of buyers, many countries' short statute-of-limitation periods for the offence of receiving stolen goods and the problem of application of the notion of public domain (French national treasures having a special status).

51. She then described successful examples of international cooperation. One such case had involved a seventeenth-century oil painting representing Saint Francis with a crucifix, stolen in 1973 from a museum in Nice, found in Genoa in 2010 by the *Carabinieri* and restituted in 2011; another concerned a Degas painting stolen in Le Havre in 1973 and placed on public sale in New York in 2010. The authorities of the United States of America had cooperated with the Ministry of Culture of France and the painting had been returned in 2011. Lastly, OCBC had cooperated with the authorities in Belgium and Germany on the Breitwieser case, resulting in the restitution of several works of art.

➤ Historical Heritage Brigade, National Police Forces (Spain)

52. Mr Antonio Tenorio Madrona, Chief Inspector, Chief of the Historical Heritage Brigade of the National Police Forces of Spain, referred to resolution (77) 36 of the Committee of Ministers of the Council of Europe which, in the context of combating trafficking in cultural property, recommended specialization in the policing, fiscal and judicial fields. The specialized unit of the Spanish police had been established in response to constant looting of the country's cultural heritage, particularly in churches left unprotected in recent decades, and massive and uncontrolled movements to other countries of cultural property which ended up in the hands of foreign private collectors. That had motivated the establishment, within the Directorate-General of the Criminal Investigation Police, of groups especially tasked with investigating art thefts. Over the years, those groups had perfected their structure and methods and had evolved until the formation, through legislative and regulatory measures, of the Historical Heritage Brigade. The Brigade came under the Central Specialized and Violent Crime Unit, which in turn answered to the Directorate-General of the Criminal Investigation Police. The Brigade comprised 22 specialized officers and, peripherally, 150 additional members of the police force heading specialized groups which investigated thefts committed in the various districts in the territory of Spain. There was close collaboration with museum institutions, the

⁵ The penal code was amended to reinforce the provision penalizing theft of and malicious acts against protected cultural goods.

Roman Catholic Church (particularly representatives of the dioceses), universities, the customs authorities and the police forces of the country's autonomous communities. Pursuant to an agreement with the Ministry of Culture, one of the Brigade's officers worked as a permanent coordinator with the Ministry and took part in activities under the heading of mutual collaboration, particularly in relation to the export of cultural property and in the area of training. Like similar police entities in France and Italy, the Brigade used a database, which contained records of some 10,000 objects and was accessible only to those responsible for the country's cultural heritage. That tool had, however, proved to be insufficient owing to very rapid technological progress and online trading which had supplanted other markets that had proved insecure for the traffickers. It was impossible to combat the growth of trafficking, which was encouraged by a minority of collectors and by museum institutions and dealers, who showed contempt for ethical behaviour and encouraged looting and destruction of cultural heritage, taking a narrow national viewpoint. The scope of prevention must be extended to a supranational dimension, promoting the creation in every country of appropriate and specially-designed police and customs bodies, motivated by public-spirited beliefs and establishing rules that would ensure effective cooperation and coordination among States in order to eradicate the widespread looting that beset some countries. In that context, he supported the initiative to establish a new database, to which previous speakers had referred. He said that the illicit trade surpassed the national level because of trade-related conflicts of interests among countries, States' varying viewpoints in relation to market restrictions and the diversity of legislative mechanisms. Attempts were being made to lessen those difficulties by seeking a consensus and the ratification of international instruments such as the 1970 Convention and the 1995 UNIDROIT Convention. He stressed that data disseminated by INTERPOL on art thefts in the rest of the world were imperfect, since not all countries reported the full scale of thefts committed in their territory; some countries based their approach on subjective evaluations of the merits of works of art, whereas they should be described more precisely in order to give a clear picture of the scope of the problem.

53. As to the prosecutions, a large proportion of the Spanish prosecution services comprised teams specialized in the environment and cultural heritage. Sadly, the same could not be said of the country's judicial authorities, and ad hoc tribunals could not be established. Members of the judiciary were, however, expected to be appropriately trained and to be sufficiently aware of those issues.

54. He described an operation carried out jointly with INTERPOL, Colombia, Ecuador and Peru. It related to a couple, a Colombian national and a Spanish national, who had exported pre-Columbian works of art illicitly. An investigation had been initiated and a network of close cooperation had been established among the countries concerned to track the couple's cross-border movements until their arrival in Spain. The police had then intervened and some 750 objects had been seized, including some of considerable value. Similar cases of fruitful cooperation with Egypt, Portugal and the United Kingdom of Great Britain and Northern Ireland had clearly demonstrated the need for international cooperation in combating trafficking in cultural property and for the promotion of its restitution.

➤ Public Prosecutor, Bulgaria

55. Mr Solarov, Public Prosecutor (Bulgaria), began his statement by noting the importance of the work of international organizations such as UNESCO in safeguarding the heritage of nations.

56. Like Greece and Italy, Bulgaria was rich in cultural property, with many buried treasures that were often torn from the land and offered for sale on the black market. Bulgaria was a crossroads of major trade routes, which encouraged all kinds of trafficking.

57. The Office of the Public Prosecutor (Supreme Cassation Prosecutor's Office) comprised a permanent unit dedicated to combating trafficking in cultural property. There were also two specific units in the Ministry of the Interior, made up of troops trained in fighting organized crime. Those special corps worked closely with the Office of the Public Prosecutor and the Ministry of Culture. Many training activities had been organized to build capacities in that area, including some with the

Carabinieri of Italy. In two years, 200 Bulgarian public prosecutors and police officers had received such training.

58. Public-relations efforts involving the media had begun five years previously in order to publicize the results achieved and the difficulties encountered. There was also specific cooperation with specialized bodies in other countries within and outside the European Union, and significant cases had been solved as a result. In 2011, successful collaboration with the authorities of the United States of America had revealed a money-laundering system involving trafficking in antiquities valued at more than US \$3.5 million. Noting that the 1970 Convention provided a basis for international cooperation in combating trafficking in cultural property, he expressed his Government's gratitude to the Government of Canada. In 2011, despite the lack of a bilateral agreement on the subject, Canada had returned to Bulgaria a considerable quantity of coins, in accordance with the principles enshrined in the Convention. The generalized implementation of the Convention by Canada was an excellent example of best practices, which should be followed by others.

VI. Statements by delegations

(a) Azerbaijan

59. The representative of Azerbaijan, speaking as an observer, expressed gratitude to all intergovernmental organizations and non-governmental organizations and to UNESCO as the coordinator and mediator for the protection of cultural heritage. He also congratulated Germany and Turkey on their bilateral agreement regarding the Boğazköy Sphinx, an excellent example of mutual understanding between peoples. He said that Azerbaijan was beset daily by the illegal appropriation of its cultural heritage as a result of thefts and illicit archaeological excavations. The Committee's attention should be drawn to the serious problems affecting cultural property in occupied territories; recommendations should be prepared on that subject.

(b) Canada

60. The representative of Canada, speaking as an observer, informed the Committee of the return of 21,000 antiquities to Bulgaria on 10 June 2011. In October 2010, Canada had returned to Bulgaria 300 items that had been exported illegally from Bulgaria and seized by the Canadian customs authorities in 2007. As a party to the 1970 Convention, Canada had been gratified by the return of those items to Bulgaria and by the ceremony held in Ottawa in the presence of the Minister of Culture of Bulgaria and the Director-General of UNESCO. That second success had encouraged national authorities to continue their efforts in cultural cooperation.

61. Through that example, the Government of Canada had shown that uninventoried archaeological items could be restituted pursuant to the provisions of the Convention. The Government of Canada considered that the Convention protected all cultural item specifically designated by States in their national legislation as being of particular importance, be they inventoried or not. Cultural property, inventoried or otherwise, which had been exported illegally from a country could therefore be returned to that country. With that interpretation of the Convention, it would be difficult to argue that its text contained insuperable inadequacies. Any State could interpret and implement the Convention in such a way as to bring about the successful return of looted archaeological items from clandestine excavations in their country of origin.

(c) China

62. The representative of China said that in recent years there had been an increase in illegal excavations at tombs and other historic sites. Those offences were increasingly violent and well-organized. No site or monument was spared, not even those on the UNESCO World Heritage list. In 2010, more than 10 State-protected imperial mausolea had been looted despite measures taken by the Government. The Act of 1935 provided for State ownership of undiscovered items, but it remained difficult to provide proof of the exact location of the illegal excavations when requesting

restitution. On the fortieth anniversary of the 1970 Convention, China had noted that many countries had noted the Convention's lack of effectiveness regarding the restitution of archaeological items from illegal excavations and had drawn UNESCO's attention to that issue. China had, however, noted the Committee's efforts to remedy the weaknesses of the Convention in that regard and congratulated it on its excellent work in preparing model provisions defining State ownership of cultural property (see above), in the hope that efforts would continue to promote the return and restitution of archaeological objects from illegal excavations. UNESCO should continue in its leadership role and the Committee should take concrete measures in relation to the problems that had been raised and state its readiness to support and participate in initiatives in that area.

(d) Guatemala

63. The delegation of Guatemala thanked the Secretariat for its report and for the explanations provided by the Assistant Director-General for Culture concerning the reform of the sector. It recalled its active participation in the work of the Committee and its profound conviction that only multilateral cooperation could meet the shared challenges; it believed that UNESCO had the capacity to unite States within a common understanding, as the guarantor of their contribution to global governance founded upon respect for the dignity of peoples and cultures.

64. The speaker welcomed the meeting of March 2011 on the occasion of the fortieth anniversary of the 1970 Convention, but regretted the lack of time for study and analysis of the report before the Committee. His delegation shared the view expressed by the representative of Mexico concerning the failure to refer to the concerns expressed by the Latin American and Caribbean States, which wished to see the Convention, 40 years after its entry into force, acquire greater effectiveness and offer increased protection to looted archaeological sites. Those States also believed that the Convention should be the legal and ethical instrument which would provide effective support in combating mafia networks, rather than becoming an excessively flexible text serving private interests which obstructed the recovery of looted items. Guatemala had expressed its interest in the proposals made by the Expert Committee on State Ownership of Cultural Heritage.

65. In March 2010, States had called for the use of appropriate terminology and had rejected the expression "exporting countries", which failed to reflect the situation of looting, calling for the expression "country of origin" to be used. The delegation of Guatemala considered that it was improper to refer to the "ownership" of certain collections such as the Patterson Collection. The looting of goods did not confer any title of ownership, since it related to a heritage which was non-negotiable, inalienable and imprescriptible. In that regard, the speaker expressed support for the efforts of Greece, the Islamic Republic of Iran and Turkey to recover their cultural property.

66. He said that the Rules of Procedure for Mediation and Conciliation,⁶ adopted at the Committee's previous session, must be translated into the official languages of UNESCO to ensure their optimal application and implementation. The Committee should also insist that countries of origin and of destination must all become parties to the UNIDROIT Convention.

67. Guatemala had the world's highest density of archaeological treasures per square kilometre, of which only five per cent had been excavated. In that regard, the speaker formally requested that the Committee acknowledge his Government's total rejection of the decision by the Federal Administrative Tribunal of Munich, which had failed to take into account Guatemala's request for the restitution of 396 stolen Maya treasures that were part of the Patterson loot seized in 2008 by the German police. The request had been rejected on the grounds that the necessary conditions were not present. Guatemala had not only been wronged in terms of its heritage, but also had been condemned to pay court costs. Consequently, it was concerned about the future of the stolen goods; they must be returned to their country of origin, so that peoples who were culturally rich but

⁶ <http://www.unesco.org/new/en/culture/themes/movable-heritage-and-museums/restitution-of-cultural-property/mediation-and-conciliation/>

economically less prosperous would not be despoiled and condemned. The Patterson case demonstrated the shortcomings of the Convention and illustrated the frustration of countries wishing to achieve the return of their heritage. Nonetheless, in the framework and spirit of the 1970 Convention and thanks to the expert assessment which had been carried out free of charge in Spain, it had been determined that two items which had remained at the Museum of the Americas in Madrid, and had therefore not been transported to Germany with the rest of the Patterson loot or “collection”, were from Guatemala. One of those items had, however, been claimed by another State, so only one item had been restituted by Spain. Those archaeological items were not on the list of items illegally transferred to Germany and were not mentioned in the claim submitted to Germany by Guatemala. Guatemala had expressed its gratitude to Spain for its ethical gesture, hoping that it would serve as an example to other Member States.

68. The representative of Germany provided some additional explanations on the Patterson case, which had received much interest and had been the subject of debate between the States involved. He said that Germany had ratified the 1970 Convention in 2007 and had implemented it, but that in the framework of a judicial decision which must be respected, the judge had emphasized that some of the States concerned had not inventoried the objects. Germany called for its national legislation implementing the Convention to be respected.

69. The delegation of Guatemala drew attention to the contradiction between a rule, a *modus operandi* and reality. It was not possible to produce a national inventory of cultural property in a country which had 3,600 recorded archaeological sites which could represent millions of items. Inventories must therefore be considered as only an informative and non-exclusive sampling. It was impossible to inventory items that were underground. Only five per cent of the country's archaeological heritage had been excavated; the remaining 95 per cent had not been brought to light. It was therefore impossible to record the millions of items whose existence remained hypothetical for the State but not for the looters. It had been emphasized that the problem should be studied by the Committee and by an expert group which would consider ways of reconciling the reality of undiscovered archaeological heritage and the rules to be applied to it.

(e) Spain

70. The delegation of Spain, speaking as an observer, thanked Guatemala for the gratitude expressed to its Government for the restitution of a piece from the Patterson collection. It shared the convictions of various countries and those of UNESCO in that area, referring to the contribution that it had made since its ratification in 1986 of the 1970 Convention. Spain was working for the application of the Convention and for the maintenance and strengthening of its spirit at the international level, having carried out restitutions to a number of countries, particularly thanks to its close links with Latin American countries. The speaker drew attention to the work carried out by the Ministry of Culture and the police units dedicated to the national heritage, and thanked the Secretariat and UNESCO for stating their readiness for greater involvement in the implementation of the Convention in order to combat trafficking more effectively.

(f) Iraq

71. The delegation of Iraq informed the Committee of the recovery of several items that had been stolen and illicitly exported between 1 June 2004 and 1 October 2010. It thanked Germany for the restitution of objects from illegal sales. Iraq also announced cooperation with Spain for the restitution of cultural property which had been stolen and illicitly exported, and expressed its satisfaction at the new position taken by the Spanish authorities. Iraq had received 32 items from the Syrian Arab Republic; it therefore wished to thank the Syrian authorities for their cooperation. The authorities of the United States of America also continued to assist Iraq in the recovery of numerous cultural objects found on United States territory. Expressing its gratitude in that regard, the delegation of Iraq hoped for a rapid return of the archives seized in April 2003 and transferred to the United States.

72. Lastly, Iraq announced the signature of a bilateral agreement with Peru on the protection and return of cultural property which has been stolen or illicitly exported, and called on its neighbouring countries to do the same.

(g) Italy

73. The delegation of Italy reminded the Committee of the strikingly rapid development in recent years of illicit activities related to the art market. Theft to order, illicit exports, clandestine excavations and falsifications characterized that major sector of criminal activity, whose turnover was second only to the drugs market. Italy played a prominent role in combating trafficking in cultural objects and took an active part in international initiatives to strengthen the principles which were at the heart of the 1970 Convention. Thanks in large part to the *Comando Carabinieri Tutela Patrimonio Culturale*, Italy had long had effective measures in place to safeguard its own heritage and identify property belonging to other countries that had been imported illicitly into Italy. For example, over 130 archaeological items had been identified in early 2011 by means of the international database of the *Carabinieri*. Those goods had been returned to the embassies of the countries concerned, in Latin America and in Europe. The delegation of Italy requested that those restitutions be mentioned in the periodic report of the Secretariat.

74. In the framework of the support provided by Italy to UNESCO, and pursuant to a request by the Director-General, the representative of Italy announced the detachment of an expert officer from the *Carabinieri* to strengthen the human resources of the Secretariat.

75. For about 10 years, in accordance with the Committee's activities to seek ways to facilitate bilateral negotiations for the restitution or return of cultural property, Italy had been encouraging the adoption of cooperation agreements. In that framework, January 2011 had seen the second renewal of the Memorandum of Understanding between Italy and the United States of America relating to trafficking in archaeological pieces from the classical and imperial eras, including numismatic materials. Agreements had also been concluded recently between Italy and two museums in the United States of America, namely the Metropolitan Museum in New York and the Indianapolis Museum of Art. The delegation of Italy also expressed its satisfaction at the return of the Morgantina Venus, a marble and limestone statue, to Aidone, Sicily.

76. In regard to ethics and good practices, which were additional resources in combating trafficking in cultural property, the delegation of Italy announced that a study trip dedicated to good practices in management, conservation, security and the promotion of archaeological parks in Italy had been organized for 2011 for around 10 Albanian officials.

(h) Mexico

77. The delegation of Mexico noted that the fifth Ibero-American Meeting of Museums (8-10 June 2011) had shown its Government's commitment to international cooperation to combat trafficking in cultural property. The final recommendations called for:

- the signature of a regional cooperation agreement on combating trafficking in cultural goods from museums;
- the launching of an Ibero-American campaign against trafficking in cultural goods from museums;
- the dissemination of the INTERPOL database of stolen cultural property;
- open access to the "Ibermuseos" programme, enabling countries to be aware of the movements of trafficked cultural property from museums;

- exchanges of experiences and good practices relating to the inventory and documentation of museum collections in the Ibero-American area, and move towards a platform for exchanges between systems already existing in the region;
- standardization of processes and techniques for documentation and for the mobility of collections in the Ibero-American sphere;
- design of an “Ibermuseos” symbol which would help to facilitate the circulation of cultural property among museums, taking each country’s legislative and regulatory rules into account, with a view to constructing an Ibero-American cultural space;
- establishment of public guarantees and other shared- responsibility measures to facilitate the circulation of cultural property for temporary exhibitions in the Ibero-American sphere;
- temporary and touring exhibitions as mechanisms for the cooperation and sharing which are essential in affirming and disseminating a shared cultural heritage, and establishment of a bank of proposed exhibitions in the region; and
- celebration by the Ibero-American museum community of the fortieth anniversary of the round table held in 1972 at Santiago, Chile (Round Table on the Role of Museums in Today’s Latin America) to encourage the social role of museums, launching a decade of activities which would contribute to heritage protection and to the protective functions of museums.

78. In the field of international cooperation, in April 2011, the Government of Mexico had voluntarily returned to Egypt an effigy intercepted in 2006 by the Mexican customs service while inspecting packages from abroad. Mexico had thanked the German *Land* of Hesse, which had complied strictly with a provision contained in German legislation by permitting the restitution of Mexican archaeological items.

(i) Poland

79. The delegation of Poland, speaking as an observer, informed the Committee of a programme of the criminal investigation bureau of the national police, the object of which was to analyse criminal offences against cultural property in the countries of the European Union and the Eastern European countries which were partners in the project (Belarus, Moldova and Ukraine), by means of a questionnaire on offences against cultural property. The results of that study had been released in Brussels on 15 July 2011.

(j) Republic of Korea

80. The delegation of the Republic of Korea congratulated the Secretariat and the parties concerned for the resolution of the Sphinx of Boğazköy case, an example of good practices which exemplified the unique nature of the Committee’s activities. Cultural dialogue and a spirit of consensus had evolved in the Committee and were now firmly established and should become stronger in future. The Committee must encourage public awareness and realization of the need to combat trafficking in cultural property. To bring that about, on the occasion of the Committee’s thirtieth anniversary in 2008, the Republic of Korea had contributed to its work through a special session held at Seoul. The Committee was an effective instrument in strengthening bilateral negotiations for the return of important items to their countries of origin.

81. In future, the Republic of Korea would continue to support its activities, particularly through awareness-raising activities such as the international forum on the restitution of cultural property held in Seoul on 19 July 2011.

VII. Work of experts in collaboration with UNESCO

(a) Work of the committee of experts on the drafting of model rules defining State ownership of cultural property

82. One of the major topics discussed by the Committee was the drafting of model rules to protect cultural property from trafficking. The goal was to offer to States a model which could be integrated into their own legislation or adapted nationally, depending on States' varying legal traditions, and which would ensure that sufficiently explicit legal principles would be accepted in all States, guaranteeing a minimum level of protection for State ownership of cultural property. Following discussion of that subject during the Committee's fifteenth session, enriched by presentations made by Professor Patrick O'Keefe, honorary professor, University of Queensland (Australia) and Professor Jorge Sánchez Cordero of the Mexican Centre of Uniform Law, on the occasion of the Committee's thirtieth anniversary, celebrated at Seoul in November 2008, the secretariats of UNESCO and UNIDROIT had set up a group of experts appointed in their personal capacities on as broad a geographical basis as possible: Jorge Sánchez Cordero and Marc-André Renold (co-chairpersons), Folarin Shyllon, James Ding, Manlio Frigo, Norman Palmer, Patrick O'Keefe, Thomas Alderkreutz and Vincent Négri.

83. At the sixteenth session of the Committee, Professor Marc-André Renold had submitted the results of the expert group's deliberations and research. His statement had been received very favourably by the members of the Committee, who had requested that the group's work be continued. At the seventeenth session, Professor Renold had outlined the results of work on that subject, that is, the six model rules and accompanying guidelines. The Committee congratulated the group of experts on its work, expressed its satisfaction at the results achieved and requested the Secretariat to disseminate the model rules widely, accompanied by the guidelines, and make them available to all Member States. An evaluation of those instruments would be submitted at the nineteenth session of the Committee.⁷

84. The Chairperson of the Committee, referring to the third model rule, which stipulated that the varying definitions must comply with the national legislation of the country concerned, said that national provisions as modified by the ratification of international conventions must be taken into account; national law effectively embodied international legal instruments adopted by the State concerned.

85. The delegation of Italy thanked the expert group for its work and for the text that it had produced. Italy had already enacted legislation which provided that any cultural item dug up fortuitously from the ground belonged to the State, and there were provisions to penalize illegal excavations. Reservations had been expressed in relation to the general concept of underwater heritage contained in the second model rule, since the latter conflicted with the provisions of the Convention on the Protection of the Underwater Cultural Heritage (2001), which provided for participation by all States which could demonstrate a connection with the object of the Convention, at least where the continental shelf or the waters above it were concerned. It would no doubt be necessary to have a specific provision or warning concerning the Convention. As to the concept of undiscovered cultural property which had not been located and did not yet exist as such, it appeared difficult for a State to be required to protect objects which had no legal existence. That logical problem could perhaps be resolved by means of a new definition of the concept of undiscovered cultural property, which could state that the objects existed, that they had been lost, that there was no documentation concerning them and that model rules incorporated into national legislation would be applicable only from the date of their discovery. Referring to the fourth model rule, which stipulated that certain objects were treated as stolen when they were uncovered and illicitly kept, the delegation of Italy considered that in such cases the objects were in fact stolen,

⁷ These model rules and their guidelines, which were sent to the Member States of UNESCO and UNIDROIT in April 2012, may be consulted online at <http://www.unesco.org/new/en/culture/themes/movable-heritage-and-museums/restitution-of-cultural-property/standards-for-ownership/>

rather than “treated as stolen”. As to the logical problem relating to the concept of undiscovered cultural goods, to which attention had been drawn by Professor Scovazzi, Professor Renold replied that that question had been discussed at length in the expert committee and that it had been resolved by stating that the clause which was initially potential became effective when the objects were discovered. As to the second question and the expression “treated as stolen” and its replacement with “stolen”, that also had been discussed by the experts. The chosen solution had been selected because for some States, technically, in certain situations it could not be stated that a theft had taken place, whereas it was automatic for other States. To reconcile the different viewpoints, a broader formulation had been chosen, preferring the wording “treated as stolen” in the model rules.

86. The delegation of Mexico thanked Professor Renold for the collaborative work that he had performed and for the considerable open-mindedness that he had always shown in carrying out his task. The delegation, however, considered it necessary to emphasize that there were two differing views, reflecting legal systems which were governed by different interests and ways of thinking. At the strictly technical level, UNESCO and UNIDROIT, motivated by the desire to meet the requirements of States, could propose solutions that were acceptable to the international community as a whole. One of the major problems was that national legislation in the countries of origin was complex, obscure or ambiguous, which could cause confusion among buyers of cultural property. The model rules neutralized such controversies and transcended them by introducing universal language into national legislation on the protection of cultural heritage and the fight against trafficking. The harmonization of national legislation must take the shape of uniform and universal terminology and must extend to the decisions and resolutions of international tribunals in order to resolve disputes between countries of origin and of destination. Professor Renold had said that he was of that same opinion and confirmed that unification was extremely important. The goal of the model rules was to achieve a unification which could harmonize solutions in international conventions and national legislation.

87. The representative of Zimbabwe, commenting on the work of the expert group, said that while his delegation had supported the proposal for simple model rules which would be applicable in various legal systems, that could create a disadvantage for States whose legislation was weak in that area. It was therefore important to develop guidelines to accompany the model rules, particularly in relation to ways of updating them. His delegation had recognized that the principles set out in the model rules constituted an excellent general basis, but their usefulness might be lessened in particular situations. Professor Renold had said that the goal depended on the will to propose simple model rules so that States might be spurred on by them; it was therefore for each State to adapt and build on those initial ideas in accordance with its own legal traditions. Professor Renold had also said that, if a member of the Committee desired particular collaboration in the drafting of its national legislation, the expert group was at its disposal, as was UNESCO.

88. The representative of Romania noted that the work met the needs expressed by the Committee. The new model rules and guidelines clearly met States’ concerns in relation to cultural property which had not yet been discovered. His delegation had assured the Committee that the document would be transmitted to its national authorities for possible approval.

89. The delegation of Japan requested clarification regarding the connotation of the term “model”. The term should be understood as an example of recognized good practice, which might or might not be followed or adapted by those States wishing to do so. That approach to model rules was also used in other fields and had been very widely followed with certain adaptations to take into account all the legal specificities of States.

90. Lastly, the delegation of Switzerland, speaking as an observer, requested that each State adopt legislation in that area. In Switzerland, the ratification in 2003 of the 1970 Convention had had a real impact only upon adoption of the law on the transfer of cultural property, and that had led to hundreds of restitutions. As to “cultural property from illicit excavations or obtained licitly from excavations”, it had been specified that an additional law was needed to define whether or not a given excavation was licit.

91. The delegation of the United Republic of Tanzania, speaking as an observer, stressed the importance of working to protect undiscovered cultural property; there was an urgent need to preserve it.

92. The representative of Germany, speaking as an observer, expressed agreement with a number of delegations in raising the question asked by the delegation of Japan, particularly regarding the status given to the final document. His delegation said that it should be confirmed that it was indeed a non-binding document and details should be given as to what would become of that work, particularly if the Committee adopted a recommendation on that subject. The Secretariat said that the work had been done pursuant to Recommendation No. 3, adopted at the sixteenth session, and that it was indeed a non-binding instrument which had been placed at the disposal of States Members of the Committee.

93. Further to the question posed by the delegation of Germany relating to the future of the document, the delegation of Mexico urged the Secretariat to disseminate the model rules as widely as possible in order to ensure that they would be used.⁸

94. The representative of UNIDROIT thanked the States Members of the Committee and the observers for their contributions and their interest in the work of the expert group. She reiterated that it was an instrument placed at the disposal of States, not a binding document.

(b) Study of methods to prevent and combat trafficking in cultural property in the European Union (HERMES 2011)

95. The study of methods to prevent and combat trafficking in cultural property had been the object of a contract concluded between the *Centre national de la recherche scientifique* (CNRS – France) and the Directorate-General for Home Affairs of the European Commission. The project had mobilized a considerable international network, including the *Groupe de recherche internationale en droit du patrimoine et droit de l'art* (GDRI), the *Centre de droit de l'art* of Geneva, the University of Milan, le *Service des musées de France* of the Ministry of Culture of France, the European Historic Houses Association and the Borghese legal practice. That partnership had been extended to all international organizations having a central role in preventing and combating trafficking in cultural property, namely, UNESCO, UNIDROIT and INTERPOL.

96. The main conclusions of the study were submitted to the Committee by Professor Marie Cornu, who had led the work of the European team. After saying the composition of the international network of experts mobilized in the context of the study, Professor Cornu described its goals and *modus operandi*.

97. The objective of the study was to review existing legal means of preventing and combating trafficking in cultural property and to identify the bottlenecks and difficulties caused by the legal frameworks and practices of various operators in preventing and combating trafficking in cultural property at the level of the European Union and other States. The work, carried out through the processing of existing legislation and the knowledge of the practices of each Member State, had been made possible thanks to the cooperation of national specialists.

98. On the basis of that analysis, a number of legal, operational and technical recommendations had been formulated. Particular attention had been paid to heritage items considered to be “at risk”, including archaeological property, the religious heritage, and heritage items in situations of conflict. In order to “test” the recommendations, workshops had been organized with various actors in the market, representatives of institutions and police and customs services, and experts. Taking advantage of the presence of numerous experts in the framework of the Committee, two of those test workshops had been held as side events at the seventeenth session of the Committee, jointly

⁸ These model rules may be consulted online at:
<http://www.unesco.org/new/en/culture/themes/movable-heritage-and-museums/restitution-of-cultural-property/standards-for-ownership/>

by the Secretariat of UNESCO and Ms Cornu, to submit certain recommendations to the various participants in the workshops.

99. The conclusions of the study had not been published until late 2011, but the speaker described a number of directions which had already been established, such as the question of harmonization of customs duties, distortion of systems at the internal level – a factor which had long tended to generate trafficking— but also the unequal dissemination and application of the principles and methods of major international conventions such as the 1970 UNESCO Convention and the 1995 UNIDROIT Convention. Other topics were also discussed, such as criminal law, improvements in institutional cooperation and the exploration of possible levers within the European Union.

100. The representative of Mexico expressed her delegation's approval of the project, saying that it was important and interesting and likely to have a major universal impact as a model for the world's other regions, especially for Latin America, where the system of cooperation among States was very complex. Her Government fully supported the development of the conclusions of that European study.

101. The delegation of the United Kingdom of Great Britain and Northern Ireland also expressed its interest and support in relation to the study, and requested additional information concerning the issue of harmonizing legislation and the possibility that a new convention might be proposed. It also wondered about the presentation of the results of the study to a private committee at the European level. Professor Cornu said that the study had been commissioned from the expert group by the European Commission and that the experts' mission had been to submit a report and draft proposals. It would then be for the Commission to make the appropriate decisions, and the latter could not be pre-judged by the expert group.⁹

VIII. Presentation of a study about the worldwide trafficking in archaeological property: "Les Prédateurs de l'art perdu"

102. Mr Fabio Isman, an Italian journalist and author of the book "Les prédateurs de l'art perdu", had studied trafficking in archaeological property worldwide, with particular attention to specialized documentation, and had met several hundred people. In his analysis, Mr Isman considered that the 1970 Convention had brought about real changes but that it should now be strengthened in order to provide improved instruments for cooperation and the coordination of action between States and UNESCO.

103. The speaker reviewed the history of certain major cases relating to trafficking in cultural property. The work of the Italian *Carabinieri* had once again been held up as an example; their effectiveness had led to the solution of many cases in Italy, where the numbers of clandestine excavations were significantly high. That was because, from the excavation to the museum, the value of major items could be multiplied by 100, making it more profitable and less risky than drug trafficking.

104. During the discussion, the delegation of Italy emphasized the quality of Mr Isman's work and requested information on the priority areas for intervention in order to improve existing international instruments. Mr Isman had argued that priority should be given to facilitating international investigations and improving national legislation.

105. The representative of Mexico congratulated Mr Isman on his excellent report and said that her Government would follow criminal investigations in relation to trafficking in cultural property closely. Her delegation had expressed concern regarding the statement by Mr de Montebello, former Director of the Metropolitan Museum of New York, on the occasion of the acquisition of the Euphronios krater, when he had been unable to give any precise explanation concerning the

⁹ The Council of the European Union published those decisions in December 2011. (http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/jha/126866.pdf)

transaction. That case had been one of the keys to unmasking the Medici criminal organization. Her Government had supported the strengthening of the code of ethics for auction houses, but had also noted that two fundamental problems remained, namely that of the dispossessed owner who, in the case of archaeological items, was usually the State, and that of the *a non domino* buyer from auction houses. In such situations of conflict, the UNIDROIT Convention was particularly important since it prescribed two patterns of behaviour for buyers: one relating to stolen goods, the other concerning illicitly exported goods, since different criteria were applied to the latter. As to the right to compensation, she proposed that it be made conditional on the buyer's revelation of his sources of supply, including for *a non domino* purchasers in the case of both stolen and illicitly exported goods. It was important to ensure that the despoiled owner (the requesting State) knew exactly where the item had been purchased, forcing the art market to reveal the source of supply. Behind a sale in good faith there could be a criminal organization over which the judicial authority would have competence.

IX. Codes of ethics and conduct of the art market

106. Mr Pierre Taugourdeau, Deputy Secretary-General, *Conseil des ventes volontaires* (CVV – France), informed the Committee of progress in negotiations between actors in the art market in the framework of preparations for a code of ethics for auction houses. He described the role of CVV as the regulating authority of the art market in France and said the regulations applicable under French law to public auctions of movable property. He described CVV's various responsibilities, which were either formally incorporated into applicable regulations or inherent to its role as regulatory authority, and called for an economic analysis of the sector. Information from the annual report of CVV had been submitted to the Committee.¹⁰

107. As the regulatory authority, CVV also considered and proposed ideas to professionals and the public authorities on all public-auction matters. In that context, it had drafted a "guide to vigilance" which auction houses were required to implement in the area of combating money-laundering and the financing of terrorism. CVV's work was part of a greater ethical movement which had resulted to a great extent from the work of UNESCO, with its International Code of Ethics for Dealers in Cultural Property. The ethical rules compiled by CVV were intended not to restate the content of international conventions or regulatory provisions nor to obstruct the activities of auction houses, but to ensure that professionals exercised due diligence and took every possible measure to ensure that they did not put any trafficked goods on the market. Compliance with that diligence could, where appropriate, be submitted for assessment by CVV.

108. The speaker clearly positioned his institution alongside others that were active in the same area and as a partner in operations to raise awareness among professionals and to combat trafficking in order to protect the market for auctions of works of art and collector's items.

X. Exchange of information and awareness in combating trafficking in cultural property – UNESCO

(a) Film: "Fighting illicit traffic of cultural property in South-East Europe"

109. Mr Anthony Krause, Chief of the Culture Unit at the UNESCO Office in Venice, described the project designed to raise public awareness against trafficking in cultural property in South-East Europe. He said that in 2006 in Turin, a regional meeting of experts had considered cooperation mechanisms in that regard. The recommendations adopted at that meeting had included the need to develop awareness-raising tools. In January 2010, in partnership with the *Carabinieri*, a meeting had been held in Rome on the subject of capacity building for officials from ministries of culture and customs services, to improve information-sharing and training in combating trafficking in cultural property.

¹⁰ The annual report of CVV is available from: <http://www.conseildesventes.fr/actualites/rapport-annuel-2010.html>

110. A film had been produced by the Office in Venice, with support from Austria, on the activities of UNESCO and its partners in combating trafficking in cultural property in South-East Europe. That project had been prepared in several languages, in close cooperation with the ministries of culture and National Commissions of all countries in the subregion. In the film, the Director-General of UNESCO emphasized the considerable scale of the scourge of trafficking in South-East Europe and the measures that had been taken by States (“best practices”) such as ratifying the 1970 Convention, developing databases, training professionals, developing export certificates and implementing effective and solidarity-based regional and international cooperation.

111. The film had been shown to all of the subregion’s ministers of culture in June 2011 in Belgrade; the audience had received it well and had encouraged the development of other awareness-raising tools. The film was designed to be screened at heritage sites, tourism offices, airports and passenger transit areas.

112. The representative of Bulgaria, speaking as an observer, thanked the Office in Venice for the project and said that there had been a significant restitution from Canada to Bulgaria, totalling 21,000 objects. That had been an example of effective bilateral cooperation in combating trafficking in cultural property. His delegation hoped that the various cases covered in the film and the restitution measure taken by Canada would encourage and inspire the Committee’s work.

(b) Other Secretariat projects

113. The Secretariat reported on awareness-raising tools developed by UNESCO to combat trafficking in cultural property. The documentary “Stealing the Past” (see (c) below) and a new project for an awareness-raising video focusing on the need to protect the cultural heritage of the Asia and the Pacific region attracted the attention of members of the Committee. Those productions targeted both tourists and the local people and were also designed to be distributed to world heritage sites, the embassies of the countries concerned and passenger transit points.

114. The Committee was informed of a proposed exhibition on the looting of archaeological objects, which would enable the public to compare before-and-after photographs of pillaged sites. That project would be implemented in coordination with the UNESCO Office in Bangkok.

115. Lastly, the Committee was informed of an educational project that the Secretariat was developing in Egypt in collaboration with that country’s Ministries of Education and Culture, to raise awareness among children and young people in Egypt concerning the importance of preserving cultural heritage. It was part of a wider programme including capacity-building workshops on legal and operational aspects of combating trafficking in cultural property. The project would include an information package on the cultural heritage of Egypt, a manual, posters and audiovisual productions, and two local educators would be responsible for presenting the project in selected schools. That activity was partly funded by Switzerland’s Federal Office of Culture.

(c) Documentary film “Stealing the Past”

116. To close the seventeenth session, a documentary film was screened on the looting of archaeological sites, the various agents involved in trafficking in cultural property and the actions of the international community, particularly of UNESCO, to combat the problem. The film, broadcast by the BBC in March 2011, was a joint production by the Secretariat of UNESCO and the enterprises One Planet Pictures and dev.tv to mark the fortieth anniversary of the 1970 Convention.

XI. Report of the Rapporteur

117. Ms Cecilia Villanueva Bracho, Rapporteur of the Committee, submitted the report, reviewed the presentations and discussions which had taken place during the Committee's two-day session.¹¹

XII. Adoption of recommendations

118. Six draft recommendations had been prepared, considered and adopted by the members of the Committee. The text of the recommendations is contained in the annex to this report.

(a) Recommendations Nos. 1, 2 and 3

119. Recommendations Nos. 1, 2 and 3 were adopted unchanged.

(b) Recommendation No. 4

120. Recommendation No. 4, proposed by the Secretariat, was amended by the delegations of Japan and Mexico, and was adopted as amended.

(c) Recommendation No. 5

121. Recommendation No. 5 related to the issue of financing the Committee's sessions. The delegation of the United States of America said that a letter had been sent by the Secretariat to the members of the Committee, calling for the payment of extrabudgetary funds for the holding of the seventeenth session. That delegation had expressed its disagreement with that practice and had recommended that the Committee hold its coming sessions only if sufficient funds were available; that should be reflected in an amendment. The delegation of Mexico requested confirmation that the resources allocated to the secretariat of the 1970 Convention would be doubled in the UNESCO Programme and Budget for 2012-2013 (36C/5). The Secretariat confirmed the strengthening of human and financial resources for the 1970 Convention and the preparation of a draft budget for the holding of the Conference of States parties. The Assistant Director-General for Culture said that the Culture Sector, although in the second year of its budgetary period, had agreed to make a particular effort to provide partial funding for the holding of the seventeenth session of the Committee. Following that discussion, the members of the Committee did not reach a consensus on the amendment proposed by the delegation of the United States of America, and the Recommendation was adopted as originally proposed. The delegation of the United States of America requested that its position be reflected in the final report.

(d) Recommendation No. 6

122. The delegation of Mexico had introduced a paragraph thanking the Director-General for the organization of the fortieth anniversary of the 1970 Convention. That proposal contributed factual elements and had been adopted by consensus by the members of the Committee.

123. As to the mention of the role of databases in combating trafficking in cultural goods, the representative of INTERPOL requested that reference be made to the INTERPOL database as the starting point for a possible networking of all relevant databases. As an observer, INTERPOL might not propose amendments to the Committee's Recommendations, and since no members had supported the request, it was not taken into account.

124. The delegation of Mexico again proposed an amendment to paragraph 1 of Recommendation No. 6, emphasizing "the need to continue studying the effectiveness of the current international legal framework, taking into account that it might be insufficient in the fight

¹¹ This report is available at <http://www.unesco.org/new/en/culture/themes/movable-heritage-and-museums/restitution-of-cultural-property/>

against illicit trafficking in cultural property and return or restitution of cultural property to its countries of origin, in particular that related to archaeological and palaeontological objects coming from illicit excavations and looting of archaeological and palaeontological sites". The delegation of the United States of America said that the issue had already been discussed on the occasion of the fortieth anniversary of the 1970 Convention and reminded delegations that it was less a matter of judging the effectiveness of the Convention than of examining its real implementation by States. It also requested that the word "effectiveness" be replaced by "implementation", considering that the former was inefficient. The proposal of the delegation of Mexico, as amended by the delegation of the United States of America, was accepted by consensus. Nonetheless, the delegation of Mexico requested that the final report of the Secretariat reflect the particular concern that it had expressed in relation to specific structural elements of the 1970 Convention.

125. Regarding paragraph 4, the delegation of Japan said the Committee's discussions concerning the annex to the report of the Secretariat, and proposed to amend the text of the Recommendation to mention the desirability of consulting countries before the publication of information contained in the annex. The delegation of the United States of America proposed that the annex be deleted because the information was available on the Internet. That proposal was opposed by a number of delegations (Greece, Italy, Mexico, Republic of Korea and Zimbabwe), which considered that the information should be circulated to ensure maximum transparency and communication. It was decided that the annex would be drafted after the correctness of the information contained therein had been verified and by agreement with the countries concerned. The Committee also agreed that the sensitivities of States on those subjects must be taken into account.

XIII. Closing of the session and date of the next session

126. The Director of the Division of Cultural Expressions and Heritage, on behalf of the Director-General, gave a preliminary overview of the Committee's two-day proceedings. She said that the 1970 Convention was currently receiving much attention, particularly in the context of its fortieth anniversary, which had been celebrated in March 2011, and in the framework of preparations for the Meeting of States Parties to the Convention, to be held in June 2012. Many countries had expressed their intention of initiating in-depth consideration of the Convention in order to establish a new strategic framework to improve international cooperation in combating trafficking in cultural property. In the light of the interest shown by a number of States in that regard, she informed the Committee that the Director-General had agreed to allocate a budget for the holding of the Meeting of States Parties, to be held in June 2012, and had decided to conduct future discussions in the context of the Culture Sector on improving the working methods of the secretariat in organizing the Committee's sessions and in the submission of the various reports.

127. The Committee decided to hold its eighteenth session at UNESCO Headquarters, immediately following the holding of the Meeting of States Parties in June 2012.

ANNEX

**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**

Seventeenth session
(30 June-1 July 2011)

RECOMMENDATIONS

Recommendation No. 1

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

Having paid tribute to the late Professor Economidès, a member of the United Nations International Law Commission and eminent scholar of public international law,

Recalling his invaluable contribution to the objectives and activities of UNESCO, in particular in the field of return and restitution of cultural property and the safeguarding of the intangible cultural heritage,

1. *Expresses* its appreciation for his guidance as Chairperson;
2. *Extends* its deepest condolences to his family, friends and colleagues as well as to the Greek authorities.

Recommendation No. 2

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

Acknowledging relevant UNESCO recommendations which express its continuing concern for a solution to the issue of the **Parthenon Sculptures**,

1. *Acknowledges* the fruitful cooperation between Greece and the United Kingdom of Great Britain and Northern Ireland on cultural matters and expresses the wish that this should continue with a view to concluding the ongoing discussions in respect of the reunification of the Parthenon Sculptures;
2. *Notes* that Greece invites the United Kingdom to collaborate with Greece in exhibiting all the Parthenon Sculptures in their respective collections in the Acropolis Museum;
3. *Also notes* that the Acropolis Museum proposes a collaboration with the British Museum on the study of all surviving detached fragments from the Parthenon monument, for the purposes of scientifically assessing the process of reconstitution of all fragments with the surviving sculptural decoration of the monument;

4. *Takes note* of the collaboration proposed by the Acropolis Museum and the British Museum to cooperate in a programme of digital scanning of the sculptures of the Parthenon in both museums;
5. *Also takes note* of the invitation of the Acropolis Museum to the British Museum to meetings in 2011 to further the proposed collaboration;
6. *Invites* the Director-General to assist in convening the necessary meetings between Greece and the United Kingdom with the aim of reaching a mutually acceptable solution to the issue of the Parthenon Sculptures.

Recommendation No. 3

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

Recalling the request of Turkey for the **Sphinx of Boğazköy**, which is currently on display in the Berlin Museum,

Noting the legal and cultural arguments that have been made by both States concerned over a number of years,

Recalling the previous Recommendation (No. 2) adopted by the Committee on this question at its sixth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth and sixteenth sessions,

Recalling that the issue of the return of the Sphinx has been a pending item on the Committee's agenda since 1987,

Noting with satisfaction that the 7,400 cuneiform tablets, which were part of the original request of Turkey from the German Democratic Republic had been returned in November 1987, following the fifth session of the Committee in April 1987, and were inscribed in the UNESCO Memory of the World Register in 2001,

Noting also that the Boğazköy Sphinx came from an excavation at Boğazköy (Hattusha), the former capital of the Hittite Empire, and is currently included in the UNESCO World Heritage List,

1. *Welcomes* the information provided by both parties that following bilateral meetings held on 18 April 2011 in Ankara and on 13 May 2011 in Berlin, it was agreed that the Boğazköy Sphinx would arrive in Turkey by 28 November 2011 at the latest in a spirit of friendship between Turkey and Germany;
2. *Notes with satisfaction* that a mutually acceptable solution of the case of the Boğazköy Sphinx has been reached through bilateral meetings and in a spirit of cooperation;
3. *Invites* the Parties to keep the Committee informed on the issue;
4. *Invites* the Director-General to report to the Committee at its eighteenth session.

Recommendation No. 4

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. 3, adopted at its sixteenth session, on the drafting of model provisions with explanatory notes by an independent Expert committee under the auspices of the UNESCO and UNIDROIT Secretariats,

Welcoming the participation of UNIDROIT in this project given its expertise regarding the harmonization of legal systems,

1. *Thanks* the Expert committee for having drawn up and submitted the project to the Committee at its seventeenth session;
2. *Takes note* of the finalization of model provisions and *expresses* its satisfaction with the results obtained;
3. *Invites* the Expert committee to incorporate in its explanatory guidelines the observations made by the Member States and Observers of both Organizations which will be circulated by UNESCO and UNIDROIT Secretariats to the States;
4. *Requests* the Secretariat to disseminate these model provisions widely with explanatory notes and to make them available to Member States which could take them into consideration in elaborating or reinforcing their national legislation;
5. *Requests* the Secretariat to submit an assessment on the use of model provisions during its nineteenth session.

Recommendation No. 5

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

Thanking China, the Republic of Korea and Spain for their financial contribution to the organization of its seventeenth session,

1. *Decides* to hold its eighteenth ordinary session at UNESCO Headquarters in 2012 following the Meeting of States Parties to the 1970 Convention;
2. *Requests* the Director-General to provide the secretariat with sufficient human and financial resources in order to conduct this task effectively.

Recommendation No. 6

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

Recalling the importance of supporting the fight against trafficking in cultural objects through training, awareness-raising tools, documentation, inventories and databases,

Recalling Recommendation No. 7 adopted at the sixteenth session of this Committee and thanking the Director-General of UNESCO and the Secretariat for the organisation of the meeting entitled “The fight against the illicit traffic of cultural property: the 1970 Convention, past and future”, held at UNESCO Headquarters from 15 to 16 March 2011 in the framework of the fortieth anniversary of the Convention,

Encouraging the continuation and strengthening of cooperation among UNESCO, UNIDROIT, INTERPOL, UNODC, WCO, ICOM, the *Carabinieri* of Italy, OCBC (France) and other institutions or organizations,

Expressing its satisfaction for the support given to the European Commission project HERMES 11,

Acknowledging the regular improvement of the UNESCO Cultural Heritage Laws Database website and the recognized effectiveness of this tool,

Recalling Recommendation No. 3 adopted at the twelfth session of this Committee, inviting the Secretariat to provide the Committee with examples of return and restitution upon which a database may be developed and from which the Committee may draw inspiration and urging Member States to support this initiative through providing representative examples of return and restitution to the Secretariat,

Taking note of the importance of all databases on stolen cultural objects in order to combat trafficking and the necessity of interconnecting them,

Thanking the Czech Republic, Monaco, the Netherlands, Switzerland and the United States of America for their substantial support and decisive extrabudgetary contributions to UNESCO activities,

1. *Reiterates* the necessity of pursuing consideration of:
 - (a) the implementation of the current international legal framework, taking into account that it may be insufficient in the fight against illicit trafficking in cultural property and return or restitution of cultural property to its countries of origin, in particular that related to archaeological and paleontological objects coming from illicit excavations and looting of archaeological and paleontological sites;
 - (b) the contribution and complementarity of other legal instruments for the protection of cultural property and the fight against trafficking;
2. *Encourages* Member States to reinforce their national policies regarding inventories of movable cultural heritage items, particularly in museums, cultural institutions and cultural sites (in particular of an archaeological nature) and places of worship;
3. *Further encourages* Member States to continue to provide the Secretariat with electronic versions of their national cultural heritage legislation and their official translations;
4. *Requests* the Secretariat to prepare the annex entitled “Examples of Cultural Property returned or restituted without action by the Committee” after checking the accuracy of the information with the States concerned, taking their sensitivities into consideration;
5. *Requests* Member States to reinforce the transmission of information on stolen or retrieved cultural property to the INTERPOL General Secretariat and to encourage local police services to transmit relevant information to the INTERPOL national bureau of their country;
6. *Invites* Member States to cooperate fully with the Secretariat and to provide additional extrabudgetary funds for these endeavours.