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Convention for the fight
against the illicit trafficking
of cultural property

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**Subsidiary Committee of the Meeting of States Parties to the Convention on the
Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of
Ownership of Cultural Property
(UNESCO, Paris, 1970)**

Third session
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Item 6 of the provisional agenda:

**REVIEW OF NATIONAL REPORTS SUBMITTED BY THE STATES PARTIES
ON THE MEASURES TAKEN TO IMPLEMENT THE 1970 CONVENTION**

This document describes the status of implementing the 1970 Convention and provides information on the measures taken by States Parties to ensure its promotion and application.

It proposes some matter for reflection to optimise the fulfilment by the Subsidiary Committee of its function to review national reports.

Decision: paragraph 16.

BACKGROUND

1. The 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (hereafter referred to as the 1970 Convention) was adopted at the 16th session of the UNESCO General Conference on 14 November 1970. As of 31 July 2015, the Convention has 129 States Parties.¹

2. Under Article VIII of the Constitution, Member States are required to submit a report on the legislative and administrative provisions that they have adopted and on other measures taken to implement the conventions and recommendations adopted by the Organisation. In accordance with Resolution 32 C/38, the periodicity for submitting these reports on the implementation of the 1970 Convention is set to a 4-year interval. The purpose of reporting is to illustrate all action undertaken to implement the Convention and the progress achieved or the obstacles encountered by States Parties.

3. It is recalled that Member States are required to report on the follow-up to the conventions and recommendations adopted by the General Conference under Article IV of the Organisation's Constitution and Article 17 of the Rules of Procedure concerning Recommendations to Member States and International Conventions as well as Article 16² of the 1970 Convention applicable to States Parties only.

4. In a circular letter dated 23 March 2015 (ref. CL/4102), the Director-General urged the States Parties to the Convention to send the Organization their reports on the implementation of the Convention by 25 June 2015, if possible. In the same letter, the Director-General also urged UNESCO Member States who are not States Parties to the Convention to provide information on developments with a view to ratification or, if applicable, on obstacles to the successful completion of this procedure, within the same timescale. The Secretariat sent two reminders – the first dated 26 June and the second dated 8 July, extending the submission date to 3 July and 25 July, respectively.

5. As of 31 July 2015, the Secretariat had received 40 reports from States Parties to the 1970 Convention.³ The Secretariat did not receive any reports from non States Parties to the 1970 Convention. It should be noted that 3 national reports were also received after the deadline.⁴

FOLLOW UP MECHANISM OF THE IMPLEMENTATION OF THE CONVENTION

6. Until 2012, a summary of the Periodic Reports on the implementation of Conventions for which no institutional follow-up mechanism existed, was carried out by the relevant Convention Secretariat, then examined by the Committee on Conventions and Recommendations of UNESCO's Executive Board and, subsequently by the UNESCO's General Conference. This procedure changed with the establishment in 2012 of a new

¹ A list of these States Parties is available at the following address: <http://www.unesco.org/new/en/culture/themes/illicit-trafficking-of-cultural-property/1970-convention/states-parties/>

² **Article 16**—The States Parties to the present Convention shall, on dates and in the format determined, submit to the General Conference of the United Nations Education, Science and Culture Organization a report on the legislative and regulatory provisions and other steps carried out for the implementation of the present Convention and to convey precise information on the experience gained in this field.

³ Argentina, Bahrain, Belgium, Bolivia, Bosnia-Herzegovina, Bulgaria, Canada, China, Cyprus, Czech Republic, Estonia, Equador, Finland, France, Georgia, Greece, Honduras, Hungary, Japan, Jordan, Lebanon, Lithuania, Mexico, Myanmar, Niger, Nigeria, Norway, Pakistan, Portugal, Serbia, Slovakia, Swaziland Sweden, Switzerland, Syrian Arab Republic, the Former Yugoslav Republic of Macedonia, the Netherlands, Turkey, Ukraine and United States of America.

⁴ Guatemala, Luxembourg, Morocco.

system of governance. In fact, following discussions held on the occasion of the 40th anniversary of the Convention and Decision 187 EX/43 of the Executive Board, the second Meeting of States Parties was held in June 2012 and the Rules of Procedure adopted during this meeting (Resolution 2. MSP 3) established that the Meeting of States Parties should meet every two years and the Subsidiary Committee composed of representatives from 18 States Parties should meet once a year.

7. The review of national reports presented at the General Conference by the States Parties to the Convention is one of the *Subsidiary Committee's functions* listed in article 14.6 of the Rules of Procedure adopted during the meeting of States Parties to the 1970 Convention and recalled in Section I of the Rules of Procedure of the Subsidiary Committee.

8. In the *Roadmap* for the fulfilment of the functions of the Subsidiary Committee, which was approved during the third Meeting of States Parties to the 1970 Convention in May 2015 (Resolution 3.MSP 5B), the Committee explains this function by indicating that it “will strive to identify best practices, progress made and challenges arising from the implementation of the Convention and make recommendations to the Meeting of States Parties for appropriate follow-up, including issues related to the definition of cultural property and the classification and inventorying of cultural property (in particular regarding clandestinely excavated archaeological sites and other cultural property that pose special challenges in terms of their specific designation), the regulations for the trade of cultural property (including those relating to dealers and online sales), the export and import controls as well as the procedures facilitating restitution claims. The Subsidiary Committee will explore ways and means to establish an appropriate methodology to accomplish these objectives.”

9. Furthermore, the *Operational Guidelines for the implementation of the 1970 Convention*, also adopted by the third Meeting of States Parties (May 2015, [Resolution 3.MSP 11](#)), recall the binding character of the submission of Periodic Reports under Article 16 of the Convention but emphasise the importance of such reporting for the exchange of information to ensure an improved implementation of the Convention and to “strengthen the credibility of the implementation of the Convention” (paragraphs 116 to 120).

10. *The Evaluation Report of UNESCO's Standard-Setting Work of the Culture Sector* produced by IOS – Part II – 1970 Convention ⁵ (hereafter referred to as “the IOS Evaluation Report”), presented during the second session of the Subsidiary Committee in July 2014 (C70/14/2.SC/4) and the third Meeting of States Parties in May 2015 (C70/15/3.MSP/8) focuses on the issue of follow up of the Convention. One of the main conclusions of the evaluation concerns the follow-up mechanism and comments as follows: “So far, the overall monitoring mechanism for the Convention has not been particularly effective. Periodic reports vary in quality, reporting rates are low, there have been no checks on the accuracy of the information contained therein, and hardly any follow up. The establishment of the Subsidiary Committee in 2012 presents an opportunity to strengthen the existing reporting system. This could entail the development of an overall results framework for the Convention, linked to a Convention Theory of Change (or another type of intervention logic) and including clear objectives, time-frames, indicators and benchmarks; as well as the improvement of the Periodic Reporting by revisiting the reporting format, introducing an online system for submission and analysis of the reports, and systematic follow up.”

⁵See document IOS/EVS/PI/133 REV.4, <http://unesdoc.unesco.org/images/0022/002269/226931E.pdf>

RETHINKING THE REPORTING SYSTEM

11. The Secretariat has not been able to carry out an in-depth analysis of the reports, as suggested in the Roadmap drafted by the Subsidiary Committee and validated by the third Meeting of States Parties in May 2015. The short turn-around time given to States to submit reports (end of July 2015) and the meetings timetable (Subsidiary Committee in September 2015 and General Conference in November 2015) coupled with the low reporting rates submitted and varying quality may explain this. However, the Secretariat is in a position to submit a report summary to the Subsidiary Committee, as it did in the past to the Conventions and Recommendations Committee of the Executive Board (see Annexe 1 to this document), with a view to its transmission to the 38th session of the General Conference together with the Committee's observations in the light of members' debates on this issue. Furthermore, a summary of each of the national reports submitted to the Secretariat will be available on the UNESCO ⁶ website.

12. Although the Convention itself and the UNESCO's Constitution prescribe the use of Periodic Reports, their structure and the method to follow for reviewing and analysing such reports can be adapted. This is why the Secretariat recommends avenues for reflection to the Subsidiary Committee in order to discuss the monitoring problem during the Committee session and to proceed to the adequate analysis of reports at subsequent sessions with a view to formulating recommendations to allow States Parties to ensure an appropriate monitoring of the Convention. The Secretariat wishes to propose or reiterate options that could serve as a basis for discussing the drafting of new procedures.

13. As noted in the IOS Evaluation Report, problems relating to follow-up and the lack of efficacy in terms of procedure as well as potential malfunctions are neither new ⁷ nor specific to the 1970 Convention.

- **Low reporting rates.** Only 31% ⁸ of the States Parties to the 1970 Convention submitted a Periodic Report within the designated timescale. A figure of 38% ⁹ was recorded during the last cycle in 2011 and the rate has never exceeded 50% since the Convention was adopted, with variations between regional groups. Only 9 of the 18 members of the Subsidiary Committee have submitted their report.

Many reasons may explain this low rate of reporting and, for the current cycle, it may be attributed to time pressure. A period of 3 months was allocated for the current cycle, subsequently extended to 4 (request sent in March for a response in June, then July), compared to 6 months for the previous cycle (request sent in August 2010 for a response in January 2011). It was also very difficult for the Secretariat to summarise and then analyse the reports given the lack of resources. This was further compounded by the fact that the report requested from the States concerning the implementation of Resolution 2199 of the United Nations Security Council was also requested within a short period of time (March-June).

⁶ Those of 2011 are available on the following website: <http://www.unesco.org/new/fr/culture/themes/illicit-trafficking-of-cultural-property/1970-convention/periodic-reporting/>

⁷ 164 EX/23, Committee proposals on conventions and recommendations concerning the conditions and procedures for examining issues relating to the application of UNESCO's standard-setting instruments, 165th Session of the Executive Board, 8 April 2002, Paris, France.

⁸ Of the 129 States Parties to the Convention on 31 July 2015, only 40 submitted a Periodic Report despite reminders forwarded on 26 June and 3 July 2015.

⁹ In 2011, the Convention had 120 States Parties and 45 national reports (including 3 from States non Parties) were received.

- **Variable report content.** The reports also vary considerably in terms of content and quality as well as in the responses to the same question (sometimes the content is too general to be used). This variance makes it difficult to get an overall picture of the implementation of the Convention in a given country and complicates the analysis requested from the Secretariat.
- **Difficulty to check the accuracy of reporting.** Monitoring is based on State self-reporting only.
- **Lack of follow-up on reporting.** This problem is partly resolved by the Subsidiary Committee's recent Roadmap, which indicates that the said Committee strives to identify best practices, progress made and challenges arising from the implementation of the Convention. The problem of a lack of follow-up for States Parties who do not submit reports, thus preventing from having a global vision of the implementation of the Convention, still remains.
- **Complexity and/or inadequacy of questions/guidelines for drafting reports.** There is considerable variance in the questions that often need different administrations or national institutions to answer with heavy constraints for Member States in terms of human, financial and time factors. The time pressure for answering the questions/compiling the report and the relatively low stakes attributed to this exercise to date (little or no use of the replies) could also hamper report submission.

14. Based on the recommendations outlined in the IOS Evaluation Report (Recommendations 26 to 28), the Subsidiary Committee may well wish to reconsider the reporting system and reflect in priority on the goals of such exercise as well as on the conditions and procedures for reviewing these reports.

- **Recommendation 26:** *Develop an overall results framework for the Convention, linked to a Convention Theory of Change¹⁰ (or another type of intervention logic) and including clear objectives, time-frames, indicators and benchmarks. (Subsidiary Committee / Secretariat)*

"Clear objectives and timeframes" – to identify best practices, the progress made and the challenges arising from the implementation (Roadmap). A large number of issues arise from the Convention that cannot all be discussed at the same time. The Committee will have to choose the objectives and prioritise (e.g. create a police record for dealers, introduce specialist interministerial structures, etc.) which could vary according to regions.

- **Recommendation 27:** *Improve Periodic Reporting by revisiting the reporting format and introducing an online system for submission and analysis of Periodic Reports (benefiting from what other Conventions do already have in use). (Subsidiary Committee / Secretariat)*

Since the gathering of useful, usable information is essential, it is important to carefully consider the questions asked in order to compile reports. Questions and reporting guidelines should be clear and straightforward. The current guidelines include a number of questions that are somewhat ambiguous or duplicated (i.e., actually ask two separate questions within one question or questions asked in

¹⁰ See in Annexe 2

different sections of the questionnaire but interlinking)¹¹. The questionnaire developed for the IOS evaluation could serve as a starting point for clarifying and streamlining questions (see the survey in Annexe 3 to this document).

There is also room for improvement in the administration and processing of Periodic Reports. For example, States Parties' input into the Periodic Reports could be done online and thereby automatically feed into a database from which responses can be down-loaded not only for each State Party but also by question in order to analyse reports across States Parties¹² (as is done by the 1972 World Heritage Convention Secretariat and other UNESCO cultural conventions)¹³.

Additionally, to evaluate the progress made, the Committee could consider having a website of reports from previous cycles and include them in the eventual database in order to make comparisons and draw conclusions on the global implementation of the Convention (1978, 1983, 1987, 1995, 2003, 2007 and 2011).

- **Recommendation 28:** *Request States Parties to all submit their Periodic Reports every four years (next round in 2019) in order to provide the Secretariat with the required information on the national and regional implementation of the Convention (States Parties/Subsidiary Committee/Secretariat).*

Finally, the Committee could investigate the current procedure whereby the Secretariat prepares a very succinct summary of all reports (then submitted to the General Conference) and a form per country (placed online on the website). The Committee could also wish to decide whether to keep or modify the procedure. In fact, the format must be straightforward to facilitate the analysis of reports, which will be carried out on this basis alone. The 4-year period could also be revisited if the Committee deems this is necessary or advisable. Should the Committee decide for a change, it should then recommend to the General Conference to change the format used for Periodic Reports and their periodicity as prescribed in Article 16 of the Convention.

The Committee could also consider the option of analysing only certain sections of reports each year, based on a set order of priority, to cover all of the questions at the end of the 4-year cycle.

Improvements in the general reporting procedure and monitoring of the implementation of the Convention will obviously be important to highlight progress made in future years.

IMPROVING THE EFFICACY AND COST EFFECTIVITY OF THE GOVERNING BODIES

15. Finally, in an attempt to improve the efficacy and cost effectivity of the governing body sessions expressed in the *Audit of the Working Methods of Cultural Conventions*¹⁴, the Committee could decide to discuss different issues such as:

¹¹ While the guidelines developed by the Secretariat are not intended to be a questionnaire, in fact, many States Parties use them as a template for reporting.

¹² Document C70/15/3.SC/7, paragraphs 33 to 37.

¹³ <http://whc.unesco.org/en/periodicreporting/>

¹⁴ IOS/AUD/2013/06, September 2013, <http://unesdoc.unesco.org/images/0022/002232/223256e.pdf>

- **Deadline for the submission of reports.** The Committee could specify a fixed timescale to respond to the reporting obligation every four years and a period of the year depending on the timetable of the body reviewing the reports, etc.
- **Submission of reports to the General Conference** (regardless of the format chosen): the Committee reviews the reports “presented to the General Conference” but did not comment on whether the review should be before or after such presentation.
- **Establishing a set timetable (period in the year) to hold Convention governing body sessions** (Subsidiary Committee, Meeting of States Parties and Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or Restitution in case of Illicit Appropriation) taking into account that these bodies do not have the same periodicity.

The Secretariat submits the following timetable to the Committee for consideration:

- Meeting of the States Parties - end of May, beginning of April
- Subsidiary Committee and Intergovernmental Committee – end of September

16. Based on the information contained in this document, the Subsidiary Committee may wish to adopt the following decision:

DRAFT DECISION 3.SC/6

The Subsidiary Committee,

1. Having examined document C70/15/3.SC/6;
2. Takes note of Resolution 32C/38;
3. Welcomes the States Parties to the 1970 Convention who have actively responded to the obligation to submit Periodic Reports and takes note of their efforts to guarantee relevant follow-up at national level;
4. Reminds States Parties of their obligations under the 1970 Convention in respect of effective implementation, and in particular their obligation to report under its Article 16;
5. Emphasizes that the content of such reports should be as detailed as possible to enable an accurate understanding and evaluation of the implementation of the 1970 Convention at national level;
6. Thanks the Secretariat for the summary provided;
7. Encourages States Parties to the 1970 Convention to assess the adequacy and effectiveness of national measures undertaken to implement the Convention so that areas of weakness may be identified and appropriate adjustments or improvements made;

8. Requests States Parties to submit their observations on the review of the process relating to Periodic Reports, whether in terms of format, relevance or the use and analysis of data, and on the efficacy of the Periodic Reporting exercise and synergies with other UNESCO cultural conventions, preferably through a questionnaire supplied by the Secretariat for this purpose;
9. Also requests the Secretariat to present the Subsidiary Committee with an updated format of the questionnaire and proposals for improving the processing, relevance, analysis and use of data at its 5th session in 2017;
10. Invites the Director-General to send a summary of the reports received from Member States on measures taken to implement the 1970 Convention accompanied by comments from the Subsidiary Committee, to the 38th session of the General Conference.

SYNTHESIS OF REPORTS RECEIVED

This document contains a general summary of reports submitted to the Secretariat as to 31 July 2015 by 40 States parties¹⁵ to the 1970 Convention on the most significant measures they have adopted to implement the Convention and its principles but also, on the actions they have taken at national level to more effectively fight against illicit trafficking in cultural property. It also draws the attention of the Subsidiary Committee to the information provided by States on the main obstacles and difficulties encountered.

The information is presented according to the guidelines proposed to the States for the preparation of their reports, under the following headings:

- Implementation in the national legal system and in the organization of services;
- Definitions, inventories and identification;
- Measures taken to prevent illicit excavations;
- Monitoring of the export and import of cultural property;
- System for trade-in, acquisition, ownership and transfer of ownership of cultural property;
- Bilateral Agreements;
- Code of ethics, awareness-raising and education;
- Cooperation with other international and regional agencies;
- Emergency situations and Heritage at risk;
- Other legislative, judicial and administrative measures taken by States.

Any additional information subsequently received by the Secretariat by the deadline could be the subject of an addendum to this document.

1. Implementation in the national legal system and in the organization of services

To comply with legal mechanisms of the Convention, the great majority of States Parties having submitted a periodic report adopted **specific laws and regulations for the protection of cultural heritage** and many of them have recently reviewed their legal instruments (Bolivia, Bulgaria, Estonia, Ecuador, Mexico, Myanmar, Niger, Norway, Portugal, Swaziland and Ukraine). Some also featured **specialized units** in the fight against illicit trafficking in cultural property (Argentina, France, Honduras, Serbia, for instance). At the national level, cooperation occurs most commonly between the Ministries in charge of cultural properties, police and customs (Bolivia, Bulgaria, China, Estonia, Lebanon, Pakistan notably), services tax (Hungary, Lithuania and the Netherlands) and the ecclesiastical authorities (Czech Republic).

¹⁵ Argentina, Bahrain, Belgium, Bolivia, Bosnia-Herzegovina, Bulgaria, Canada, China, Cyprus, Czech Republic, Estonia, Ecuador, Finland, France, Georgia, Greece, Honduras, Hungary, Japan, Jordan, Lebanon, Lithuania, Mexico, Myanmar, Niger, Nigeria, Norway, Pakistan, Portugal, Serbia, Slovakia, Swaziland Sweden, Switzerland, Syrian Arab Republic, the Former Yugoslav Republic of Macedonia, the Netherlands, United States of America, Turkey and Ukraine.

2. Definitions, inventories and identifications

The majority of States indicates that the definition of cultural property is established with reference to the one provided by 1970 Convention and have established a **comprehensive national register** or a list of all the cultural property in the country's public collections, in which the objects may be ranked according to their heritage significance. As part of its ratification process, one State (France) had inserted financial thresholds for the value of cultural property defined in accordance with the Convention.

National treasures are defined by some countries (Belgium, Bosnia and Herzegovina, Bulgaria, France, Japan, Lithuania, Nigeria, Czech Republic and Slovakia).

While some States use the **Object ID Standard** (Ecuador, the former Yugoslav Republic of Macedonia and Syrian Arab Republic, for instance) to list their cultural objects, and have **digitized registers and documents** (Canada, Estonia and the Czech Republic), others have created **inventories and publicly accessible databases** (Belgium, Canada) on private (Cyprus) or religious collections (Netherlands).

With regard to the **spoliation of cultural property during World War II**, some countries (Norway, Czech Republic and Ukraine) have adopted specific provisions in order to facilitate the **identification** and **restitution** of the property concerned.

To **prevent large-scale theft** of cultural objects, **security systems** have been strengthened in most of cultural institutions, and workshop trainings including practical exercises have been organized to help their staff to **mitigate and reduce risks** (Bolivia, France, Japan, Syrian Arab Republic, Sweden and Turkey).

3. Archaeological excavations

Archaeological excavations are generally carried out by **specialized entities** with an **authorization** issued by the competent authorities (Greece, Honduras, Norway and Ukraine, for example).

Some States work on the identification of archaeological sites and findings (Argentina, Bulgaria, Estonia in particular). Protection of the archaeological heritage is also ensured by an enlarged **definition of antiquities** (Cyprus for example), the introduction of **preventive archaeology measures** (France, Sweden) and, more generally, by **specific rules** governing excavations (Georgia, Niger and Portugal in particular).

Almost all of the reports mention that archaeological objects discovered or yet to be discovered are under **State ownership** (Argentina, Bosnia and Herzegovina, China, Ecuador, Hungary, Mexico, Switzerland and Ukraine, for instance).

Illegal archaeological excavations are a serious problem (Ecuador, France, Greece, Slovakia), growing in some areas (China, Syria), and the increasing number of such objects sold on Internet shows the scale of this issue. Offenders are liable to **criminal sanctions** (Ecuador, France, Nigeria and Syrian Arab Republic). Although the use of **metal detectors** is not always prohibited, it is increasingly regulated (Cyprus, Hungary).

Two States (France and Portugal) also highlight the fact that underwater wrecks and other components of their **underwater cultural heritage** are looted.

4. Monitoring of the export and import of cultural property

Although some countries can provide **accurate data** on the number of **stolen and returned objects** (Bolivia, Ecuador, Georgia, the former Yugoslav Republic of Macedonia, Turkey), they all agree on how **difficult** it is to **quantify illicit trafficking** in cultural property. The **amount of illegally exported cultural objects** can be explained in particular by the extent of the borders to be controlled, the lack of human and financial resources, as well as by gaps existing in the legal supervision framework.

To remedy this situation, the **authorizations** (permits, certificates, licenses, etc.) are generally required to export cultural objects (Argentina, Belgium, Bosnia and Herzegovina, Myanmar and Niger, for example). Some States **prohibit the export of cultural objects** (Lebanon), especially those which are of **particular significance** (Hungary, Greece). Customs have also strengthened **controls** (Finland), especially in ports and airports (Argentina).

Some national laws include provisions on the **restitution of cultural property** (Argentina, Bolivia, the former Yugoslav Republic of Macedonia, Niger, Portugal and Turkey in particular). Member States of the European Union (Finland for example) highlight the **difficulties** they face in **implementing Directive 93/7 / EEC** of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a Member State, due in particular to the short deadlines for filing requests (Czech Republic) and time limits for action (Netherlands). The recast of this legal instrument - **Directive 2014/60/EU** – was felt to be necessary, and the majority of European States highlight the ongoing work to transpose this new Directive, which must be completed by 18 December 2015 (18 June 2016 for Norway). One State (France) points out that it already transposed it into its national legislation.

Other **obstacles** are raised by States relating to **restitution claims**, among which the disparities between national laws, the non-retroactivity of international legal instruments, the lack of cooperation from the destination States and the difficulties in identifying objects and their provenance (China, Greece, Japan, Myanmar and Syria, for example).

5. System for trade-in, acquisition, ownership and transfer of cultural property

Although several States indicate not being able to provide **reliable data** on their **domestic market** (Argentina, Czech Republic, Ecuador, Finland, Japan, the former Yugoslav Republic of Macedonia, Myanmar, the Netherlands, Niger, Nigeria, Norway, Slovakia), others **centralize information** on the number of auction houses, art galleries, antique dealers, and on their turnover (Bulgaria, China, Czech Republic, Estonia, Greece, Hungary, Lithuania, Switzerland).

In some countries, **art market professions** are not specifically regulated, but are governed by the general trade regulations (Georgia, Serbia, Slovakia). A **license** is generally required and the profession is also asked to maintain a **register** to keep track of their transactions (Czech Republic, France, the former Yugoslav Republic of Macedonia, Norway, the Netherlands, Pakistan).

Due to the growing number of **cultural objects of doubtful origin** appearing on sale on Internet, States are more aware of the need to fight against this form of illicit traffic. They enhance the monitoring of online sales (Argentina) and the cooperation with online auction platforms (Estonia). Some States (Argentina and Netherlands) consider insufficient the **Basic Actions concerning Cultural Objects being offered for sale over the Internet** (INTERPOL-UNESCO-ICOM).

In many countries, the **provenance** of the objects must be verified **prior to acquisition** (Argentina, Belgium, Canada, China, Cyprus, Czech Republic, Estonia, United States of America, Finland, Greece, Japan, the former Yugoslav Republic of Macedonia, the Netherlands, Niger, Norway, Pakistan, Sweden). In one State (Switzerland), a specialized service, the Federal Office of Culture, is responsible for the **control** of the particular **duty of care** required from art dealers and auction houses.

The principles of **public ownership** and/or **inalienability** apply to archaeological objects in several States (Belgium, China, Ecuador, Finland, Portugal and Ukraine in particular). Two countries (Bahrain and Turkey) have established a pre-emptive right of the State to acquire antiquities.

6. **Bilateral Agreements**

While some States consider that the universal dimension of the Convention exempts them from entering into **bilateral agreements** for the return of cultural property (Canada, Hungary, the Netherlands), many have signed such agreements as they consider they facilitate the implementation of the Convention and enhance its effectiveness (Bulgaria, China, Estonia, Greece, Niger, Pakistan, Switzerland and Turkey), in particular at the regional level (Argentina, Bolivia, Ecuador, Jordan, Mexico, Serbia and Ukraine).

Interstate cooperation could also be in the form of **common exhibitions and research programs** (Cyprus) or **cultural exchanges** (Portugal).

States which have not entered into a bilateral agreement underline nevertheless the importance of **international and regional cooperation**, particularly in respect of customs (Bahrain, Japan).

7. **Code of ethics, awareness-raising and education measures and public awareness**

Many countries have adopted and implemented the **UNESCO International Code of Ethics for Dealers in Cultural Property** and **ICOM Code of ethics for museums**, with some national adjustments (Canada), and ensure their wide dissemination, in particular in digital format (Norway and Switzerland) among relevant professionals.

Not being **legally binding**, the effective implementation of these texts is difficult to achieve in practice, and a State (Finland) suggests they should become so. Another State (Belgium) imposes compliance with, and implementation of the ICOM Code of Ethics as a pre-requisite for the official recognition of a museum, such recognition being a pre-condition to obtain funding from national public authorities.

The "**100 Missing Objects**" series and the **ICOM Red Lists** are widely consulted and disseminated by many States (Bahrain, Belgium, Bosnia and Herzegovina, China, Cyprus, Finland, France, Greece, Japan, Pakistan, the Netherlands, Syrian Arab Republic, Switzerland, Swaziland, United States of America).

Most countries have already established **awareness-raising programs**, as well as radio and television **alert campaigns** (Argentina, Canada, Bolivia, Colombia, China, Czech Republic, Estonia, Greece, Honduras, Jordan, Norway, Latvia, the former Yugoslav Republic of Macedonia, Mexico, Slovakia, Syrian Arab Republic, Switzerland, United States of America).

One State (the Netherlands) disseminates information on the fight against illicit trafficking to the public through a specific application (app) and social networks (customs services).

A State has created a **website specifically dedicated to the 1970 UNESCO Convention** which also contains the national legislation on import and export of cultural goods (Japan) and another has set up an education centre in various museums (the former Yugoslav Republic of Macedonia).

An increasing number of countries (Bahrain, Ecuador, Estonia, Japan, Jordan, Syrian Arab Republic, Turkey) implement **educational and recreational programs** for children on the importance to protect cultural heritage: **school visits** to concretely illustrate the irreversible effects of the deterioration of archaeological sites (Cyprus), **learning paths** in museums to make them more attractive and participatory (Turkey), or dissemination of a **cartoon** explaining the approach to be followed when a cultural object is discovered (Estonia).

Alongside initiatives developed at national level, States globally consider that **UNESCO should play a more important role** in the areas of **education** and **awareness-raising** (Ecuador, Finland, Norway, Niger and Swaziland). As such, UNESCO should conduct awareness-raising campaigns among young people, local populations and the art market but also facilitate the organisation of seminars and the training of professionals.

In support of these requests, it is recalled that raising the awareness and appropriation of cultural heritage by local populations is a lengthy and complex process, particularly in developing countries where trafficking is a potential source of income.

8. Cooperation with other international and regional agencies

The majority of the reports analysed shows that most States **cooperate with INTERPOL** through the National Central Bureaus (NCBs) of this Organisation. The degree of such cooperation depends on whether the State has a specialized police unit and/or specialized police officers within the NCBs. The specialized police units or NCBs, if any, are also the focal points for communication with heritage professionals. Several States indicate the specific units to which those persons can refer to (Argentina, Canada, China, Cyprus, Georgia, Greece, Hungary, Lithuania, the former Yugoslav Republic of Macedonia, the Netherlands, Norway and Switzerland). One State (Sweden) intends to set up such a specialized unit in 2016.

The **INTERPOL Database on stolen works of art**, which is on free access, is indicated by States as a widely used tool in order to communicate information in case of theft, through the NCBs, and to consult it for searches (Bosnia and Herzegovina indicates that police officers are specifically trained). Several States indicated that they also communicate to INTERPOL information relating to persons involved in the theft (such information is not accessible to the public).

If some States implement **special training programs for police** in police academies or as part of continuing training (Argentina, Bosnia and Herzegovina, Bulgaria, Canada, Czech Republic, Greece, the Netherlands, United States of America), in most States this training is occasional (Cyprus, Ecuador, Finland, the former Yugoslav Republic of Macedonia, Hungary, Niger, Norway, Slovakia, Switzerland, Swaziland, Turkey) and often takes the form of participation in awareness-raising workshops, sometimes multidisciplinary and regional.

The majority of reports analysed indicates the existence of **specific criminal law provisions** for the punishment of fraud and theft related to cultural property (Argentina, Bahrain, Bosnia and Herzegovina, Canada, China, Cyprus, Georgia, Greece, Hungary, Japan, Lithuania, the

former Yugoslav Republic of Macedonia, Norway and Turkey), or of general criminal law (Belgium, Canada, Czech Republic, Finland, Niger, the Netherlands, Sweden). If a few States report having **specialist judges** in this area (China, the Netherlands), most of them point out that the normal training of judges and the opportunity they have to consult experts allow them to deal with these cases.

While most reports stress the existence of **cooperation** with the **United Nations Office on Drugs and Crime (UNODC)**, especially during the development of the 'International Guidelines for Crime Prevention and Criminal Justice Responses with Respect to Trafficking in Cultural Property and Other Related Offences' (adopted in 2014), some countries indicate that this cooperation is weak or non-existent (Hungary, Nigeria, Swaziland) or not specific to property cultural (Bosnia and Herzegovina, Japan, Norway and the Syrian Arab Republic). Some States refer to the national focal point in case they need expertise in this field (Greece, Pakistan, Switzerland).

Cooperation with the **World Customs Organization (WCO)** has increased in terms of exchange of information through the Customs Enforcement Network (CEN) and its specific ARCHEO platform for cultural property. Several States have participated in international operations (eg COLOSSEUM in 2012 and ODYSSEUS in 2014) organized by Regional Intelligence Liaison Office (RILO) network - (notably Belgium, Bulgaria, the former Yugoslav Republic Macedonia, Sweden and Switzerland). Other States report that they cooperate with the WCO but not specifically in the field of cultural property (Canada, Norway, Syrian Arab Republic).

Most of the reports submitted emphasize that **customs specialized units** were trained to identify exported and imported cultural objects, and to combat their illegal traffic. These units work closely with heritage professionals in particular they organise trainings and can be consulted (Argentina, Belgium, China, Cyprus, Estonia, Finland, Georgia, Hungary, Japan, Pakistan, Portugal, Serbia, Turkey).

Many analysed reports indicate the existence of **special training for customs officers** (Argentina, Bulgaria, Canada, China, Cyprus, Estonia, Finland, France, Georgia, Switzerland, Turkey, United States of America,) as part of continuing training. In addition, some States have established e-learning modules or make specialized information available to customs administration on the intranet (Belgium, France, the Netherlands). Other States emphasize the involvement of customs officials in occasional trainings or multidisciplinary awareness-raising sessions (Bolivia, the former Yugoslav Republic of Macedonia, Hungary, Niger, Portugal) and one State (Hungary) indicates that it published a handbook for customs officers to explain how to handle cases involving cultural property.

Some States report that they use the **UNESCO-OMD Model Export Certificate for Cultural Objects** which is sometimes adapted (Argentina, China). Other States do not use such Model but the requirements in their national export licenses are very similar to those of the UNESCO-WCO Model, in particular the European model that member States of the European Union are required to use.

9. Emergency Situations and Heritage at risk

Some States have developed **risk management programs as well as safety and prevention of damage plans** in museums, archaeological sites and monuments (in particular Bosnia and Herzegovina, France, Georgia, Portugal, Serbia, United States of America).

The national provisions related to the **protection of cultural heritage in case of armed conflict** mainly result from the transposition into national law of the 1954 Hague Convention and its two Additional Protocols (Finland, Greece, Honduras, Norway Sweden and Switzerland). Two States (Bahrain and Cyprus) are also referring to the system of **enhanced protection**, established by the Second Protocol of 1999 for their sites inscribed on the World Heritage List.

Considering the recent increase of natural disasters, **preventive measures** have been widely adopted to map the sites and prevent risks to movable and immovable cultural property.

To optimize the **protection of collections**, some national initiatives have also been taken: advice on emergency measures provided to heritage professionals by a specialized institute (Canada) and possibility to create - under the patronage of UNESCO – safe havens for movable cultural property of other countries (Switzerland). This pioneering initiative provides for the return of these collections after the conflict. Turkey also mentioned that Iraqi and Syrian cultural objects seized by national authorities are kept by the management of museums and will be returned to their region of provenance at the end of hostilities.

Many measures are taken to implement the **Resolution 2199 adopted by the UN Security Council** under Chapter VII of the UN Charter on the protection of the Syrian and Iraqi cultural heritage: first, States have condemned the attacks to Iraqi and Syrian cultural heritage (eg Belgium, Bahrain, Finland, the Netherlands) and supported UNESCO's activities (Estonia) sometimes also financially (France and Norway).

At the national level, cooperation between the competent services has largely been strengthened and **controls made by Customs** have significantly increased (Canada, Czech Republic, France, the former Yugoslav Republic of Macedonia, Pakistan). States also indicated that **ethics** are central for heritage professionals, above all for museum staff, and that they must **systematically verify the provenance of the objects** (Czech Republic, Estonia, Finland,).

Sweden states that it introduced **sanctions** after the adoption of Resolution 2199, as most countries reported that their national legislation already provided **punitive provisions and / or provisions preventing the illegal import** of cultural objects from Iraq and Syria on their national territories (Canada, Czech Republic, Japan, Netherlands, Norway, Pakistan, Switzerland, United States of America).

In some States (Estonia, Greece, Norway, Sweden), the organisation of meetings, conferences and trainings on this issue is fundamental to **raise awareness** among the competent authorities, heritage professionals and the public concerning the importance of preventing and fighting against the impoverishment of the heritage in Iraq and Syria.

10. Other legislative, legal and administrative measures taken by States

Regarding the **1995 UNIDROIT Convention**, some States report they begun a review process in view of a possible ratification (Bahrain, Bulgaria, Niger, Pakistan and Turkey), others are about to ratify (Bosnia and Herzegovina, Serbia, Syrian Arab Republic and Swaziland), and others indicate that, even though they are not Parties to the Convention, their legislation contain provisions complying with it (Canada, the Netherlands and Switzerland, for instance). Two States (Belgium and France) stress the fact that some provisions of the Convention differ from their domestic law which prevent them from ratifying the Convention (reversal of the burden of proof of the good faith possessor invoked by

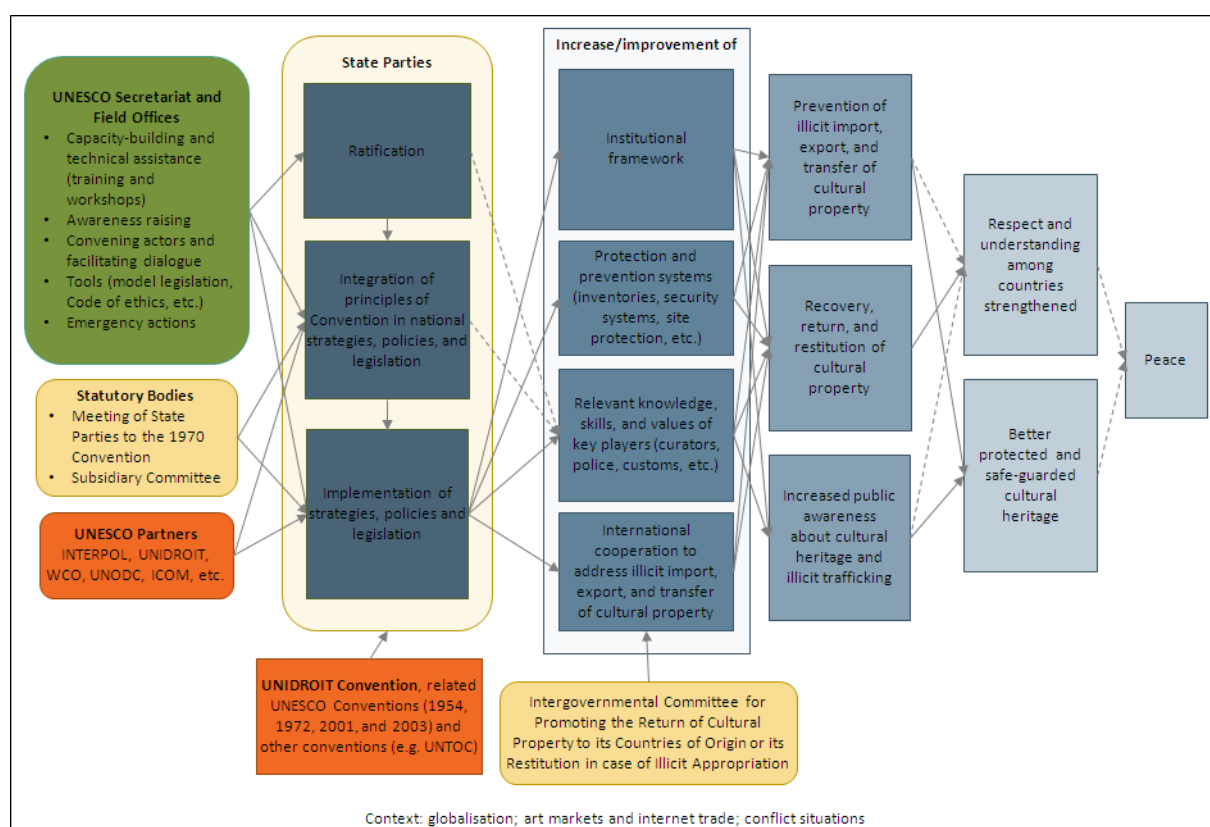
Belgium for example). Finally, two States indicate that technical assistance would be desirable to speed up the procedure (Niger and Swaziland).

Most States closely follow the work of the **UNESCO Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in case of Illicit Appropriation**, as members or observers, and support its activities. Some States indicate that they systematically transmit the documents of the Committee to their national stakeholders (Argentina, Finland, Sweden).

The **UNESCO Database of National Cultural Heritage Laws** is recognized as a practical and very useful tool. The majority of States regularly send their legislation in the original language with an English version for inclusion into the Database. Some States stress the fact that they need to update the information on line because of new legislations adopted or amendments, or in terms of translation (Argentina, Bolivia, Cyprus, Nigeria, Norway, the Syrian Arab Republic, Slovakia, Turkey). Finally, some States also indicate where, on national websites, to find the whole national legislation (Estonia and Switzerland). Two States stress the difficulties they face to update and translate their legislation, because of the very frequent amendments (Hungary and Turkey).

*Evaluation Report of UNESCO's Standard-setting Work of the Culture Sector
produced by IOS¹⁶*

Theory of Change for the 1970 Convention (first draft)



¹⁶ Document IOS/EVS/PI/133 REV.2

*Evaluation Report of UNESCO's Standard-setting Work of the Culture Sector
produced by IOS¹⁷*

D: Survey of State Parties

Respondent Information

Name:	
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Position	
Organization/Agency	
Country	

Policy and Legislative Framework

1. Does your country have an overall policy and/or strategy for fighting illicit trafficking of cultural property (i.e., a document that describes the country's overall vision for fighting illicit trafficking)?

<input type="checkbox"/>	Yes
<input type="checkbox"/>	No

If yes, please provide the name and year the policy was passed (and web link to the policy/strategy if possible)

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2. Please describe your country's overall legal framework for protecting cultural property from illicit trafficking, referencing specific laws and years passed.

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3. To what extent does your country's policy and legislation on this issue address the following topics: (mark all that apply)

<input type="checkbox"/>	Clear definition of cultural property
<input type="checkbox"/>	State ownership of undiscovered cultural heritage
<input type="checkbox"/>	Regulations on trade of cultural property
<input type="checkbox"/>	Export controls

¹⁷ Document IOS/EVS/PI/133 REV.2

	Export certificates
	Import controls
	Establishment of a national service
	National inventory of cultural property
	Inventory requirements for museums, public institutions, etc.
	Protection and regulation of archaeological sites
	Public education and awareness raising
	Measures to prevent museums and similar institutions from acquiring illegally exported cultural property
	Prohibition of import of cultural property stolen from a museum or religious/secular institution
	Return of cultural objects stolen from a museum or other public institution
	Sanctions (criminal and/or administrative and/or civil) illicit activities
	Requirement of register of sales for antique dealers
	Protection of underwater cultural heritage
	Other (please specify):

4. Did your country’s legal framework regarding illicit trafficking of cultural property change as a result of ratifying the 1970 Convention?

	Yes
	No

If yes, what laws were passed or changed as a result of ratification? (Please provide the name of the law and the year it was passed)

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5. Any additional comments on the legislative/policy framework

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Implementation

Institutional Framework

6. Does your country have a national, specialized service for the protection of cultural property, as described in Article 5 of the Convention (functions may include drafting laws and legislation; establishing national inventory; promoting establishment/development of scientific and technical institutions; organizing the supervision of archaeological sites; establishing rules for curators, antique dealers, etc.; developing educational activities; and/or publicizing the disappearance of cultural property)?

	Yes
	No

If yes, please describe this service's major roles and responsibilities:

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7. Please indicate which of the following departments/ministries/agencies also have specialized services for the protection of cultural property against illicit trafficking: (mark all that apply)

<input type="checkbox"/>	Magistrates and/or judges
<input type="checkbox"/>	Police, gendarmerie, and/or Department of Interior
<input type="checkbox"/>	Public prosecutor
<input type="checkbox"/>	Customs
<input type="checkbox"/>	Other (please specify):

Please describe the roles and responsibilities of these specialized services in more detail:

--

8. How do relevant stakeholders (Ministry of Culture, police, customs, etc.) coordinate regarding protection of illicit trafficking? Mark all that apply

<input type="checkbox"/>	Formal coordinating committee, working group, etc.
<input type="checkbox"/>	Coordination lead by specialized service (as described in Article 5)
<input type="checkbox"/>	Communication and meetings as necessary (i.e., for specific cases)
<input type="checkbox"/>	Cross-trainings (i.e., trainings for police from Ministry of Culture staff)
<input type="checkbox"/>	Other (please specify):

Please provide more detail on this coordination, including how it functions and who is involved:

--

9. Does your country use a database of stolen cultural objects?

<input type="checkbox"/>	Yes, we have our own national database that is not linked with the INTERPOL database
<input type="checkbox"/>	Yes, we have our own national database that is linked with the INTERPOL database
<input type="checkbox"/>	Yes, we use the INTERPOL database (and do not have our own national database)
<input type="checkbox"/>	No, we do not currently have a national database or use the INTERPOL database

Please provide additional details on how your country uses such a database:

--

Protection and Prevention Systems

10. To what extent do museums and religious or secular public monuments have inventories of their cultural property?

	All/almost all cultural property is inventoried
	Most, but not all, cultural property is inventoried
	Some cultural property is inventoried, but significant gaps remain
	Very little cultural property is inventoried
	No/almost no cultural property is inventoried

Please provide additional details on these inventories, including any challenges in creating/maintaining them:

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11. To what extent does your country have a national inventory of protected cultural property?

	All/almost all protected cultural property is inventoried
	Most, but not all, protected cultural property is inventoried
	Some protected cultural property is inventoried, but significant gaps remain
	Very little protected cultural property is inventoried
	No/almost no protected cultural property is inventoried

Please provide additional details on this inventory, including any challenges in creating/maintaining it:

--

12. Please describe the extent to which looting/pillaging of archaeological and ethnological objects is a challenge, including actions taken to combat it.

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Knowledge, Skills and Values of Stakeholders and the Public

13. Has your country undertaken any public awareness campaigns related to the protection of cultural property in the past five years?

	Yes
	No

If yes, please describe, including methods, target audience, etc.

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14. To what extent is the public in your country engaged in the protection of cultural property? Examples of engagement may include

- Protection of local archaeological and heritage sites by the public
- Return of objects to relevant authorities
- Sharing information on stolen objects with authorities
- Placing pressure on museums to change acquisition policies
- Advocating for policy change

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15. Overall, to what extent do police and/or gendarmerie have the necessary resources and knowledge to address cultural property crime?

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16. Overall, to what extent do customs officers have the necessary resources and knowledge to address cultural property crime?

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17. What type of training do police receive on cultural property crime?

<input type="checkbox"/>	No specific training on this issue
<input type="checkbox"/>	Training has occurred in the past, but is not ongoing
<input type="checkbox"/>	Training occurs periodically
<input type="checkbox"/>	In-depth, specialized training for officers working on this issue
<input type="checkbox"/>	Other (please specify):

Please provide additional details on the content and frequency of these trainings:

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18. What type of training do customs officers receive on cultural property crime?

<input type="checkbox"/>	No specific training on this issue
<input type="checkbox"/>	Training has occurred in the past, but is not ongoing
<input type="checkbox"/>	Training occurs periodically
<input type="checkbox"/>	In-depth, specialized training for officers working on this issue
<input type="checkbox"/>	Other (please specify):

Please provide additional details on the content and frequency of these trainings:

--

19. To what extent have museums in your country adopted a code of ethics, such as the ICOM Code of Ethics, that is in line with the principals of the 1970 Convention?

	All or almost all have adopted such a code of ethics
	Most have adopted such a code of ethics
	Some have adopted such a code of ethics
	None/only a few have adopted such a code of ethics

Please provide additional details on the degree to which museums adhere to such a code of ethics:

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20. To what extent do dealers and auction houses in your country follow practices that are in line with the principals of the 1970 Convention, such as those outlined in the UNESCO International Code of Ethics for Cultural Property Dealers?

	All or almost all follow such practices
	Most follow such practices
	Some follow such practices
	None/only a few follow such practices

Please provide additional details on the policies and practices of dealers and auction houses in your country:

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21. How has your country engaged art and antiquities dealers around the issue of illicit trafficking of cultural property?

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International Cooperation

22. Please list any formal, bilateral agreements your country has regarding the protection of cultural property, including the years for which the agreement is in effect.

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23. Please indicate how the 1970 Convention helped with return/restitution cases your country has been involved in?

	To no extent	To some extent	To a considerable extent	To a great extent	N/A
Provided a legal framework for return/restitution					
Provided a moral framework					

	To no extent	To some extent	To a considerable extent	To a great extent	N/A
for return/restitution					
Provided a diplomatic framework for return/restitution					
Other (please specify):					

Please provide additional details on or examples of how the 1970 Convention has facilitated return/restitution cases

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Overall

24. Please rate the extent to which each of the following is a challenge your country faces in preventing theft and illicit exportation of its cultural property:

	Not a challenge	Somewhat of a challenge	A considerable challenge	A major challenge	N/A
Gaps in national legislation to protect cultural property					
Lack of police capacity related to cultural property					
Lack of customs capacity related to cultural property					
Lack of coordination between relevant stakeholders					
Lack of inventories and databases in museums					
Inadequate security systems in museums					
Inadequate security of archaeological sites					
Lack of cooperation from the art market					
Lack of expertise/capacity in the legal field (lawyers, judges, prosecutors, etc.)					
Lack of public awareness					
Other (please specify):					

25. If applicable, please describe the three biggest barriers your country faces in securing the return/restitution of cultural property that has been stolen/illegally exported (e.g., cost of legal proceedings in other countries, lack of communication with counterparts in other countries, etc.):

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26. If applicable, please describe the most common reasons why your country is not able to fulfill requests for return/restitution made by other countries (e.g., requests made outside parameters of existing legal framework, lack of evidence base for claims, etc.)

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UNESCO Support for the Implementation of the 1970 Convention

27. UNESCO and its partners have developed a number of tools to help State Parties implement the 1970 Convention. Please rate how helpful these tools have been to your country:

	Not at all helpful	Somewhat helpful	Very helpful	Extremely helpful	N/A
Object ID Standard (ICOM, the Getty, and UNESCO)					
UNESCO International Code of Ethics for Cultural Property Dealers					
ICOM Code of Ethics for Museums					
UNESCO Database of National Cultural Heritage Laws					
Basic Measures Concerning Cultural Items Offered for Sale on the Internet (INTERPOL, UNESCO, ICOM)					
Model Provisions Defining State Ownership of Undiscovered Cultural Property (UNESCO and UNIDROIT)					
Model Export Certificate for Cultural Objects (UNESCO and WCO)					

Please provide additional details on how your country has used UNESCO's tools:

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28. What additional tools would be helpful for UNESCO to develop:

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29. Have you or other stakeholders in your country participated in any of UNESCO's capacity building workshops or projects related to preventing illicit trafficking of cultural property in the past five years?

	Yes
	No

30. If yes, how did these workshops or projects contribute to the implementation of the 1970 Convention in your country? Please provide specific examples where possible.

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31. There are a number of ways the UNESCO Secretariat could support State Parties in the implementation of the 1970 Convention in the future, in addition to servicing the governing bodies of the Convention. Please indicate the extent to which the Secretariat should give priority to the following activities:

	No priority	Low priority	Somewhat of a priority	High priority
Support in reforming national policies and legislation				
Promoting policy dialogues between countries				
Support for inventorying projects				
Specialized trainings for police				
Specialized trainings for customs				
Specialized trainings for museum staff				
National workshops to bring together stakeholders across departments, ministries, etc.				
Regional workshops to bring together stakeholders from across the region across departments, ministries, etc.				
Awareness raising activities (press releases, video clips, etc.)				
Development of more legal and practical tools such as the WCO model export certificate, the Database of National Cultural Heritage Laws, etc.				
Facilitating the sharing of best practices between countries (e.g., online or through				

	No priority	Low priority	Somewhat of a priority	High priority
a newsletter)				
Other (please specify):				

32. Please provide any additional suggestions for how UNESCO should focus its work on this topic going forward:

33. Any other additional issues or comments you would like to share: