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Return or restitution of cultural property to the countries of origin

Note by the Secretary-General

The Secretary-General hereby transmits the report of the Director-General of the United Nations Educational, Scientific and Cultural Organization on the return or restitution of cultural property to the countries of origin, in accordance with General Assembly resolution 64/78.

* A/67/150.



**Report of the Director-General of the United Nations
Educational, Scientific and Cultural Organization on the
action taken by the organization on the return or restitution
of cultural property to the countries of origin**

Summary

The present report provides an overview of the activities undertaken by the United Nations Educational, Scientific and Cultural Organization in fighting the illicit trafficking of cultural property and promoting the return of such property to the countries of origin or its restitution in case of illicit appropriation, since the last report submitted to the General Assembly on the matter, in 2009 (A/64/303).

I. Introduction

1. The present report is presented pursuant to General Assembly resolution 64/78, in which the Assembly requested the Secretary-General, in cooperation with the Director-General of the United Nations Educational, Scientific and Cultural Organization (UNESCO), to submit to it, at its sixty-seventh session, a report on the implementation of the resolution. The report contains information on the period between 2009 and 2012.

II. Ratifications of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property

2. Since 2009, Equatorial Guinea, Haiti, Kazakhstan, and Palestine have become parties to the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, adopted by the United Nations Educational, Scientific and Cultural Organization (UNESCO) in 1970, bringing the total number of States parties to 122.¹

3. Furthermore, over the same period, Colombia, Denmark, Panama and Sweden have become parties to the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects, adopted by the International Institute for the Unification of Private Law (UNIDROIT) in 1995, thus raising the number of States parties to 33.

III. Meetings of States parties

4. The secretariat actively supported the International Institute for the Unification of Private Law in the organization of its first meeting of the Special Committee to review the practical operation of the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects, held at UNESCO headquarters, on 19 June 2012, and strongly encourages the ratification of the Convention. Together with the Italian Carabinieri, UNESCO organized, for the first time in its history, an exceptional exhibition of stolen and retrieved cultural objects, which was officially inaugurated on 19 June 2012.

5. The second meeting of the States parties to the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, held at UNESCO headquarters, on 20 and 21 June 2012, established two institutional mechanisms: a meeting of States parties, to be held every two years, and the creation of a subsidiary committee of the meeting of the States parties, made up of 18 members, that is to be convened by the secretariat every year. The main functions of the committee will be to:

(a) Review national reports presented to the General Conference by the States parties to the Convention;

¹ For further information on ratification changes, see document C70/012/2.MSP/INF.2.

(b) Exchange best practices and prepare and submit recommendations and guidelines to the meeting of the States parties that may contribute to the implementation of the Convention;

(c) Identify problem areas arising from the implementation of the Convention;

(d) Initiate and maintain coordination with the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in case of Illicit Appropriation relating to capacity-building measures in the fight against the illicit trafficking of cultural property.

6. The sixteenth, seventeenth and eighteenth sessions of the Intergovernmental Committee for Promoting the Return of Cultural Property to Its Countries of Origin or Its Restitution in case of Illicit Appropriation were convened in September 2010, June-July 2011 and June 2012, respectively (for the recommendations adopted at each session, see annexes I, II and III to the present document).

IV. Development of legal and practical tools

7. In recent years, UNESCO and its partners have developed and improved several major legal, practical and awareness-raising tools in order to facilitate and improve the implementation of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

Database of National Cultural Heritage Laws

8. Officially launched in 2005, the database currently comprises 2,367 national cultural laws from 180 countries. All of these texts are available online at www.unesco.org/culture/natlaws. Despite this extensive list, States are still strongly encouraged to submit their national cultural heritage legislation for inclusion in the database.² The updates and costs related to translations and publications are funded by the State Department of the United States of America.

Basic actions concerning cultural objects being offered for sale over the Internet

9. Created in 2007, in cooperation with the International Criminal Police Organization (INTERPOL) and the International Council of Museums, the measures concerning cultural items being offered for sale over the Internet³ are available to States wishing to follow specific procedures in order to control the sale of cultural items on the Internet.

² States are invited to provide information officially to the United Nations Educational, Scientific and Cultural Organization (UNESCO), in electronic format, together with official written authorization from the competent national authority for UNESCO to reproduce the legislation and the export/import certificates on its website and to link the website to the official national website, unless it is expressly specified that such a link is prohibited or not desired.

³ Available from: www.unesco.org/new/en/culture/themes/movable-heritage-and-museums/illicit-traffic-of-cultural-property/legal-and-practical-instruments/.

Model export certificate for cultural objects

10. Developed in 2007 jointly by the secretariats of UNESCO and the World Customs Organization, the model export certificate³ is a tool for combating trafficking in cultural property. Both organizations recommend that their member States consider adopting it as an international standard, as it is specially adapted to the growing phenomenon of cross-border movements of cultural objects.

Witnesses to History — Documents and writings on the return of cultural objects

11. In 2009, the organization published *Witnesses to History — Documents and writings on the return of cultural objects*,⁴ as a scientific publication giving historical, philosophical and legal insights into the return of cultural property. The secretariat is seeking support from the States concerned for the Russian and Spanish versions.

Audiovisual materials

12. Since 2010, the secretariat has produced a documentary⁵ portraying the action taken by UNESCO and its main partners to combat the trafficking of cultural property and a film⁵ regarding specific activities in South-East Europe. A series of video clips⁵ designed to alert the general public in Africa and Latin America of the dangers of such trafficking has also been produced. Depending on available resources, the clips will also be customized for use in other countries and regions. This project has been implemented owing to extrabudgetary contributions from the Netherlands and Switzerland.

Model provisions on State ownership of undiscovered cultural objects

13. In 2011, the International Institute for the Unification of Private Law and UNESCO drafted model legislative provisions defining State ownership of undiscovered archaeological heritage. This legal framework could guide the drafting of national laws and promote standardization and uniformity in terminology in order to ensure that all Governments adopt sufficiently explicit legal principles on the subject.

Cultural heritage protection handbook No. 6 on securing heritage of religious interest (2012)

14. A new handbook in the series was published in 2012, on the topic of securing heritage of religious interest.⁶ The secretariat contributed and the Works of Art Unit of INTERPOL participated actively in the endeavour.

⁴ Lyndel V. Prot., editor, *Witnesses to History — Documents and writings on the return of cultural objects*, UNESCO, 2009. See www.unesco.org/new/en/culture/themes/movable-heritage-and-museums/restitution-of-cultural-property/witnesses-to-history-documents-and-writings-on-the-return-of-cultural-objects/#c200061.

⁵ Available from www.unesco.org/new/en/culture/themes/movable-heritage-and-museums/illicit-traffic-of-cultural-property/videos/.

⁶ Available from <http://unesdoc.unesco.org/images/0021/002162/216292E.pdf>.

V. Training

15. Since 2009, UNESCO has organized 15 training workshops for the benefit of African, Latin American, Asian, Arab and European States. The secretariat has increased its training and capacity-building activities during the biennium 2012-2013, in all regions.⁷

VI. International cooperation

Cooperation with governmental and non-governmental organizations

16. Since 2007, cooperation between UNESCO and such partners as INTERPOL, International Institute for the Unification of Private Law, the World Customs Organization, the United Nations Office on Drugs and Crime (UNODC), the International Council of Museums, the specialized Italian police corps, and France's Office central de lutte contre le trafic de biens culturels, and with UNESCO member States has been growing steadily, in such areas as the fight against trafficking of cultural property and the development and implementation of tools for the return and restitution of cultural property, training and awareness-raising.

The art market

17. The organization has strengthened its collaboration with the art market. New professional contacts have been made and, since 2008, an in-depth dialogue has developed between the secretariat and representatives of the international art market. The goal of the ongoing dialogue is, on the one hand, to encourage better understanding of the functioning of the art market, and on the other, to ensure recognition of the concerns of member States about the movement of works of art and issues relating to the restitution of cultural property. Furthermore, at the initiative of the Director-General of UNESCO, discussions are underway with the international art world in order to improve practices and raise awareness in such areas as provenance investigations, ethics, restitution procedures and knowledge of the international legal framework.

European Union

18. In 2011, a team of European researchers were invited to draft a feasibility study (entitled "Hermes 2011") on the means of preventing and combating trafficking in cultural goods for the Directorate-General for Home Affairs of the European Commission. The project was implemented with support from UNESCO, the International Institute for the Unification of Private Law, INTERPOL and European universities.⁸ Following that study, in December 2011, the Council of the European Union adopted its conclusions on preventing and combating crime against cultural goods.⁹

⁷ For an overview of training workshops, see the table in document C70/12/2.MSP/INF.2 (Annex II) and see also document C70/12/2.MSP/5.

⁸ Available from: http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/organized-crime-and-human-trafficking/general/index_en.htm.

⁹ Adopted at the 3135th meeting of the Justice and Home Affairs Council (Brussels, 13 and 14 December 2011), more information available from: www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/jha/126932.pdf.

VII. Emergency activities

Protection of cultural heritage in Haiti

19. In the immediate aftermath of the earthquake, in January 2010, UNESCO established a crisis unit and dispatched a mission to Port-au-Prince. Preventive action was taken to ban temporary trading in and transfers of Haitian cultural property suspected of being stolen. INTERPOL, the World Customs Organization and national specialized police forces were alerted to be particularly watchful over items exported from Haiti.

Protection of cultural heritage in Egypt, Tunisia and Libya

20. On 15 March 2011, an emergency technical meeting on the protection of cultural heritage in Egypt, Tunisia and Libya was held. As a result of that meeting, UNESCO, assisted by the International Council of Museums, dispatched a special mission of experts to Cairo to assess needs in the museum sector and make contact with national authorities in order to protect Egyptian cultural heritage. INTERPOL was requested to register stolen cultural objects in its database of stolen objects. A mission was sent to Tunisia to contact the new culture officials, make a preliminary assessment of the situation on the ground and improve the action plan adopted at the emergency meeting of 15 March 2011.

Protection of cultural heritage in the Syrian Arab Republic and Mali

21. The Director-General issued press releases in April and May 2012 concerning the critical situation in the Syrian Arab Republic and Mali. Among other things, the press releases called attention to the obligations under the Convention for the Protection of Cultural Property in the Event of Armed Conflict (signed at The Hague in 1954), as well as the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

22. The Chair of the Committee for the Protection of Cultural Property in the Event of Armed Conflict, an intergovernmental body created by the Second Protocol to the Convention for the Protection of Cultural Property in the Event of Armed Conflict, also alerted the relevant authorities of Mali and the Syrian Arab Republic to the need to respect cultural property under article 4 of the Convention. The article, entitled “Respect for cultural property”, holds parties responsible for, among other things, “prohibit[ing], prevent[ing] and, if necessary, put[ting] a stop to any form of theft, pillage or misappropriation of, and any acts of vandalism directed against, cultural property”.

23. The disturbing situation in Mali and the Syrian Arab Republic has been brought to the attention of INTERPOL and the World Customs Organization, as well as that of the French and Italian special police forces. UNESCO has also alerted neighbouring countries of both States of the increased probability of illicit trafficking.

24. Concerning Mali, the Director-General also specifically drew the attention of the President of the African Union Commission to the state of Malian cultural heritage and, in particular, that of the Timbuktu and Gao World Heritage sites. Similar representations were made to the current Chair of the Economic Community of West African States.

25. From 18 to 20 May 2012, an emergency UNESCO mission composed of the Assistant Director-General for Africa, the Director of the World Heritage Centre and the Chief of the Africa Unit of the World Heritage Centre travelled to Mali. The purpose of that mission was to hold talks with the competent authorities of Mali in order to find ways and means of saving the country's cultural heritage.

26. The Director-General contacted the Director General of the Islamic Educational, Scientific and Cultural Organization in order to call on that organization to exercise further pressure for the protection of Malian cultural heritage.

VIII. Celebration of the fortieth anniversary of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property

27. On 15 and 16 March 2011, the fortieth anniversary of the Convention was celebrated at UNESCO headquarters.¹⁰ To mark the occasion, the Secretariat held an international round-table discussion on trafficking in cultural property, organized a press conference, and welcomed a group of experts in order to appraise the effectiveness of the Convention and to design strategies in order to improve its implementation in response to the new forms of cultural heritage trafficking (see annex I, recommendation No. 7 as adopted by the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation at its sixteenth session).

IX. Support from States parties

Belgium

28. Since its ratification of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property in 2009, Belgium has actively supported the Convention's secretariat. In 2011 and 2012, extrabudgetary contributions were made available to strengthen the secretariat's human resources.

Czech Republic

29. Workshops have been held and materials promoting Iraqi heritage have been developed, since 2009, with funding from the Czech Republic, in cooperation with the office of UNESCO in Baghdad. The new educational tools are designed to raise awareness, particularly among children, of the importance of preserving the country's cultural heritage.

Italy

30. The Italian police force is an important institutional partner in training workshops conducted for countries or regions. At the beginning of 2012, Italy

¹⁰ The final report on the meeting (CLT/2011/CONF.207/8 REV) is available at: <http://unesdoc.unesco.org/images/0019/001927/192779E.pdf>.

seconded a police officer specialized in combating trafficking in cultural property to the secretariat of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, for a period two years. Furthermore, the Italian authorities, the Italian police force and UNESCO held a unique exhibition of some 30 stolen and recovered cultural items in the summer of 2012 at UNESCO House, to highlight the work of the Italian police force and international cooperation in combating trafficking in cultural property.

Monaco

31. Monaco's cooperation agency provides financial support for a UNESCO capacity-building project in Mongolia in the field of heritage protection, covering the period from 2010 to 2013. The main goal of the three-year project is to build Mongolia's capacities to combat trafficking in its cultural property by strengthening its operational capacities and by conducting activities to raise the awareness of target groups such as legal experts, police officers and museum professionals.

The Netherlands

32. Since 2009, the Ministry of Education, Culture and Science of the Netherlands has provided financial support for several promotional projects and awareness-raising initiatives against trafficking in cultural property. Video clips tailored to Africa and Latin America have been produced, for example, to alert the general public to the dangers of such trafficking and to make tourists and local people aware of the importance of protecting cultural heritage.

Switzerland

33. Most awareness-raising projects (publications, films, celebration of the fortieth anniversary of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property) have been funded by Swiss authorities, and training workshops will be held in Egypt as a result of financial support from Switzerland, which has been crucial to many projects. In 2012, UNESCO and the Faculty of Law of the University of Geneva signed an agreement establishing a position of Chair in "International law of the protection of cultural heritage", which will be inaugurated at the beginning of the academic year 2012-2013. It will have two components, namely, teaching and research, and its purpose is to enrich the courses on offer and encourage training in this subject area.

United States of America

34. The Department of State of the United States of America is one of the major sources of financial support for the activities of the secretariat of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. The Database of National Cultural Heritage Laws has been wholly funded by the United States of America. That tool, which has acknowledged as crucial to combating trafficking in cultural property, has been improved and updated regularly since 2005 under funds-in-trust from the United States of America.

X. Mobilizing extrabudgetary resources to strengthen the secretariat of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property

35. In recent years, the secretariat has intensified its efforts to promote the Convention. In part, this has meant securing adequate human and financial resources in order to be able to address existing challenges and ensure efficiency in its implementation. In this context, the General Conference of UNESCO decided, at its thirty-sixth session, in 2011, to allocate additional funding to programmes pertaining to the Convention. However, in the current difficult budgetary situation faced by UNESCO, the Director-General decided, in March 2012, to allocate additional extrabudgetary funds.

XI. Recommendations

36. The recommendations adopted by the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation at its sixteenth, seventeenth and eighteenth sessions are included in annexes I, II and III to the present report.

Annex I

Recommendations adopted by the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation at its sixteenth session

Headquarters of the United Nations Educational, Scientific and Cultural Organization, 21 to 23 September 2010

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,

Acknowledging the relevant recommendations of the United Nations Educational, Scientific and Cultural Organization (UNESCO) expressing its continuing concern for a solution to the issue of the Parthenon Sculptures,

1. *Acknowledges* with great satisfaction the opening and inauguration on 20 June 2009 of the new Acropolis Museum with its special hall for the Parthenon Sculptures in direct visual contact with the monument;

2. *Thanks* Greece for inviting the Director-General of UNESCO and representatives from the United Kingdom of Great Britain and Ireland to the inauguration ceremony of the museum;

3. *Takes note* that, on the opening of the museum, three sculptural fragments were exhibited, which had been returned from the University of Heidelberg and loaned from Italy and the Vatican to Greece to be co-exhibited in the Parthenon Hall with the original sculptures from which they were detached;

4. *Acknowledges* the fruitful cooperation between Greece and the United Kingdom on cultural matters and expresses the wish that this should continue with a view to concluding the ongoing discussions in respect of the Parthenon Sculptures;

5. *Takes note* that Greece invites the United Kingdom to collaborate with Greece in exhibiting all the Parthenon Sculptures from their respective collections in the new Acropolis Museum;

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. 2

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 recommendations adopted by the Committee on this question at its sixth session and at its tenth to fifteenth sessions,

Acknowledging the continuing concern of Turkey for the long-awaited resolution of the issue of the Sphinx,

Noting that Turkey has transmitted a new dossier to Germany regarding the Sphinx during the seventeenth session of the Turkish-German Joint Cultural Commission Meeting, which took place in Ankara on 16 and 17 October 2006,

Recalling that the issue of the return of the Sphinx is a pending agenda item of the Committee 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 were returned in November 1987, following the fifth session of the Committee, held in April 1987, and were inscribed in the Memory of the World Register of the United Nations Educational, Scientific and Cultural Organization (UNESCO) in 2001,

Hoping that the close cooperation in the field of culture between the two countries will facilitate the solution of the Boğazköy Sphinx issue,

Noting also that the Boğazköy Sphinx was situated at Boğazköy (Hattusha) where it was excavated, which was the capital of the Hittite Empire and is currently inscribed in the World Heritage List of UNESCO,

1. *Expresses* its hope that the pending request of Turkey with regard to the issue of the Sphinx will be solved through bilateral negotiations;

2. *Takes note* of the fact that the last bilateral negotiations on the issue took place on 19 November 2002 in Berlin, without reaching a solution;

3. *Takes note* that the issue was mentioned during an informal contact between the two parties in March 2010, during the Berlin Tourism Fair;

4. *Invites* both parties to hold comprehensive bilateral negotiations as soon as possible with a view to bringing the issue to a mutually acceptable solution, and notes that, in the context of the present Committee meeting, Turkey has proposed to hold an expert meeting in Ankara, with Germany, by the end of 2010;

5. *Invites* the parties to keep the Committee informed of the issue;

6. *Also invites* the Director-General to continue her good offices towards the resolution of this issue and to report to the Committee at its seventeenth session.

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,

Acknowledging the obstacles faced by many countries in applying for restitution of cultural property, especially when it comes to materials from cultural sites where there is no inventory or provenance documentation, in particular objects coming from illicit excavations,

Recalling the importance for States that claim ownership of certain cultural objects to have a clear and precise legislation to provide a basis for an action to recover the object if it is found in another country,

Reminding States of the proposals put forward in the framework of the thirtieth anniversary of the Intergovernmental Committee, held in Seoul in 2008, and discussed at the fifteenth session of the Committee, to assist States in such a purpose,

Welcoming the participation of the International Institute for the Unification of Private Law in this exercise for its expertise in the harmonization of laws,

1. *Stresses* the importance of the issue and encourages the establishment of a working group of independent experts chosen jointly by the Secretariats of the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the International Institute for the Unification of Private Law, in their personal capacity and as far as possible on the basis of a balanced geographical representation;

2. *Encourages* the preparation of model provisions with explanatory guidelines to be made available to States to consider in the drafting or strengthening of national laws;

3. *Requests* the secretariat to report on the work accomplished by the working group at the seventeenth session of the Committee;

4. *Invites* Member States to provide appropriate human and financial support for such work.

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 resolution 44 adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO) at its thirty-third session, which added mediation and conciliation to the mandate of the Committee,

Taking note of the progress achieved during the examination of the draft rules of procedure on mediation and conciliation,

1. *Thanks* the subcommittee and its Chair, Professor Constantin Economidès for the efforts accomplished to prepare a draft text and to present the results of its work at the sixteenth session of the Committee;

2. *Adopts* the rules of procedure on mediation and conciliation;

3. *Asks* the Director-General to report on the adopted rules of procedure to the General Conference of UNESCO at its next ordinary 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,

1. *Decides* to hold its seventeenth ordinary session at the headquarters of the United Nations Educational, Scientific and Cultural Organization (UNESCO) during the first semester of 2011;

2. *Requests* the Director-General of UNESCO to provide the Secretariat with adequate human and financial resources in order to conduct this task in proper conditions.

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 illicit trafficking of cultural objects, through trainings, sensitization tools, documentation, inventories and databases,

Encouraging the continuation and strengthening of the cooperation undertaken by the United Nations Educational, Scientific and Cultural Organization (UNESCO), the International Institute for the Unification of Private Law (UNIDROIT), the International Criminal Police Organization (INTERPOL), the United Nations Office on Drugs and Crime (UNODC), the World Customs Organization, the International Council of Museums, the Italian Carabinieri, the Office central de lutte contre le trafic de biens culturels, of France (OCBC), and other institutions or organizations,

Acknowledging the growth and the upgrading of the website of UNESCO regarding the Database of National Cultural Heritage Laws,

Taking note of the absolute need for the database of stolen objects maintained by INTERPOL in the fight against illicit trafficking,

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

1. *Encourages* States to reinforce national policies regarding inventories of movable cultural heritage, notably concerning museums, cultural institutions, cultural sites, in particular of an archaeological nature, and places of worship;

2. *Also encourages* Member States to continue providing the secretariat with electronic versions of their national cultural heritage legislation and their official translations;

3. *Requests* Member States to widen the dissemination of information on stolen or retrieved cultural heritage to the General Secretariat of INTERPOL, encouraging also their local police services to pass on this information to the bureau of INTERPOL in their country;

4. *Invites* Member States to fully cooperate and consider providing additional extrabudgetary funds in these endeavours.

Recommendation No. 7

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

Noting the discussions about the challenges concerning the implementation of the Convention on the Means of Prohibiting and Preventing the Illicit Import,

Export and Transfer of Ownership of Cultural Property, of 1970, as well as of the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects, of 1995,

Taking note of the necessity to evaluate, in particular, the effectiveness of the conventions and the implementation thereof, with regard to the new trends in illicit trafficking of cultural heritage, in particular the growing threats to archaeological and paleontological heritage,

1. *Considers* the fortieth anniversary of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property and the fifteenth anniversary of the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects an opportunity to conduct such evaluations;

2. *Regards* these events as a chance to reinforce the effectiveness of the conventions and elaborate strategies, in particular for their better applications;

3. *Requests* the Director-General of the United Nations Educational, Scientific and Cultural Organization (UNESCO), in cooperation with the secretariat of the International Institute for the Unification of Private Law (UNIDROIT), to facilitate the organization of a forum of reflection, as soon as possible, among member States of UNESCO, in particular on the following subjects:

(a) The effectiveness of the current international legal framework, taking into account that it might be insufficient in the fight against illicit trafficking in cultural property and 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 illicit trafficking;

(c) The consideration of basic principles in the field of restitution and return of cultural objects, which could enrich the work of the Committee, as well as the functions of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property;

(d) The strengthening of the role of the Intergovernmental Committee, in particular in relation to guiding the planning and implementation of the programme of activities of UNESCO with regard to restitution and return of cultural property to its countries of origin;

4. *Calls upon* the Director-General to mobilize the additional extrabudgetary funds required for the organization of the forum of reflection.

Recommendation No. 8

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

Commemorating the 40 years of the Convention of the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property,

1. *Acknowledges* the progress and evolution achieved over those years, especially through the work of the Committee;

2. *Takes note* of the two conferences organized by the United Nations Educational, Scientific and Cultural Organization (UNESCO), which took place in Athens, in March 2008, and in Seoul, in November 2008, and their conclusions regarding the Convention;

3. *Takes note* of the report commissioned by the secretariat on ethical principles and legal rules in the field of return of cultural properties, which has identified the evolution of some basic principles on the aforementioned issues and was presented to the Committee during the fourteenth extraordinary session and the fifteenth and sixteenth sessions, and its conclusions.

Annex II

Recommendations adopted by the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation at its seventeenth session

Headquarters of the United Nations Educational, Scientific and Cultural Organization, 30 June-1 July 2011

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 international public law,

Recalling his precious contribution to objectives and activities of the United Nations Educational, Scientific and Cultural Organization, 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 Chair of the Committee;
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 recommendations of the United Nations Educational, Scientific and Cultural Organization 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. *Takes note* that Greece invites the United Kingdom to collaborate with Greece in exhibiting all the Parthenon Sculptures from their respective collections in the Acropolis Museum;
3. *Takes note* 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. *Takes note* of the invitation from the Acropolis Museum to the British Museum to hold meetings in 2011, in order 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 recommendations adopted by the Committee on this question at its sixth session and at its tenth to sixteenth sessions,

Recalling also that the issue of the return of the Sphinx is a pending agenda item of the Committee 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 were returned in November 1987, following the fifth session of the Committee, held in April 1987, and were inscribed in the Memory of the World Register of the United Nations Educational, Scientific and Cultural Organization (UNESCO) in 2001,

Noting also that the Boğazköy Sphinx was situated at Boğazköy (Hattusha) where it was excavated, which was the capital of the Hittite Empire and is currently inscribed in the World Heritage List of UNESCO,

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 will 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 of the issue;

4. *Also invites* the Director-General to report to the Committee, in this regard, 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 preparation of model provisions with explanatory notes by an independent expert committee under the auspices of the secretariats of the United Nations Educational,

Scientific and Cultural Organization (UNESCO) and the International Institute for the Unification of Private Law,

Welcoming the participation of the International Institute for the Unification of Private Law in this project, given its expertise regarding the harmonization of legal systems,

1. *Expresses its appreciation* to the expert committee for having elaborated and presented the project to the Committee at its seventeenth session;
2. *Takes note* of the finalization of model provisions and expresses its satisfaction with the obtained results;
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 the secretariats of UNESCO and the International Institute for the Unification of Private Law to the member States and observers;
4. *Requests* the secretariat to widely disseminate these model provisions with explanatory notes and to make them available to member States to consider in elaborating or reinforcing their national legislations;
5. *Requests* the secretariat to present an assessment of 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 the headquarters of the United Nations Educational, Scientific and Cultural Organization (UNESCO), in 2012, the day after the meeting of the States parties to the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property;
2. *Requests* the Director-General to provide the secretariat with adequate human and financial resources in order to effectively conduct this task.

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 to support the fight against illicit trafficking of cultural objects through training, awareness-raising tools, documentation, inventories and databases,

Recalling recommendation No. 7 adopted at the sixteenth session of the Committee,

Thanking the Director-General of the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the secretariat for the organization of the meeting on the theme “The fight against the illicit traffic of cultural property: the

1970 Convention, past and future”, that took place at UNESCO headquarters on 15 and 16 March 2011 in the framework of the fortieth anniversary of the normative instrument,

Encouraging the continuation and strengthening of the cooperation among UNESCO, the International Institute for the Unification of Private Law, the International Criminal Police Organization (INTERPOL), the United Nations Office on Drugs and Crime (UNODC), the World Customs Organization, the International Council of Museums, the Italian Carabinieri, the Office central de lutte contre le trafic de biens culturels, of France (OCBC), and other institutions or organizations,

Expressing its satisfaction for the support to the European Commission project entitled “Hermes 11”,

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

Recalling recommendation No. 3 adopted at the twelfth session of the 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 the 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 fight against illicit trafficking and the necessity of connecting them,

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

1. *Reiterates* the necessity to pursue the reflection on:

(a) The implementation of the current international legal framework, taking into account that it might 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 illicit trafficking;

2. *Encourages* Member States to reinforce their national policies regarding inventories of movable cultural heritage, notably in museums, cultural institutions, cultural sites (in particular those of an archaeological nature) and places of worship;

3. *Further encourages* Member States to continue providing the secretariat with electronic versions of their national cultural heritage legislation and their official translations;

4. *Asks* the secretariat to prepare an annex to the report presented at the seventeenth session of the Committee, on “Examples of cultural property returned

or restituted without action by the Committee”,^a checking previously the accuracy of the information with the States concerned, taking into consideration their sensitivity;

5. *Requests* Member States to reinforce the transmission of information on stolen or retrieved cultural objects to the General Secretariat of INTERPOL and to encourage local police services to transmit relevant information to the national INTERPOL bureau of their country;

6. *Invites* Member States to fully cooperate with the secretariat and to provide additional extrabudgetary funds for these endeavours.

^a See document CLT-2011/CONF.208/COM.17/2REV, available at: <http://unesdoc.unesco.org/images/0019/001927/192728e.pdf>.

Annex III

Recommendations and a decision adopted by the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation at its eighteenth session

Headquarters of the United Nations Educational, Scientific and Cultural Organization, 22 June 2012

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,

1. *Elects* Professor Keun-Gwan Lee (Republic of Korea) as Chair of the Intergovernmental Committee;
2. *Elects* Gunay Akhundova (Azerbaijan) as Rapporteur of the Intergovernmental Committee;
3. *Elects* Guatemala, Iraq, Nigeria and Turkey as Vice-Chairs of the Intergovernmental Committee.

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,

Having examined the provisional agenda,^a

Adopts the agenda contained in the aforementioned document with the amendments proposed by the secretariat.

^a See document ICPRCP/12/18.COM/2.

Recommendation No. 3

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

Having examined the following documents:

- Revised version of the final report of the sixteenth session,^a
- Revised version of the report of the meeting held on the occasion of the fortieth anniversary of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property,^b
- Revised version of the report of the secretariat of the seventeenth session,^c
- Final report of the seventeenth session,^d

Adopts the reports presented by the secretariat in the way in which they were amended by certain delegations.

^a See document CLT-2010/CONF.203/COM.16/6REV.

^b See document CLT/2011/CONF.207/8REV.

^c See document CLT-2011/CONF.208/COM.17/2REV.

^d See document CLT-2011/CONF.208/COM.17/6.

Recommendation No. 4

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

Having examined the report of the secretariat,^a

Adopts the report of the Secretariat of the eighteenth session, as it appears in the above-mentioned document, as amended with the inclusion of the observations of some delegations and the secretariat.

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,

Acknowledging relevant recommendations of the United Nations Educational, Scientific and Cultural Organization expressing 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 from 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. *Notes that Greece invites the United Kingdom to collaborate with Greece in bringing together, under conditions to be explored in good faith, fragments of the Parthenon Sculptures which are disjecta membra and which would enable the Acropolis Museum to add to damaged images, thereby promoting the scientific study of classical form;*

6. *Takes note of the invitation from the Acropolis Museum to the British Museum to hold meetings in 2012, in order to further the proposed collaboration;*

7. *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.*

^a See document ICPRCP/12/18.COM/3.

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,

Having considered the discussions on the Fund of the Committee,^a

1. *Takes note* of the information contained in the aforementioned document;^a
2. *Encourages* States to increase further their voluntary contributions to the Fund in order to make it more operational;
3. *Invites* States to make use of the Fund for the return or restitution of cultural property;
4. *Invites* the secretariat to further communicate the existence of, and the opportunities offered by, the Fund, in order to encourage voluntary contributions.

^a See document ICPRCP/12/18.COM/4.

Recommendation No. 7

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

Having considered the report on practical tools,^a

Takes note of the aforementioned document.^a

Recommendation No. 8

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

Taking note of the heavy workload of the secretariat during the preparation of the Committee's sessions and expressing appreciation for its efforts,

Invites the secretariat to send the provisional agenda at least sixty days before the Committee session.

Recommendation No. 9

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

1. *Decides to hold its nineteenth session in 2014;*
2. *Requests the Director-General to provide the secretariat with adequate human and financial resources in order to effectively conduct this task.*

Decision

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 was on display in the Berlin Museum until May 2011,

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

Recalling the previous recommendations adopted by the Committee on this question at its sixth session and at its tenth to seventeenth sessions,

Recalling also that the issue of the return of the Sphinx was a pending agenda item of the Committee since 1987,

Recalling further the information provided by both parties at the seventeenth session of the Committee that, following bilateral meetings held on 18 April 2011, in Ankara, and on 13 May 2011, in Berlin, where 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,

Noting with satisfaction that a mutually acceptable solution of the case of the Boğazköy Sphinx has been reached through bilateral negotiations and in a spirit of friendship and cooperation,

^a See document ICPRCP/12/18.COM/5.

1. *Welcomes* the information provided by both parties at the eighteenth session of the Committee that the Boğazköy Sphinx arrived in Turkey at the end of July 2011 and is now on display in Boğazköy (Hattusha), where it was excavated, which was the capital of the Hittite Empire and is currently inscribed in the World Heritage List of the United Nations Educational, Scientific and Cultural Organization;

2. *Acknowledges* that the issue of the Boğazköy Sphinx is regarded as a sui generis case by both parties and has been settled in a cooperative manner;

3. *Decides* that the issue of the Boğazköy Sphinx is no longer on the agenda of the Committee.
