

**UNITED NATIONS EDUCATIONAL,  
SCIENTIFIC AND CULTURAL ORGANIZATION**

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

**Thirteenth Session**

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**SECRETARIAT REPORT**

**I. PROMOTION OF BILATERAL NEGOTIATIONS**

**Cases Pending before the Committee**

**The Parthenon Marbles**

1. Pursuant to Recommendation No. 1 adopted at the 12th session of the Committee (Paris, March 2003), the Director-General renewed efforts to hold a meeting between Greece and the United Kingdom. The Secretariat attended a meeting that took place between the two countries' representatives on 4 December 2003 in London. There it was clarified that: (a) because of the legal status of the British Museum which makes it independent in this regard from the British Government, it is the prerogative of the Board of Trustees of the British Museum to determine the disposition of the Parthenon Marbles; and (b) the independent status of the British Museum may be changed by a law, but the British Government is not currently considering to revise legislation on this matter.

**The Boğazköy Sphinx**

2. Following Recommendation No. 2 of the previous Committee session, Germany and Turkey were invited to continue meeting "with a view to bringing this issue to a mutually acceptable solution" and the Director-General was invited to use his good offices to assist it. The Secretariat offered to hold a meeting between the two States if they wished; however neither expressed interest in this to date.

**II. REPORT BY THE DIRECTOR-GENERAL ON A STRATEGY TO FACILITATE  
THE RESTITUTION OF STOLEN OR ILLICITLY EXPORTED CULTURAL  
PROPERTY**

3. At the 32nd session of the General Conference (October 2003), Member States adopted 32 C/Resolution 38, which in paragraph 9 invited the Director-General, *inter alia*, to present a

strategy to facilitate the restitution of stolen or illicitly exported cultural property by, among other things, strengthening the mandate of the Committee in various ways.

4. Bearing in mind that the Committee meets every two years and is convening its 13th session in February 2005, the Director-General felt that it would be more effective to have the Committee's observations on 32 C/Resolution 38 so as to report them to the 171st session of the Executive Board (April 2004) with a view to a future strategy to facilitate the restitution of stolen or illicitly exported cultural property.

5. To assist the Committee in its reflection upon paragraph 9 of 32 C/Resolution 38, the Secretariat has prepared discussion points in a separate document, which includes 32 C/Resolution 38, that will be presented to the Committee.

### **III. LAUNCH OF THE UNESCO CULTURAL HERITAGE LAWS DATABASE**

6. This Committee, in Recommendation 5 of its last session, invited the Director-General *inter alia* to “establish and maintain on the UNESCO website a Legislation Database that includes cultural heritage legislation including import and export certificates where provided by the applicable national legislation from all Member States as well as links to their relevant websites”. At its 32nd session, the UNESCO General Conference supported this principle.

7. In view of the above, the Director-General issued on 19 December 2003 a Circular Letter to all Member States announcing the establishment of the “UNESCO Cultural Heritage Laws Database” on its Culture Sector website, and requesting officially that UNESCO be provided with the following, in electronic format:

1. the relevant legislation on cultural property in general and especially on import, export and transfer of ownership of moveable cultural objects;
2. a regular and immediate update of such legislation: it is the responsibility of each Member State to ensure that UNESCO receives in electronic format a copy of the latest and current legislation;
3. any existing official translation of such legislation into one or more of the six working languages of the General Conference (Arabic, Chinese, English, French, Russian, Spanish). If not yet existing, such a translation is promptly needed into (at least) English and French.

8. At the writing of this report, 20 Member States have responded to the Director-General's Circular Letter. The Secretariat has requested States that submitted their legislation in hard copy to provide the electronic version as well. Only 12 States provided their legislation in the requested electronic format. Moreover, the Secretariat continues to solicit electronic contributions from Member States that did not provide this so far.

9. In order to be most effective, the Database needs not only legislation from all countries, but also official translations of such legislation into other languages, particularly English and French. UNESCO's Member States are strongly encouraged to consider having official translations of their legislation made to be provided to the Secretariat for inclusion in the database and, when possible, to provide the Secretariat with extrabudgetary funds so that it may assist some Member States with the important translation work.

10. This session of the Committee will celebrate the official launch of the live website.

#### **IV. THE MODEL EXPORT CERTIFICATE FOR CULTURAL OBJECTS**

11. Within the framework of the Memorandum of Understanding signed in 2000 by which UNESCO and the World Customs Organization (WCO) cooperate to combat illicit trafficking in cultural property, the Secretariats of the two organizations developed the Model Export Certificate for Cultural Objects and related Explanatory Notes. They were later approved by the competent body of the WCO as they are customs documents.

12. UNESCO's Director-General and the Secretary-General of the WCO plan to send a joint letter to their respective Member States recommending them to adopt in its entirety or in part the Model Export Certificate for Cultural Objects as their national export certificate. This standard, rigorous, yet practical export certificate is meant to benefit individual States as well as customs officials worldwide in the fight against illicit trafficking in cultural property. In developing the Model Export Certificate for Cultural Objects, Interpol and UNIDROIT comments, as well as the standard export certificate of the European Union, were taken into consideration. The Model Export Certificate and Explanatory Notes are available electronically in French, English, Spanish, Russian, Arabic and Chinese.

#### **V. THE FUND OF THE INTERGOVERNMENTAL COMMITTEE FOR PROMOTING THE RETURN OF CULTURAL PROPERTY TO ITS COUNTRIES OF ORIGIN OR ITS RESTITUTION IN CASE OF ILLICIT APPROPRIATION ("THE FUND")**

13. During the 12th session of the Committee, Operational Guidelines for the Fund were adopted, along with a Sample Project Document and Model for the Presentation of Projects. Recommendation No. 6 of that session invited the Director-General to "prepare an explanatory note on the procedure to be followed for the assessment of the submitted projects pursuant to the Operational Guidelines of the Fund". Such explanatory note will be submitted by the Secretariat and discussed at the 13th session.

14. To date, no project proposals have been received by the Secretariat for the Fund, which still contains €29,342. The Secretariat has promoted the existence of the Fund through dissemination of the Information Kit on Return and Restitution, the website and during regional and subregional meetings in which illicit trafficking and return and restitution are discussed.

#### **VI. INTERNATIONAL COOPERATION**

##### **New States Parties to the UNESCO 1970 and UNIDROIT 1995 Conventions**

15. Since the last session of the Committee (March 2003), nine States have joined the 1970 UNESCO Convention (Denmark, Gabon, Iceland, Morocco, Paraguay, Seychelles, South Africa, Sweden and Switzerland) bringing the total number of States Parties to 106. Afghanistan, Germany and New Zealand have announced that they will soon ratify this Convention. The UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects (adopted in Rome on 24 June 1995) has five new States (Azerbaijan, Cyprus, Guatemala, Slovakia and Slovenia), bringing the total number of States Parties to 23.

##### **Cultural property displaced during the Second World War**

16. It will be recalled that following Recommendation No. 7 of the 10th session of this Committee (Paris, January 1999), the Director-General was invited to convene a working group of experts in the field of cultural property displaced during the Second World War with the task of

preparing a more comprehensive report for the 11th session of the Committee. Two meetings of experts, intervening in their personal capacities, were organized (29-31 May 2000 and 3-6 December 2002). The result was 13 “Principles Relating to Cultural Objects Displaced in Relation to the Second World War”.

17. These principles were distributed before and discussed during the Committee’s 12th session (Paris, March 2003), which decided, as per Recommendation No. 7 of that session, to “invite the Director-General to communicate the report and the Principles to all UNESCO Member States, inviting them to send their observations to the Secretariat before the end of 2003, to be then made available in a timely fashion to the Committee for its next session”.

18. The Report and the Principles were thus sent by the Secretariat to all UNESCO Member States in May 2003 with a request for their observation by 31 December 2003 at the latest. An additional request was sent in October 2004. To date, replies from eight Member States (Canada, Croatia, Germany, Greece, the Republic of Korea, Portugal, San Marino and the Syrian Arab Republic) have been received. These will be brought to the attention of the 13th session of the Committee for its consideration.

### **UNESCO Declaration concerning the Intentional Destruction of Cultural Heritage**

19. Following the tragic destruction of the Buddhas of Bamiyan in March 2001 that affected the international community as a whole, 31 C/Resolution 26 invited the Director-General to present to the 32nd session of the General Conference a draft declaration concerning the intentional destruction of cultural heritage. International experts invited to convene in their personal capacities elaborated this draft declaration. The General Conference of UNESCO, meeting at its 32nd session in 2003, adopted this Declaration. UNESCO continues to promote and disseminate the Declaration to prevent such intentional destruction both in times of peace and during armed conflicts.

### **Meeting of States Parties to the UNESCO 1970 Convention**

20. Pursuant to 165 EX/Decision 6.2, this meeting took place on 15 October 2003. Of particular importance to the meeting discussion was document 32 C/24 (Implementation of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1970): Reports of Member States and other States Parties on Measures they have adopted to Implement the Convention).

21. The meeting adopted recommendations on several issues including: periodicity and quality of reporting to UNESCO by States Parties of the 1970 Convention; the model export certificate for cultural objects; the legislation database; and cultural property sales on the Internet. Copies of the meeting Report and Recommendations are available on the Culture Sector website and will be available at the 13th session of the Committee.

### **Secretariat assistance with legislation, combating illicit trafficking and facilitating the return or restitution of cultural property**

22. The Secretariat assists Member States at their request in the ratification and implementation of the 1970, and occasionally UNIDROIT 1995, Conventions and either co-organized or participated in the following meetings:

2003

Asmara, Eritrea, 14-16 April 2003  
Eritrea National Commission  
“Object ID Workshop”

Lyon, France, 6 May 2003  
Interpol  
“Meeting on Illicit Trafficking in Iraqi Cultural Property”

Berlin, Germany, 26-27 May 2003  
Antikensammlung of the Staatliche Museen Preußischer Kulturbesitz  
“Illegal Archaeology? International Conference on Future Problems concerning the Illicit Traffic of Antiquities”

Amman, Jordan, 9-10 June 2003  
World Customs Organization  
“The Role of the Jordanian Customs in Protecting Iraqi Culture and the Importance of Regional Exchange of Information”

The Hague, the Netherlands, 3 July 2003  
Europol  
“Working Group Meeting on Stolen Cultural Goods”

Brussels, Belgium, 21-22 October 2003  
World Customs Organization  
“Meeting of the Working Group of the Permanent Technical Committee” (Model Export Certificate)

Abuja, Nigeria, 3-5 November 2003  
UNESCO and the Nigerian National Commission  
“Regional Workshop on the UNESCO Conventions Protecting Cultural Property”

2004

Geneva, Switzerland, 5-6 February 2004  
British Council in Switzerland and the British Embassy in Berne  
“Not for Sale” (conference on illicit trafficking)

The Hague, 25-26 February 2004  
Europol  
“Training Seminar on Cultural Property Crime”

Brussels, Belgium, 3 March 2004  
World Customs Organization  
“Meeting of the Permanent Technical Committee” (Model Export Certificate)

Buenos Aires, Argentina, 22-24 March 2004  
Argentine authorities and UNESCO  
“Subregional Seminar on the Prevention and Fight against Illicit Trafficking and for the Return and Restitution of Cultural Property in the MERCOSUR”

Lisbon, Portugal, 24 March 2004  
Portuguese Ministry of Culture and others  
“Security, Protection and the Importance of Cultural Heritage”

Vienna, Austria, 17 May 2004  
“Thirteenth session of the Commission on Crime Prevention and Criminal Justice of the United Nations Economic and Social Council”

Amman, Jordan, 1-2 June 2004  
Interpol  
“Regional meeting to Fight the Illicit Trafficking in Cultural Property Stolen in Iraq”

Sinaia City, Romania, 7-9 September 2004  
Interpol  
“4th International Conference on Illicit Traffic in Cultural Property Stolen in Central and Eastern Europe”

Cape Town, South Africa, 27-30 September 2004  
UNESCO and the South African National Commission  
“Regional Workshop on the Fight against Illicit Trafficking in Cultural Property”

Vienna, Austria, 3-5 November 2004  
Austrian Commission for UNESCO, Austrian Society for the Protection of Cultural Property, Institute of Oriental Studies at the University of Vienna and the Office for Cultural Heritage and City Archaeology, City of Vienna  
“Vienna Congress on Archaeology and Computers”

### **Cooperation with Interpol, UNIDROIT, the World Customs Organization and the International Council of Museums**

23. The Secretariat maintains good working relationships with each of these organizations. In particular, an expert/representative from each usually participates in the regional meetings organized by UNESCO to discuss the illicit trafficking, and return and restitution, of cultural property. Cooperation at the operational level (for example on objects reported to the Secretariat as stolen) is also very fruitful.

### **Promotion of the Object-ID Standard**

24. The Secretariat has actively promoted the making of inventories in general, and the Object ID standard, launched in 1997 by the J. Paul Getty Trust, in particular. The Object ID checklist is regularly disseminated by the Secretariat and the UNESCO Cultural Heritage website has a link to the Object-ID website. Additionally, Object ID is presented in UNESCO meetings on the illicit trafficking of cultural property. For example in the UNESCO Regional Workshop on the Fight against Illicit Trafficking in Cultural Property that took place in Cape Town in September 2004, one full afternoon was dedicated to an Object ID training exercise for the participants. Additionally from 30 November–3 December 2004 UNESCO convened some 20 Iraqi cultural professionals in Amman, Jordan to participate in the “Training Workshop in the Object ID Standard and Additional Information for Inventorying”. This intensive workshop was organized as part of UNESCO’s programme for the protection of Iraqi cultural heritage, funded by the United Nations Development Group Trust Fund for Iraq.

25. Object ID is now officially based with ICOM and cooperation between UNESCO and ICOM to promote Object ID remains fruitful. The preparation of a short manual on basic inventorying is

envisaged, where the Object ID standard will be highlighted, and additional information for inventorying to be extended beyond Object ID may be covered.

## **United Nations**

26. In the field of restitution, resolution 1483 adopted by the United Nations Security Council on 22 May 2003 should be underlined. This resolution provides for the obligation of the United Nations Member States to:

“take appropriate steps to facilitate the safe return to Iraqi institutions of Iraqi cultural property and other items of archaeological, historical, rare scientific, and religious importance illegally removed from the Iraq National Museum, the National Library, and other locations in Iraq since the adoption of resolution 661 (1990) of 6 August 1990, including by establishing a prohibition on trade in or transfer of such items and items with respect to which reasonable suspicion exists that they have been illegally removed ...”

It also calls upon UNESCO, Interpol and other international organizations, as appropriate, to assist in the implementation of this obligation.

27. On 3 December 2003 the United Nations General Assembly adopted resolution A/RES/58/17 “Return or restitution of cultural property to the countries of origin”. This resolution encourages the continued promotion of the various conventions protecting cultural heritage and all other activities related to the fight against the illicit trafficking of cultural property and the issue of return or restitution of cultural property to its countries of origin.

## **VII. CONFLICT AND POST-CONFLICT SITUATIONS**

### **Iraq**

28. In the current transitional period, at the request of Iraqi authorities, UNESCO has undertaken extensive work, principally by coordinating international assistance, aimed at the protection of cultural heritage. Three meetings of high-level international experts were convened: 17 April 2003 (Paris); 29 April 2003 (London, jointly with the British Museum); and 1-2 August 2003 (Tokyo, jointly with the Japanese Agency for Cultural Affairs (BUNKACHO) and the Japanese National Commission for UNESCO). These meetings aimed at: (i) coordinating the international scientific network of experts on Iraqi cultural heritage; (ii) formulating guidelines for a consolidated strategy in the field of post-conflict intervention and rehabilitation of the cultural heritage of Iraq; (iii) devising an emergency-safeguarding plan.

29. Prior to and during this transitional period, UNESCO contacted key players to bring their attention to the need to protect Iraq’s cultural property against destruction, pillaging and illicit import, export and trade: the United Nations Secretary-General, the US and UK authorities, the ministries of culture of neighbouring countries of Iraq (namely Kuwait, Turkey, the Islamic Republic of Iran, Saudi Arabia, Syria and Jordan), Interpol, the World Customs Organization and the World Confederation of Art Dealers (CINOA).

30. Accurate figures on the number of objects that were stolen from Iraqi museums since the onset of the conflict, and on the number of cultural objects destroyed are not available. Additionally, it is not possible to determine precisely the number of cultural objects that have been and continue to be pillaged from Iraqi archaeological sites and illicitly trafficked. The figures from Iraqi sources as to the number of objects stolen from the Iraq Museum in Baghdad, according to its

Director, is approximately 14,000; approximately 7,000 were retrieved and returned to the museum to date.

31. UNESCO and the Iraqi authorities jointly established in September 2003 the International Coordination Committee for the Safeguarding of the Cultural Heritage of Iraq (ICC). The Minister for Culture of Iraq, H.E. Mr Moufid al Jazairi, chaired the first two-day meeting of the ICC at UNESCO's Headquarters on 24-25 May 2004. The main task of the ICC is to provide advice on measures to improve and reinforce international cooperation and assistance for the safeguarding of Iraq's cultural heritage (tangible and intangible). The ICC at this first meeting issued specific recommendations in this regard. The "Programme for the protection of Iraqi cultural heritage", as submitted to and approved under the United Nations Development Group Trust Fund for Iraq, selected projects based on the recommendations issued by the ICC. The next meeting of the ICC is tentatively foreseen for Spring 2005.

32. UNESCO sent two expert missions to Iraq. The first mission to Baghdad (15-20 May 2003) assessed the situation of the museums and library and their contents, and determined what immediate action had to be taken to improve the situation. Led by Mr Mounir Bouchenaki, the Assistant Director-General for Culture, four international experts participated. The second mission to Iraq (28 June-7 July 2003) visited various regions within the country and, in particular, assessed the situation of archaeological sites suffering from pillage such as Isin, Umma and Umm Al-Aqarib.

33. In addition to the Object ID training course that took place in late November 2004 (mentioned above), UNESCO has committed to completing numerous other projects in the framework of the Programme for the protection of Iraqi cultural heritage funded by the United Nations Development Group Trust Fund for Iraq, as well as under UNESCO's consolidated funds-in-trust mechanism – thanks to the generous contributions from Italy, Japan and the Flanders. These concern mainly:

- protecting archaeological sites, through provision of basic equipment, preparation of an Iraqi sites database, and training of border patrol and site guards;
- training for Iraqi staff in the fields of documentation, condition assessment of monuments and sites, museum work, etc.;
- rehabilitation of the research and teaching institutions in the field of culture, with a view to allowing Iraqi staff to restart work in appropriate conditions (i.e. the rehabilitation of the conservation laboratories in certain museums, providing the appropriate environmental condition for collections, and the rehabilitation of the Regional Centre for Conservation);
- provision of equipment and materials, as well as specialized publications/manuals in Arabic on museum practice and security; and
- as deemed necessary by the Iraqi authorities, providing assistance in revision/strengthening of Iraqi legislation protecting cultural heritage.

34. Other activities, particular to the fight against illicit trafficking, have also been progressing. In May 2003 the Government of Switzerland offered its financial support, through UNESCO's funds-in-trust mechanism, to develop a museum collection and information management database system for the Iraq Museum in Baghdad. This project is ongoing and benefits from ICOM experience. Pursuant to an agreement of cooperation between UNESCO and Interpol, efforts are being pursued both to track stolen or missing Iraqi cultural property and to develop a database thereon. Currently available on the Interpol website ([www.Interpol.int](http://www.Interpol.int) select "property crime" then "works of art" then "stolen Iraqi items", then select one of the subcategories, such as "cylindrical seals" or "sculpture –

statues”), the database and a list of Iraqi cultural property enable customs and police authorities, as well as art dealers and other concerned parties, to identify and check objects against Iraqi cultural property listed as missing in the database. In June 2003, ICOM produced and distributed the very useful *Emergency Red List of Iraqi Antiquities at Risk*. With fruitful cooperation from the States neighbouring Iraq, several hundred cultural objects have been seized at border controls, most notably in Jordan, Syria and Kuwait. These objects have been examined by Iraqi and international experts to confirm their authenticity and are being held in proper conditions until their restitution to Iraq. From an international legal perspective, most relevant is the Resolution 1483 by the United Nations Security Council mentioned above.

## **Afghanistan**

35. Since the fall of the Taliban regime, the Afghan authorities have taken important steps to prevent smuggling of illicitly acquired moveable cultural objects. The Law on the Protection of Historical and Cultural Properties was revised with the assistance of UNESCO, and was approved by Hamid Karzai, President of the Transitional Islamic State of Afghanistan. It was subsequently published in the Official Gazette, coming into effect on 21 May 2004. This paves the way for Afghanistan to become State Party to the UNESCO 1970 and UNIDROIT 1995 Conventions.

36. The rehabilitation of the Kabul National Museum building was recently completed with the generous assistance of the British, Greek, Italian and US Governments. The scientific inventory of the collections of the Museum coordinated by UNESCO, in cooperation with the Society for the Preservation of Afghanistan’s Cultural Heritage (SPACH), is progressing well. In early 2004, a project in the amount of US \$250,000 for the conservation and the preservation of collections in the National Museum in Kabul was approved. Training of museum personnel in conservation of objects is being carried out, thanks to technical assistance from various museums.

37. In April 2004, the Afghan Interior Ministry formed a special police force to protect the country’s historical sites, with 84 officers deployed to protect important sites in the Logar and Kapisa provinces near Kabul. The Afghan authorities announced their intention to increase the strength of the force to 500 officers and expand its area of operation.

38. UNESCO and the Ministry of Information and Culture made a short film dedicated to the values of cultural heritage and to the importance of its protection with the aim of raising public awareness inside Afghanistan on the necessity to fight against illicit digging, looting and trafficking. This short film, which was financed with funds from the National Federation of UNESCO Associations in Japan, has been presented as from Summer 2004 in major towns and rural areas where illicit archaeological excavations are taking place. In addition, UNESCO, with assistance from ICOM, printed and distributed in November 2004 leaflets and posters in English, Dari and Pashto to raise awareness among the Afghan population on the importance of preventing illicit traffic in cultural property.

## **VIII. INFORMATION DISSEMINATION**

39. The very useful handbook “Preventing the Illicit Traffic in Cultural Property” is now available in Arabic, in addition to the Chinese, English, French, Spanish and Russian versions.

40. The publication “Tráfico ilícito de bienes culturales en América Latina y el Caribe” was produced by the UNESCO Havana Office, and includes the texts and discussion of the UNESCO 1970 and UNIDROIT 1995 Conventions.

41. The website [www.unesco.org/culture/chlp](http://www.unesco.org/culture/chlp) is regularly updated and has a wealth of information on UNESCO's activities vis-à-vis the UNESCO conventions, the Committee and all other actions to help Member States prevent the illicit trafficking of cultural property and facilitate the return and restitution of illicitly appropriated cultural property. It is a major source of information for Member States and the general public.

42. The Secretariat also prepared and widely disseminated an information kit on the 1954 Hague Convention and its two Protocols (English, French and Spanish).