

Draft Operational Guidelines of the UNESCO 1970 Convention (Second draft, January 2014)

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Introduction

1. The cultural property is among the priceless and irreplaceable assets, not only of each nation, but also of humanity as a whole. The loss, through theft, damage, clandestine excavations, illicit transfer or trade, of any of these priceless and irreplaceable assets constitutes an impoverishment of the cultural heritage of all nations and peoples of the world and infringes upon the fundamental human rights to culture and development.
2. To ensure, as far as possible, the protection of their cultural property against the illicit import, export and transfer of ownership, the Member States of UNESCO adopted the 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” or the Convention”) on 14 November 1970, at the 16th Session of the General Conference of UNESCO. The 1970 Convention constituted a step forward to stop and revert the erosion of the national cultural heritage of the nations and peoples of the world by theft, clandestine excavation, and illicit transfer and trade. It raised hopes that cultural heritage and traditions will be duly protected for the benefit of all nations and peoples of the world and for the better education of all. However, its ratification has been slow and its effective implementation has been lacking. Moreover, worrisome trends, such as the proliferation of pillage and clandestine excavations of archaeological sites and sales on Internet, are posing further challenges to the protection of cultural heritage. At the same time, during the last decades new approaches and attitudes for strengthened partnership to protect cultural heritage have evolved, creating the potential of higher forms of understanding and international cooperation to combat the illicit traffic of cultural and archaeological property.
3. The first Meeting of States Parties to the 1970 Convention took place in October 2003 in order to examine issues concerning the efficient implementation of the Convention (CLT-2003/CONF/207/5). In 2009 the Executive Board asked for a second Meeting of States Parties to be held on the occasion of the 40th anniversary of the 1970 Convention to examine in depth the impact of measures taken by States Parties to the Convention to optimize its implementation, appraising its effectiveness with particular regard to new trends in trafficking in cultural property, and formulating strategies geared in particular to its efficient implementation (EX 187/43).
4. The Second Meeting of States Parties took place in June 2012. At that occasion, the Meeting of States Parties decided to convene its meetings every two years. The Meeting of States Parties adopted its own Rules of Procedure, which are attached to these Operational Guidelines as Annex 1. The Meeting of States Parties also decided to establish a Subsidiary Committee of the Meeting of the States Parties of the Convention of 1970 to support the strengthening of the implementation of the Convention (hereafter referred to as the “Subsidiary Committee” or the “Committee”), to be convened every year.
5. Following that Second Meeting of States Parties, UNESCO’s Executive Board approved the holding of an Extraordinary Meeting of States Parties in 2013, to proceed with the establishment of the Subsidiary Committee (190 EX 190/43). At the Extraordinary Meeting, held on 1 July 2013, the Subsidiary Committee was duly elected. The Subsidiary Committee held its First Meeting on 2-3 July 2013 and adopted its own Rules of Procedure, which are attached as Annex 2.

6. The functions of the Committee are:

- To promote the purposes of the Convention, as set forth in the Convention;
- To review national reports presented to the General Conference by the States Parties to the Convention;
- To exchange best practices, and prepare and submit to the Meeting of the States Parties recommendations and guidelines that may contribute to the implementation of the Convention;
- To identify problem areas arising from the implementation of the Convention, including issues relating to the protection and return of cultural property;
- To initiate and maintain co-ordination with the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in case of Illicit Appropriation (hereafter referred to as the “ICPRCP”) in relation to capacity building measures combating illicit traffic in cultural property;
- To report to the Meeting of States Parties on the activities it has carried out.

7. In accordance to its mandate, and with the commitment of fully supporting the achievement of higher forms of understanding and international cooperation to combat the illicit traffic of cultural and archaeological property, the Committee submitted these Operational Guidelines for the implementation of the UNESCO 1970 Convention, for their adoption at the Third Meeting of States Parties of the Convention in 2015.

Purpose of these Guidelines

8. The Operational Guidelines of the UNESCO 1970 Convention (hereafter referred to as the Operational Guidelines) aim to facilitate the implementation of the Convention. The Convention has now been in force since 24 April 1972 and the last four decades of experience have changed approaches and attitudes to the Convention in many countries. Building upon improved shared understandings, experience and renewed political will, the Operational Guidelines are intended to clarify certain provisions by taking lessons from the best practices of States Parties geared to enhance the effective implementation of the Convention, and also to identify ways and means to further the achievement of the goals of the Convention through strengthened international cooperation.

Purposes of the Convention

9. The reciprocal responsibilities and obligations agreed at the Convention have the purpose of enabling the international community to protect cultural property against theft, clandestine excavations, and trafficking, to establish a moral and ethical code for the acquisition of cultural property, to minimize risks related to disputes over the interpretation of the Convention as well as to litigation, and thus to contribute towards international understanding.

10. The Preamble to the Convention proclaims that the exchange of cultural property among nations for scientific, cultural and educational purposes increases the knowledge of the civilization of humanity; enriches the cultural life of all peoples and inspires mutual respect and appreciation among nations; that cultural property constitutes one of the basic elements of civilization and national culture and that its true value can be appreciated only in relation to the fullest possible information regarding its origin, history and traditional setting; that it is incumbent upon every State to protect the cultural property existing within its territory against the dangers of theft, clandestine excavation, and illicit export; that, to avert these dangers, it is essential for every State Party to become increasingly alive to the moral obligations to respect its own cultural heritage and

that of all nations; that, as cultural institutions, museums, libraries and archives should ensure that their collections are built up in accordance with universally recognized moral principles; that the illicit import, export and transfer of ownership of cultural property is an obstacle to that understanding between nations which it is part of UNESCO's mission to promote by recommending to concerned States, international conventions to this end; and that the protection of cultural heritage can be effective only if organized both nationally and internationally among States working in close cooperation.

Definition of cultural property for the purposes of the Convention (Article 1)

11. In drafting the 1970 Convention, UNESCO Member States concluded that it was desirable for all States Parties to apply a common definition of cultural property for the purposes of the Convention, in order to adequately address the issue of exports and imports of such property. Thus, Article 1 states that, for the purposes of the Convention, the term "cultural property" means property which, on religious or secular grounds, is specifically designated by each State as being of importance for archaeology, prehistory, history, literature, art or science and which belongs to the categories identified in the same Article.
12. The said list of categories identified in Article 1 is broad, but not exhaustive. No particular problem seems to have arisen with this list. However, two categories of cultural property pose special challenges in terms of their specific designation, as follows:

Products of archaeological clandestine excavations. Regarding archaeological finds clandestinely excavated, States are unable to produce any specific inventories. To avoid the problem of specifically identifying an object of archaeological significance, it is now considered good practice to make a clear assertion of State ownership of undiscovered antiquities, so that the State can sue for recovery in a suit for theft. This is particularly important when it comes to an undisturbed archeological site that has not been yet looted: every object in that site, to be found, is important for the preservation of our cultural heritage and our understanding and knowledge of the archaeological site full meaning and context. Consequently, States Parties are encouraged to follow best practice in designating the cultural property that is protected under their national law in accordance to these characteristics and all States Parties are encouraged to recognize this sovereign assertion for the purposes of the Convention.

Objects of Ethnological Interest. Developments in the last 20 years have shown special concern for the return of objects from indigenous communities whose absence has deprived them of significant cultural items necessary for the continuance of their culture, education of their children and respect for their traditions. Items of spiritual importance in all cultures have also been the subject of increased concern. In particular, many indigenous communities feel strongly about the return of human remains from their communities for traditional burial or other ceremonies in their home country. These returns are not regarded as taking place in accordance with the 1970 Convention, since it uses the phrase "cultural property" and most indigenous communities do not accept that human remains can be regarded as "property". States Parties are encouraged to take this into full account and thus to establish legislation that provide for the return of grave goods associated with burials, in view of the anthropological knowledge about the importance of burial practices to such communities and to conform with the wishes of those communities in accordance with the principles of the United Nations Declaration on the Rights of Indigenous Peoples 2007 and the Principles & Guidelines for the Protection of the Heritage of Indigenous People (drafted 1993 and revised 2000).

Fundamental principles of the Convention (Articles 2; 3)

13. Article 2 and 3 state the fundamental principles of the Convention. The first principle is the recognition of “illicit import, export and transfer of ownership of cultural property” as “one of the main causes of the impoverishment of the cultural heritage of the countries of origin of such property and that international cooperation constitutes one of the most efficient means of protecting each country’s cultural property” against these dangers. The second principle is a solemn undertaking by States Parties to fight these practices with the means at their disposal, and particularly by removing their causes, putting a stop to current practices and by helping to make necessary reparations.
14. Trafficking of cultural property has many causes. Ignorance and poor ethics are at its very root and therefore the critical role of education and awareness raising must not be disregarded. Lack of capacity to protect cultural heritage is an important weakness in many countries, which also has to be remedied. Law enforcement and customs controls both at export and import points require to be strengthened as well. Moreover, the market has to be better regulated. Information on trade exchanges should be fully and readily available to States Parties concerned, to enabling them to better confront illicit trafficking. As long as demand remains high there will be an incentive to supply any goods. The trade of archaeological objects not only trivializes the invaluable nature of such objects but also may play, albeit inadvertently, such an incentivizing role. Special attention is required in this regard.
15. Clandestine excavations of archaeological sites are among the most pernicious current practices within the cycle of trafficking. The damage caused by clandestine excavations of archaeological sites goes well beyond the theft of important archaeological pieces, as it destroys the unity of meaning of the whole archaeological monument, depriving the nations and peoples of the world of the opportunity to understand and learn from their irreplaceable cultural heritage. This pernicious practice should be fully stopped.
16. As for reparations, restituting stolen cultural property to countries of origin remains a top priority. All efforts should be made to proceed with this essential reparation in fairness to the affected nations and peoples of the world. Traffickers should be appropriately penalized and bear all related costs.
17. To advance in all these fronts, States are encouraged to reinforce the promotion of the effective implementation of the fundamental principles of the Convention through appropriate legislations and their full enforcement, as well as through education and awareness raising, capacity building and a strengthened international cooperation.

Link between heritage and State (Article 4)

18. For a State to be able to claim a cultural object as its own cultural heritage, Article 4 (a) to (e) sets out clearly a number of links, which make evident the ownership of the cultural item owned by the State or its citizens. States Parties to the Convention are required to recognize those links where the object concerned has been created by an individual or by the “collective genius” of nationals, foreign nationals or stateless persons resident within its territory; found within its national territory; acquired by archaeological, ethnological or natural science missions with the consent of the competent authorities of that country; the subject of a freely agreed exchange; or received as a gift or legally purchased with the consent of the competent authorities of that country.

19. The Convention does not attempt to establish priorities where more than one State may regard a cultural object as part of its cultural heritage. Competing claims to such items, if this cannot be settled by negotiations between the States or their institutions by special agreement (see paras. 105-107 below), they should be regulated by mediation (see para. 97 below) or arbitration. There is no strong tradition for the judicial settlement of such differences in cultural matters. State practice prefers to use mechanisms that will allow for not only legal but also cultural, historical and other relevant factors. States Parties are encouraged to exhaust all options provided by the Convention before entering into arbitration procedures. States Parties are encouraged to cooperate to ensure that appropriate arrangements are established to allow the interested States to realize their interests in a compatible way.

National services for the protection of cultural property (Article 5, 13(a); b), 14)

20. To ensure the effective implementation of the Convention, Article 5 requires that States Parties undertake, as appropriate for each country, to set up one or more national services for the protection of cultural property, with sufficient staff and adequate budget to carry out the following functions:

- The making of legislation (Art. 5(a); paras. 24-32 below);
- Establishing and updating a list of cultural property “whose export would constitute an appreciable impoverishment of the national cultural heritage” (Art. 5(b); paras. 33-38 below);
- Promoting the development of scientific and technical institutions required to ensure preservation and presentation of that heritage (Art. 5(c); paras. 39-41 below);
- Organizing the supervision of archaeological excavations and preserving protected areas (Art. 5(d); paras. 42-45 below);
- Establishing rules “in conformity with the ethical principles set forth in this Convention” and taking steps to ensure their observance (Art. 5(e), paras. 46-48);
- Taking educational measures to develop respect for the cultural heritage of all States and knowledge of the principles of the Convention (Art. 5(f); paras. 49-51 below);
- Arranging appropriate publicity for the disappearance of any item of cultural property (Art. 5(g) paras. 52-53 below);

21. States Parties should also ensure that their national services support adequately other functions entrusted to them, such as the ones stipulated in Article 13(a); b):

- Preventing transfers of ownership of cultural property likely to promote the illicit import or export of such property
- Ensuring cooperation between their competent services to facilitate restitution of illicitly exported cultural property to its rightful owner.

22. In this context, since previous experiences have proven their efficacy, States Parties are also encouraged to create “specialized police units” or “law enforcement agencies” dedicated to the protection of cultural property and the recovery of stolen cultural property under constant cooperation with all the relevant authorities from the different branches and levels of government of the States Parties. Also, States Parties should promote the cooperation between such units created in different States, as well as with INTERPOL and WCO, and are encouraged to exchange good practice and if possible technical support on all the relevant means and methods used for the prohibition and prevention of the illicit import, export and transfer of cultural property, as well as for the fight against clandestine excavations of archaeological sites.

23. Article 14 obligates each State Party as far as it is able to provide the national services responsible for the protection of cultural heritage with an adequate budget. If necessary a fund should be set up for this purpose. States Parties are encouraged to ensure that their national services support

adequately all of the functions given to them. States Parties are also encouraged to step up international cooperation in support of these national efforts.

National legislation (Article 5(a))

24. Article 5(a) requires States Parties to adopt appropriate legislation for the protection of the national heritage. State Parties may seek assistance or advice for the making of such legislation from UNESCO. States Parties are encouraged to review their legislation from time to time to ensure that it is incorporating best practice.
25. According to their duty to protect cultural heritage, several States have enacted unambiguous laws on national or State ownership of certain cultural property, regardless of prior exercise of physical control over it, and thus including when the relevant cultural property remains officially undiscovered or otherwise unrecorded. National or State ownership laws constitute the first barrier against looting and should obstruct laundering and international trade in undocumented cultural property of said nature.
26. National or State ownership laws cannot fulfill their protective purpose or facilitate the return of stolen cultural property if the illicit removal of the concerned property from the territory of provenance is not internationally regarded as theft of public property. Thus, when a State has enacted ownership of certain cultural property, States Parties are encouraged to consider the illicit removal of said cultural property from the territory of provenance as theft of public property.
27. In this context, it is important to recall that, following the UNESCO Recommendation on International Principles Applicable to Archaeological Excavations (1956) and the ECOSOC Resolution 2008/23 on the need for States to assert State ownership of the archaeological subsoil, and as requested by the ICPRCP at its 16th session in 2010, the UNESCO and UNIDROIT Secretariats convened a group of experts from all different parts of the world and mandated them to draft a text that would appropriately address the subject. The text was finalized and adopted at the ICPRCP 17th session in 2011 and provides as follows:

Model Provisions on State Ownership of Undiscovered Cultural Objects

Provision 1 – General Duty.

The State shall take all necessary and appropriate measures to protect undiscovered cultural objects and to preserve them for present and future generations.

Provision 2 – Definition

Undiscovered cultural objects include objects that, consistently with national law, are of importance for archaeology, prehistory, history, literature, art or science and are located in the soil or underwater

Provision 3 – State Ownership

Undiscovered cultural objects are owned by the State, provided there is no prior existing ownership.

Provision 4 – Illicit excavation or retention

Cultural objects excavated contrary to the law or licitly excavated but illicitly retained are deemed to be stolen objects.

Provision 5 – Inalienability

The transfer of ownership of a cultural object deemed to be stolen under Provision 4 is null and void, unless it can be established that the transferor had a valid title to the object at the time of the transfer.

Provision 6 – International enforcement

For the purposes of ensuring the return or the restitution to the enacting State of cultural objects excavated contrary to the law or licitly excavated but illicitly retained, such objects shall be deemed stolen objects.

28. These Model Provisions are intended to assist domestic legislative bodies in the establishment of a legislative framework for heritage protection, to adopt effective legislation for the establishment and recognition of the State's ownership of undiscovered cultural objects with a view to facilitating return in case of unlawful removal and to ensure that foreign courts will be in no doubt of the legislative provisions in foreign national legislation and will apply those rules. They are followed by guidelines aimed at ensuring better understanding of the provisions, which are included in Annex 3.
29. Consequently, States Parties are encouraged, as appropriate for each country, to apply in their legislation the six principles on State ownership adopted by joint UNESCO/UNIDROIT Working Group and approved by the UNESCO Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or Its Restitution in Case of Illicit Appropriation in 2010 and 2011.
30. States Parties are encouraged to also ratify the UNIDROIT Convention on Stolen or Illicitly Exported Cultural Objects 1995 and adopt its principles in their national legislation. Significant provisions which complement the 1970 Convention are a duty to return a stolen object, a clear test for due diligence in checking provenance and specific provisions for the return of illegally exported cultural objects.
31. It is important that all relevant national legislation be appropriately publicized so that collectors, dealers, museums and others concerned with the movement of cultural objects are fully aware of the precise national provisions they should comply with. To ensure, as far as possible, this publicity and visibility of the national laws/rules concerning the protection of cultural property, UNESCO has established a Database of National Cultural Heritage Laws, a source of information easily and freely accessible (hereafter referred to as the "UNESCO Database"). The development of this innovative tool was approved by the UNESCO General Conference in 2003 and launched in 2005 by the 13th session of the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in case of Illicit Appropriation.
32. The UNESCO database encompasses numerous types of standard-setting instrument, such as: certificate/license; agreement; declaration; decision; criteria; by-law; resolution; recommendation; code; act-law; standard; instrument; measure; protocol; decree; application for authorization; convention; charter; ordinance/order; constitution; amendment; list; regulation; manual. States are encouraged to include all relevant legislation on the UNESCO legislative database and especially to keep it updated. The Secretariat of UNESCO should provide adequate translation, if possible, into the official languages of the Convention.

Inventories and inalienability (Article 5(b))

33. A key step in the protection of States Parties' cultural property against illicit import, export and transfer of ownership is establishing and keeping up to date, on the basis of a national inventory of protected cultural property, a list of important public and private cultural property whose export would constitute an impoverishment of the national cultural heritage.
34. These lists can include cultural property identified either by specimen or by category, considering that, in developing and recognizing such protected cultural property inventories, States Parties should bear in mind the specific characteristics of cultural property, as defined in Article 1, in particular regarding clandestinely excavated archaeological sites and objects of ethnological interest (see para. 12 above).

35. States Parties have the indefeasible right to classify and declare certain cultural property as inalienable, and said cultural property should be recognized as appertaining to the relevant official inventory of the concerned State. The Subsidiary Committee, in cooperation with the States Parties and with the assistance of the Secretariat and other cooperating partners such as INTERPOL, WCO, UNODC and ICOM should develop a common methodology to ensure that such inventories are fully integrated into the international procedures now available for tracking lost and stolen cultural objects in support of the full compliance with and enforcement of the Convention. This common methodology may allow for the granting of a unique identity number not only to every object found in archeological sites and displayed or stored in museums but also to categories of types of cultural objects claimed by a State Party to be deriving from clandestine excavations, which may be categorized by region and epoch or any other suitable archeological reference.
36. Regarding movable cultural property in museums and well-studied religious or secular public monuments or similar institutions, including legally excavated archaeological sites and objects of ethnological interest, it is recommended the usage of the Object-ID Standard and other methods that may be proposed by the Subsidiary Committee as appropriate, in order to facilitate the use of the international procedures now available for tracking lost and stolen cultural objects in support of the full compliance with and enforcement of the Convention. States Parties which have communities which, on religious or other grounds, are unwilling to photograph items used in cult rituals are encouraged to discuss this issue with a view to improving the recovery of cult objects.
37. In order to facilitate the work of customs officers dealing with the importing of cultural objects, it is imperative that they have precise information about export bans in other States Parties. This can be done in various ways. Where a country uses a classification system, and classified cultural objects are prohibited exports, this list should be made easily available for the customs authorities of other States Parties. Where a State Party uses a categorization system, the list of categories, with a descriptive explanation as appropriate, should be made available. It is important that the legislation is sufficiently clear for a foreign customs officer to be able to relate the object under examination to that description.
38. It is also important that the list be not only clear, but also easily accessible. The UNESCO database should be the first point of call for a customs service supervising imports because there will be found the legislation which provides the legal definition of what is a controlled export, what is an illegal export, and what needs to be discussed with the authorities of the country of export. It is therefore important to also have the legislation in an accessible language. National heritage services should be encouraged to publicize their export control list nationally and to other States Parties to facilitate cooperation.

Expert institutions (Article 5(c))

39. In order to ensure the preservation and presentation of cultural property, States Parties are required to promote the development or the establishment of scientific and technical institutions (museums, libraries, archives, laboratories, workshops, etc.).
40. States Parties are encouraged to establish national specialist institutions where circumstances permit or to make arrangements for access to specialist institutions outside their own country where necessary. Such institutions should be well staffed, well funded and well provisioned with appropriate infrastructure, including security infrastructure.
41. State Parties are also encouraged to cooperate in the development or the establishment of scientific and technical institutions, with the assistance of UNESCO, including through training workshops, capacity-building programs and infrastructure projects.

Archaeology and protected areas (Article 5(d))

42. States Parties are encouraged to protect by national legislation and, if necessary, by other specific measures, sites of archaeological interest, including their movable items. Concerning the legislation, the relevant provisions of the section “National legislation” (see paras. 24-32 above) should be followed.
43. Specific activities should be established to protect the archaeological heritage in accordance with the principles contained in the UNESCO Recommendation on International Principles Applicable to Archaeological Excavations (1956), as appropriate, considering that archaeological practice has continued to develop over the last five decades and some of its provisions should be revised. Nonetheless the following principles of that Recommendation appear to be of essential importance in preventing clandestine excavation:
- The purpose of archaeological research lies in the public interest from the point of view of history or art or science. Excavation should not take place for other purposes, except in the case of the extraordinary circumstances described in the UNESCO Recommendation concerning the Preservation of Cultural Property Endangered by Public or Private Works (1968) and subject to the preventive and corrective measures prescribed in para. 8 of that Recommendation.
 - Protection should be extended to all objects belonging to a given period or of the minimum age fixed by law.
 - Each State Party should make archaeological explorations and excavation subject to prior authorization of the competent heritage authority.
 - Authority to carry out excavations should be granted only to institutions represented by qualified archaeologists or to persons offering unimpeachable scientific, moral and financial guarantees that the excavations will be completed in accordance with the terms of the contract.
 - The contract should include provision for guarding, maintenance, restoration and conservation of both the objects recovered and the site during and on completion of work.
 - An excavator or finder should be required to declare any object of archaeological character whether movable or immovable.
 - Objects recovered during the course of the work should be immediately registered and kept in a secure structure.
44. States Parties are also encouraged to make legislative provision on the use of metal detectors and other scientific methods of ground-penetrating analysis. States are encouraged to forbid, as appropriate, unauthorized use of such equipment on archaeological sites.
45. States directly affected are also encouraged to carefully guard archaeological sites and all States Parties are encouraged to take strong measures against any person involved in theft and clandestine excavations of such sites.

Rules in conformity with the ethical principles set forth in the Convention (Article 5(e))

46. States Parties are required to establish, for the benefit of those concerned (curators, collectors, antique dealers, etc.) rules in conformity with the ethical principles set forth in the Convention; and taking steps to ensure the observance of those rules. Many States Parties do not appear to have taken these steps. States Parties are strongly encouraged to take action to establish ethical rules and especially to ensure their observance.

47. Such rules may be developed on a national, regional, international, or professional level. Anthropologists, archaeologists, auctioneers, conservators, curators, dealers, restorers and all professional staff working with cultural objects are obliged to conform to these rules based on ethical principles which refuse service for cultural objects whose provenance appears faulty or dubious. The rules to be worked out for acquisitions shall place collectors and dealers on the same footing as curators; otherwise museums would be restrained for the sole benefit of illicit trade in cultural property. Also, such rules should be internationally standardized to ensure maximum effectiveness.
48. In 1999, the ICPRCP adopted the International Code of Ethics for Dealers in Cultural Property. This Code incorporates the principles developed in the 1970 Convention and subsequently in the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects (1995). This Code also takes into account the experience of various national codes, the Code of the Confédération internationale des Négociants d'Oeuvres d'Art (CINOA) as well as the Code of Professional Ethics of the International Council of Museums (ICOM). States Parties are encouraged to ensure that all dealers abide by this Code, both by imposing appropriate compulsory measures and by offering incentives to those dealers who do undertake to abide by its provisions, such as tax concessions. States Parties are encouraged to monitor the success of said effort and to continue developing, strengthening and enforcing appropriate rules for the benefit of curators, collectors, antique dealers, and others concerned, in conformity with the ethical principles set forth in this Convention.

Education (Articles 5(f); 6(c); 10)

49. States Parties must use all appropriate means to restrict the movement of cultural property illegally removed from any State Party through education, information and vigilance. Educational means in particular should be used to help the public appreciate the value of cultural heritage and the threat to it from theft, clandestine excavations and illicit trafficking.
50. In accordance to article 5(f) the national services for the protection of the cultural heritage should take educational measures to stimulate and develop respect for the cultural heritage of all States and should also spread knowledge of the provisions of the Convention. In particular, States Parties are encouraged to strengthen educational measures within their countries, with the cooperating services and with the public in other countries, including through adequate coordination with educational institutions at primary, secondary, tertiary level and lifelong learning programs to include teaching and research on cultural heritage issues in their own curricula; through awareness-raising, capacity building and training programs targeted at customs officers, police, museums, dealers and others concerned; and through mass-media, museum, library, and other outreach programs.
51. Also, at the petition of affected States, when an auction or sale of protected cultural property is intended to take place, UNESCO's Director General may consider issuing a public statement concerning such commercial activity, highlighting the negative effects of such practices for the protection of world cultural heritage.

Publicity for missing objects (Article 5(g))

52. The national services for the protection of the cultural heritage should see that appropriate publicity is given to the disappearance of cultural property. Publicity through mass communication can aid investigation efforts, render an object unmarketable, and can result directly in recovery. Recognizing that that is the case, States Parties should encourage institutions to overcome their reluctance to publicize thefts, and are strongly encouraged to make use of the mass media to publicize lost and stolen cultural objects.

53. States Parties are encouraged to support and use databases and other mechanisms that have been established to share information internationally about stolen works of art, including the INTERPOL Stolen Works of Art Database and Project Psyche (Protection System for Cultural Heritage). States Parties are also encouraged to disseminate ICOM Red Lists to all stakeholders involved in the protection of cultural property, especially police and customs services.

Prohibition and prevention of illicit import, export, and transfer of ownership of cultural property (Articles 5(e), 6, 7(a, b (i)), 8, 10(a); 13(a))

Export certificates (Article 6(a, b))

54. States Parties have undertaken to introduce an appropriate certificate specifying that the export of a cultural property item in question is authorized, which should accompany all items of cultural property exported in accordance with the regulations. States Parties have also undertaken to prohibit the exportation of cultural property from their territory unless accompanied by such a certificate.
55. The certificate is an official instrument issued by the exporting country certifying that it has authorized the export of the cultural object. This document is essential for effective control, and implies cooperation between national services for the protection of cultural heritage and customs authorities of all transit countries as well as the final importing country.
56. To ensure that such export certificates fulfill their intended purpose, in the spirit of the Convention State Parties are encouraged to prohibit the entering into their territory of cultural property objects that are not accompanied by such export certificate or the authorization issued by the competent authority. Consequently, the prohibition of the export of cultural property without its corresponding export certificate should make illegal the import of that object, as it has not been exported legally from the country affected.
57. All cultural objects appearing in the art market should be furnished with an export certificate of the object's country of origin. In case of lack of the certificate the cultural objects should be considered as illegally exported from its country of origin.
58. States Parties may also introduce special provisions for certificates or licenses for temporary export. Such temporary export permits may be issued for exhibitions and return, for study by specialized research institutions or for another reasons such as restoration purposes agreed between States Parties.
59. States Parties are encouraged to give particular attention to the issue, form and security of the export certificate and to ensure close liaison between the customs authorities, heritage managers and police officers for its control and reliability. The Model Export Certificate for Cultural Objects, developed jointly by the UNESCO and the WCO Secretariats, is a helpful operational tool for the fight against illicit trafficking of cultural property. It has been specially adapted to the growing phenomenon of cross-border movements of cultural objects and is useful to the law enforcement agencies and customs services, enabling them to combat trafficking in cultural property more effectively. States Parties are encouraged to use or adapt the model export certificate and to consider whether a temporary export certificate would suit their protective scheme. The Subsidiary Committee may consider ways and means to keep improving the Model Export Certificate if need be.

Prohibition of importing stolen cultural property (Article 7(b)(i))

60. States Parties have undertaken to prohibit the import of cultural property stolen from a museum or a religious or secular public monument or similar institution in another State Party to this Convention after the entry into force of this Convention for the States concerned, provided that such property is documented as appertaining to the inventory of that institution.

There are two important considerations to be made regarding this prohibition:

First, evidently, the implementation of this prohibition could be facilitated by making compulsory the requirement of an export certificate or the authorization issued by the competent authority from the State of origin in order to make licit the import of any cultural property (see paras. 54-59 above). Moreover, States Parties customs authorities are encouraged to collaborate as required and to diligently revise all their relevant regulations to ensure import controls best practice at all entry points for the protection of cultural heritage items and the prevention of smuggling. Furthermore, to assist State Parties to effectively implement this prohibition, it is important that all known thefts of cultural property are promptly publicized and reported to relevant law enforcement agencies as well as to INTERPOL.

Second, this prohibition should bear in mind the specific characteristics of cultural property, as defined in Article 1, in particular regarding clandestinely excavated archaeological sites and objects of ethnological interest (see para. 12 above). In these cases, States Parties right to classify and declare certain cultural property as inalienable which should therefore ipso facto not be exported, as stated in Article 13(d), should be fully respected. Said cultural property should be recognized as appertaining to the relevant official inventory of the concerned State and subject to the full protection of the Convention and all of its provisions. In particular, the illicit removal of cultural property owned by the State from its territory should be internationally regarded as theft of public property and its trade should be internationally regarded as prohibited (see paras. 24-30 above).

Penal and administrative sanctions (Articles 6(b), 7(b); 8)

61. States Parties are required by the Convention to impose penalties or administrative sanctions on any person responsible for infringing the prohibitions referred to under Articles 6(b) and 7(b) of the Convention. In consequence, if proof of legal export or import cannot be produced, such a cultural object should then be retained by the customs officials or corresponding law enforcement agencies and returned to the State concerned.
62. As the Convention does not specify what sort of penalties are to be applied, States Parties are encouraged to use civil, criminal or administrative penalties, consistent with their national practice, of sufficient severity to deter the destructive practices dealt with in the Convention. Such sanctions should penalize all parties involved directly or as accomplices in the trafficking of the concerned cultural property, both in the exporting and the importing ends.
63. These civil, criminal or administrative penalties, incorporated into the national legislation of each State Party of the Convention as appropriate, should be included and timely updated into the UNESCO database.

Sales on Internet

64. At the time of the drafting of the 1970 Convention, Internet was not a channel for sales. Consequently, the 1970 Convention does not foresee rules in this regard. The exponential growth of the use of the Internet to sell or traffic stolen, clandestinely excavated from archaeological sites, or illegally exported cultural objects, is a matter of serious concern.
65. Some States Parties are not sufficiently organized to supervise and quickly follow-up offers on the Internet that appear to be advertising newly imported, excavated cultural property. Most national cultural administrations do not have sufficient resources to continually check offers on the Internet. The Subsidiary Committee, in cooperation with States Parties and relevant partners, including Internet providers, and with the assistance of the Secretariat, should explore ways and means to thoroughly screen all websites throughout the world where offers of cultural property are made and create an alert method of notifying the relevant State Parties on a daily basis. National authorities are also encouraged to marshal the support of all Internet providers and promote the supervision by the public (specialists or other individuals interested in particular cultures) to be vigilant concerning Internet offers and to inform the administration when it appears that an object of national heritage not previously known is being offered on a website or when an object of threatened foreign heritage is offered with a local address. Such notifications should be examined immediately by the cultural administration; if necessary, using experts (from universities, museums, libraries and other institutions) to verify the nature and importance of the item(s) being offered. In all the above-mentioned efforts, special attention must be given to the screening of Internet auctions. When the evidence justifies it, the national authorities should undertake prosecutions and enforce all appropriate provisions of the 1970 Convention.
66. Following a recommendation adopted by the third annual meeting of the INTERPOL Expert Group on Stolen Cultural Property (7-8 March 2006, INTERPOL General Secretariat), INTERPOL, UNESCO and ICOM have developed a list of Basic Actions to counter the Increasing Illicit Sale of Cultural Objects through the Internet. States Parties are encouraged to incorporate the Basic Actions as a tool within their national context. The Basic Actions currently developed are presented in Annex 4. The Subsidiary Committee may consider ways and means to keep improving the Basic Actions, if need be, in order to ensure the effective implementation of the Convention.

Preventing transfers of ownership likely to promote illicit import or export, controlling trade by registers, and establishment of rules in conformity with ethical principles (Articles 13(a); 10(a); 7(a); 5(e))

67. Although this is a basic aim of the Convention described by the 1969 Preliminary Report on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership (SCH/MD/3), there is no information in the Convention itself as to which such transfers are likely to promote illicit import or export of cultural property. However, it is illuminating to recall that the 1969 Report indicated that lack of information about the origin of the item, the names and addresses of the supplier, description and price of each item sold, as well as lack of information provided to the purchaser about an object's possible export prohibition, might well be a transaction likely to promote illicit trafficking of cultural property. The requirement of dealers to supply this information is the substance of Article 10(a) of the Convention. In accordance to this Article, the States Parties to this Convention undertake, as appropriate for each country, to oblige antique dealers, subject to penal or administrative sanctions, to maintain a register recording such essential information. Control of such registers by the national services for the protection of cultural property would make it possible to follow up an item of cultural property and perhaps retrace an item that has disappeared after being lost or stolen.

68. The drafters of the preliminary version of the Convention text in 1969 also pointed out: “It is essential that the new rules to be worked out for acquisitions shall place collectors and dealers on the same footing as curators; otherwise museums would be restrained for the sole benefit of illicit trade in cultural property.” States Parties to the Convention are invited to carefully study this statement. States Parties are encouraged to ensure that equally constraining rules, whether legislative or ethical, include the same provisions for dealers as those being observed by museums or other similar institutions, particularly those concerning the provenance of the cultural property.
69. In accordance to Article 7(a), States Parties undertake to prevent museums and similar institutions within their territories from acquiring cultural property originating in another State Party which has been illegally exported after the entry into force of the Convention and, whenever possible, to inform the State of origin Party to the Convention of an offer of such cultural property illegally removed from that State after the entry into force of the Convention in both States.
70. In accordance to article 5(e), States Parties are also required to establish ethical rules and ensure their observance by curators, collectors, dealers and other similar actors.
71. Consequently, States Parties are encouraged to strengthen the supervision of the activities of dealers and museums through effective policies and regulations and to use all appropriate means to prevent illicit transactions.
72. States Parties are encouraged to explore further possible avenues for preventing transfers of ownership likely to promote illicit import or export. For instance, specific regulations can be enacted to ensure that contested cultural property such as archaeological objects that are claimed by the States of origin or that are subject to inalienability laws may not be transferred by purchase or assignment from public museums and institutions to private collectors, museums, institutions or businesses.
73. States are also encouraged to make further use of all existing controls over markets and fairs where goods may be transferred and subsequently exported and to strengthen them as necessary to ensure the fulfillment of the purposes of the Convention.
74. Different educational strategies may also be put in use to dampen the demand of archaeological objects, such as education in museums and exhibitions to explain the importance of the damage done to the heritage by clandestine excavation, illicit trade and theft.

Cooperation on recovery and return of cultural property (Articles 7(b)(ii); 13(b, c, d); 15)

75. In accordance to Article 7(b)(ii), the States Parties have undertaken, at the request of the State Party of origin, to take appropriate steps to recover and return any stolen cultural property imported after the entry into force of this Convention in both States concerned, provided, however, that the requesting State shall pay just compensation to an innocent purchaser or to a person who has valid title to that property. Requests for recovery and return shall be made through diplomatic offices and shall be furnished, at the expense of the requesting Party, with the documentation and other evidence necessary to establish the corresponding claim.

76. Also, in accordance to Article 13(b,c,d), the States Parties have undertaken, consistent with laws of each State, to ensure that their competent services co-operate in facilitating the earliest possible restitution of illicitly exported cultural property to its rightful owner; to admit actions for recovery of lost or stolen items of cultural property brought by or on behalf of the rightful owners; and to recognize the inalienable right of each State Party to this Convention to classify and declare certain cultural property as inalienable which should therefore ipso facto not be exported, and to facilitate recovery of such property by the State concerned in cases where it has been exported.
77. Furthermore, Article 15 provides that nothing in this Convention shall prevent States Parties thereto from concluding special agreements among themselves or from continuing to implement agreements already concluded regarding the restitution of cultural property removed, whatever the reason, from its territory of origin, before the entry into force of this Convention for the States concerned.
78. The above-referred provisions indicate the actions that States Parties should pursue for the recovery, restitution and return after an illicit import, export or transfer of ownership has taken place in spite of prohibition and prevention efforts. A number of elements should be clarified:
- Request of State Party
 - Evidence to establish a claim
 - Just compensation and due diligence
 - Cooperation for earliest possible restitution
 - Admission of legal actions for recovery of lost or stolen cultural property
 - Non-retroactivity of the 1970 Convention, statutes of limitations related to claims, and resolution of claims
 - Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in case of Illicit Appropriation (ICPRCP)

Request of State Party (article 7(b)(ii))

79. The request of a State Party to recover and return cultural property under the provisions of the 1970 Convention shall be made through diplomatic offices. This request does not overrule or bypass any other legal recourse that may contribute to the recovery or return under different legal instruments or any other procedures for international legal assistance, which may be put into motion in the course of criminal law proceedings.

Evidence to establish a claim (article 7(b)(ii))

80. Requests for recovery and return shall be furnished, at the expense of the requesting Party, with the documentation and other evidence necessary to establish the corresponding claim. In this regard, States Parties should bear in mind the specific characteristics of cultural property, as defined in Article 1, in particular regarding clandestinely excavated archaeological sites and objects of ethnological interest and their implications in terms of inventories (see paras. 12; 24-30; 33-35).
81. The considerations made regarding the prohibition of importing stolen cultural property stipulated in Article 7(b)(i) are also fully relevant for the request of State Parties for recovery and return (see para. 60 above).

82. States Parties should bear in mind the implications of the prohibition of the export of a cultural good without its corresponding export certificate. The import of that object should be considered illegal, as it has not been exported legally from the country affected. Consequently, a State Party should be able to introduce a request for objects of ethnological interest or clandestinely excavated or stolen from archaeological sites in case the possessor or holder does not provide the necessary export certificate of the cultural objects.
83. Also, when a State has enacted unambiguous laws on national or State ownership of certain cultural property regardless of prior exercise of physical control over it, States Parties are, for recovery and restitution purposes, encouraged to ponder these laws. The unlawfully excavated or lawfully excavated but unlawfully retained cultural property should be considered as stolen. States Parties are encouraged to use the definition of “stolen cultural property” which includes both known inventoried and unlawfully excavated cultural property appertaining to the relevant official inventory of the requesting State.
84. States Parties can support their requests for the recovery and return of cultural property which is unlawfully excavated or lawfully excavated but unlawfully retained in another State Party to the Convention, with reasonable scientific reports and results of scientific analysis of the unlawfully excavated property. Considering the difficulties of conducting research for retrospective evidence, States Parties are strongly encouraged to consider accredited scientific studies and analysis as evidence.
85. Furthermore, States Parties sharing a particular culture with archaeological remains in more than one country are encouraged to consider joint actions for recovery. States Parties are encouraged to consider positively such cooperative efforts.

Just compensation and due diligence (Article 7(b)(ii))

86. Cultural objects that are irreplaceable need to be returned and the issue of compensation should be addressed very carefully, particularly when the State has enacted laws of ownership governing cultural property. Some States Parties have made reservations which, among others, absolve other States Parties from having to pay just compensation. It is also important to note that the issue of compensation is not mentioned in Article 9 of the 1970 Convention and in many States it has not been raised in the context of illegally imported cultural objects.
87. The Convention provides that the requesting State shall pay just compensation to an innocent purchaser or to a person who has a valid title to that property. In the spirit of the Convention, States Parties should use the criteria of due diligence in assessing purchaser innocence and validity of titles. In this regard, States Parties which seek compensation are encouraged to adopt recent best practice which makes compensation dependent on the UNIDROIT standard of due diligence.

Cooperation for earliest possible restitution (Article 13(b))

88. As previously recalled, in accordance to Article 13(b), States Parties have undertaken, consistent with laws of each State, to ensure that their competent services cooperate in facilitating the earliest possible restitution of illicitly exported cultural property to its rightful owner.

89. In this context, and also considering the provision contained in Article 13(d), when a State that has enacted laws on national or State ownership is dispossessed of cultural property and seeks to recover it, States Parties are encouraged to resort to and exhaust all means at their disposal to provide the fullest cooperation. In order to attempt to expeditiously grant requests for the restitution of stolen public property to its rightful owner, said cooperation should include pondering, as appropriate, the requiring State's national or State ownership laws. Moreover, due to the clandestine nature of the looting of cultural property, States Parties are encouraged to take into consideration that it may be materially impossible for dispossessed States to offer concrete data concerning thefts of State-owned cultural property. Therefore, State Parties are encouraged to attempt to facilitate restitutions of State-owned cultural property even when the plundered sites and the relevant circumstances remain unknown.
90. When impossible to furnish documentation and evidence concerning theft of State-owned cultural property, and without prejudice of the considerations presented above, State Parties are encouraged to explore the possibility of reaching an agreement by diplomatic channels concerning the expeditious admissibility and processing of the relevant restitution requests.
91. If the States concerned by the recovery have a specialized law enforcement unit in charge of the protection of cultural heritage, this unit can play an essential role in international cooperation, in particular through the National Central Bureaus of INTERPOL.

Admission of legal actions for recovery of lost or stolen cultural property (Article 13(c))

92. Consistent with the international law and the laws of each State, the States Parties are required to admit actions for recovery of lost or stolen cultural property brought by or on behalf of the rightful owner(s). If there were no such action available in a State Party, this provision would require it to create one. States Parties are therefore encouraged to check that there exists, in their national system, a legal proceeding available to an owner of lost or stolen goods, and, if there is none, to institute one. The relevant information should be incorporated in a timely manner and kept updated in the UNESCO database.

Non-retroactivity of the 1970 Convention, statutes on limitations related to claims, and resolution of claims

93. Unless otherwise expressly provided, the general rule of public international law embodied in Article 28 of the Vienna Convention on the Law of Treaties does not provide for retroactive application. No express provision has been included in the 1970 Convention.
94. Under the provisions of the 1970 Convention, a State Party can seek the recovery and return of any illegally exported, illegally removed or stolen cultural property imported into another State Party only after the entry into force of this Convention in both States concerned.
95. However, the Convention does not in any way legitimize any illegal transaction of whatever nature which has taken place before the entry into force of this Convention nor limit any right of a State or other person to make a claim under remedies in national legislations and relevant or international instruments available outside the framework of this Convention for the restitution or return of a cultural object stolen or illegally exported before the entry into force of this Convention.

96. For items of illegally exported, illegally removed or stolen cultural property imported into another State Party before the entry into force of the Convention for any of the States Parties concerned, States Parties are encouraged to find a mutually acceptable agreement which is in accordance with the spirit and the principles of the Convention, taking into account all the relevant circumstances. States Parties may also call technical assistance of the Secretariat, particularly good offices, to help reaching a solution mutually acceptable by them.

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

97. In cases where the 1970 UNESCO Convention and no bilateral or multilateral agreement can be applied and the bilateral discussions have failed or are suspended, UNESCO Member States may submit a request to the ICPRCP for the return or restitution of cultural property of major significance that they consider as having been wrongfully taken. In order to resolve disputes on cultural property, States may also use the mediation or the conciliation procedure proposed by the ICPRCP. As appropriate, the relevant provisions of the 33C/46 ‘Strategy to facilitate the restitution of stolen or illicitly exported cultural property’ and resolution 33C/44 can also be brought to bear in the amicable resolution of claims.

98. Also, in fulfilling its mandate, the Subsidiary Committee shall continue to actively explore ways and means to find agreeable solutions and will initiate and maintain coordination with the ICPRCP in order to effectively achieve their complementary goals.

Pillage of archaeological and ethnological materials (Article 9)

99. Any State Party to this Convention whose cultural patrimony is in jeopardy from pillage of archaeological or ethnological materials may call upon other States Parties who are affected. The States Parties to this Convention undertake, in these circumstances, to participate in a concerted international effort to determine and to carry out the necessary concrete measures, including the control of exports and imports and international commerce in the specific materials concerned. Pending agreement each State concerned shall take provisional measures to the extent feasible to prevent irremediable injury to the cultural heritage of the requesting State. UNESCO and all relevant cooperating partners may also contribute, upon same request, to such a concerted international effort.

100. It is important to note that the conclusion of a bilateral or multilateral agreement is not required before any action can be taken. Such special agreements are not in any way a precondition for the fulfillment of the obligations arising under the Convention. States Parties, UNESCO and all relevant cooperating partners are encouraged to respond expeditiously, with all possible means, to the call of the requesting State Party whose cultural property is in jeopardy. In particular, States Parties shall take provisional measures to the extent feasible to prevent irremediable injury to the cultural heritage of the requesting State. This obligation should be adequately incorporated into national laws and best practices. The relevant information should be incorporated into the UNESCO database.

101. Without prejudice of the above, but rather in complementary support, bilateral or multilateral agreements may be reached to stimulate more effective and broad collaborative responses based on a better understanding of the pillaged States Parties’ particular situation, as well as to enhance support and financial and technical assistance to improve capacity-building, training and protection on site. In this regard, the Subsidiary Committee is encouraged to actively explore and advise on ways and means for a strengthened international cooperation in the implementation of Article 9.

102. States Parties are encouraged to make full use of the provisions of Article 9 if addressing the challenges posed by clandestine excavations of their archaeological sites or in cases of natural disasters or conflict.

Occupation (Article 11)

103. Article 11 of the Convention specifies that the export and transfer of ownership of cultural property under compulsion arising directly or indirectly from the occupation of a country by a foreign power shall be regarded as illicit. States Parties must apply this principle when implementing provisions of the Convention and if required under their respective system of national laws, States Parties should make this obligation clear in their national legislation. The relevant information should be incorporated in the UNESCO database.
104. Also, as appropriate, synergies should be explored with the efforts undertaken under the Hague Convention of 1954, its First and Second Protocols and by the Committee established by the Second Protocol. In this regard, the Subsidiary Committee is encouraged to coordinate with the Second Protocol Committee in order to effectively achieve their complementary goals.

Special agreements (Article 15)

105. Nothing in the 1970 Convention States Parties prevent States from concluding special agreements among themselves on the restitution of cultural property removed, whatever the reason, or from continuing implementing agreements already established before the Convention was adopted (Art. 15).
106. For the most part the existing bilateral, regional and model agreements do not include all the preventive provisions of the 1970 Convention or the 1995 UNIDROIT Convention. For this reason States Parties are encouraged to incorporate into such bilateral or regional agreements the highest level of protection developed in the 1970 and 1995 international instruments so as to ensure that such agreements embody the best protection for their cultural objects.
107. Also, as indicated in para. 101 above, bilateral or multilateral agreements may be reached to achieve strengthened international cooperation in the implementation of Article 9.

Reports by States Parties (Article 16)

108. States Parties are required to submit reports to the UNESCO General Conference on the legislative and administrative provisions they have adopted and other action they have taken for the application of the Convention, including the details of the experience acquired in this field.
109. The Subsidiary Committee has the responsibility of reviewing national reports presented to the General Conference by the States Parties to the Convention, and making relevant recommendations to the Meeting of States Parties for appropriate follow up.
110. Periodic reporting is valuable for the exchange of information on the manner in which different national systems are dealing with the question of illicit traffic and can assist other States Parties in implementing the provisions of the Convention. Periodic reporting also serves the important function of strengthening the credibility of the implementation of the Convention.

111. Reports on the implementation of the 1970 Convention must be submitted every four years. To assist the national authorities, a questionnaire is at the disposal of the UNESCO Member States to ensure that their reports contain sufficiently precise information on the ratification process and legal and operational implementation of the 1970 Convention, as well as on the application of other complementary normative instruments, as appropriate, such as the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects.
112. In order to facilitate assessment of information, States Parties should submit reports in any of the four official languages of the Convention, preferably in English or French, in electronic as well as in printed form to:
Secretariat of the 1970 Convention
7, place de Fontenoy
75352 Paris 07 SP
France
E-mail: convention1970@unesco.org

The Secretariat to the 1970 Convention and to the Subsidiary Committee (Article 17)
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113. The Secretariat of the 1970 Convention is appointed by the Director-General of UNESCO and is provided by the Organization's Culture Sector. The Secretariat assists and collaborates with the States Parties, the Meeting of States Parties and the Subsidiary Committee to the Meeting of States Parties. The Secretariat works in close co-operation with other Sectors and Field Offices of UNESCO, as well as with other international partners in the fight against the illicit traffic of cultural and archeological property.
114. States Parties are encouraged to seek advice and assistance from the Secretariat in the implementation of the Convention, particularly with regard to information and training; consultation and expert advice; co-ordination and good offices.
115. Among other contributions, the Secretariat may assist the State Parties by creating standard procedures to be followed when informed about clandestine excavations, illicit import, export and transfer of cultural property. These standard procedures may include the immediate publication of the incident and the cultural goods involved on UNESCO's website. The Secretariat may also assist the State Parties by creating mechanisms of direct communication with the art market in order to prevent trafficking of cultural goods (e.g. auction houses, e-commerce). If necessary, States Parties may call for the technical assistance of the Secretariat to support the presentation of requests for recovery and restitution of cultural property.
116. At the request of at least two States Parties that are engaged in a dispute over the implementation of the Convention, the Secretariat may extend its good offices to reach a settlement between them. Such good offices may include technical assistance, negotiations, check of due diligence, etc. In the case in which it is only one of the States which asks for support, the Secretariat will offer its assistance to that State and will send a written request to the other State party to ask for its acquiescence or refusal for the Secretariat to act on good offices for the settlement of the dispute. The good offices of the Secretariat also may be brought to bear in disputes over the implementation of the Convention with auctions houses and e-commerce sponsors and with the view of enhancing dialogue and cooperation with the art market in the fight against the illicit traffic of cultural and archaeological property.

117. The Secretariat's main tasks, within the limits fixed by its program and by its resources and in close liaison with the Committee, are:

- Organizing of the statutory meetings;
- Providing all required assistance to States Parties in the implementation of the 1970 Convention;
- Promoting the implementation of the 1970 Convention through advocacy and good offices, the organization of policy and prospective dialogues and forums, the dissemination of information to States Parties, the specialized public and the general public, and through the organization of capacity-building programs (regional or national);
- Co-operating with partner Organizations; and,
- Assisting in the preservation of movable cultural heritage in case of emergency situations caused by natural disaster or conflict, upon the request of the concerned sovereign State.

118. The Secretariat may, on its own initiative or on the initiative on the Committee:

- Conduct research and publish studies on matters relevant to the illicit movement of cultural property;
- Call on the cooperation of any competent, and recognized by State Parties, non-governmental organization; and,
- Make proposals to States Parties for the implementation of the Convention.

States Parties to the 1970 Convention (Articles 20 and 24)

119. UNESCO Member States are encouraged to become Parties to the Convention. Model instruments for ratification/acceptance and accession are included as Annex 5. The original signed version of the instrument shall be lodged with to the Director-General of UNESCO.

120. The Director General is invited to appropriately disseminate the information about new ratifications/acceptances and accessions and to actively promote the broadest participation in the Convention.

Reservations

121. A "reservation" means a unilateral statement, however phrased or named, made by a State when signing, ratifying, formally confirming, accepting, approving or acceding to a treaty, intended to exclude or modify the legal effect of certain provisions of the treaty in their application to that State (Vienna Convention on Treaties 1986 (Art. 2 (d))).

122. States Parties which have lodged reservations to the Convention are encouraged to review their reservations and declarations and withdraw any that are no longer serving a useful purpose, or have already been resolved or superseded by new understandings and approaches, or are found to be incompatible with the purposes and aims of the Convention.

Cooperating partners in the fight against illicit trafficking of cultural property

123. Partners for the fight against illicit trafficking of cultural property may be intergovernmental or non-governmental organizations which have an interest, involvement and appropriate competence and expertise in the protection of cultural objects and are formally recognized by UNESCO and the Subsidiary Committee of the State Parties of the Convention of 1970 as having a proven and verifiable commitment to abide by and enforce appropriate codes of conduct and ethical standards in support of the fight against the illicit traffic of cultural and archaeological property. These partners include INTERPOL, UNIDROIT, UNODC, WCO and ICOM. Relevant information on each of these cooperating partners and its specific links to the 1970 Convention is provided in Annex 6.
124. The Subsidiary Committee and the Secretariat of the Convention are invited to make use of the tools offered by all international partners, as possible, in the implementation of the 1970 Convention in the fight against the illicit traffic of cultural and archaeological property and against the clandestine excavations of archaeological sites. Cooperating partners are also invited to participate in expert studies and regional meetings and workshops organized by UNESCO.
125. Other partners may include local, regional or international organizations such as ICOMOS and Europol.
126. Any application or proposal for formally engaging the support of a potential cooperating partner should be submitted to the Committee for appropriate consideration.

Selected conventions relating to the protection of cultural property

127. The 1970 Convention has important links to the other UNESCO Culture Conventions, as well as to the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects and the United Nations Convention against Transnational Organized Crime. Other regional instruments such as the European Convention on the Protection of the Archaeological Heritage may also prove to be helpful contributing instruments to the goals of the 1970 Convention. Relevant information on each of these Conventions and its specific links to the 1970 Convention is provided in Annex 7.
128. States Parties and the Subsidiary Committee are encouraged to actively strengthen the synergies of these instruments in support of the fight against the illicit traffic of cultural and archaeological goods and against the clandestine excavations of archaeological sites.
129. In particular, the Subsidiary Committee is encouraged to actively explore ways and means of cooperation and exchange with the Committees, governing bodies and follow-up mechanisms of these Conventions.

List of Proposed annexes

Annex 1	Rules of Procedure of the Meeting of States Parties
Annex 2	Rules of Procedure of the Subsidiary Committee of the Meeting of States Parties (C79/13/1.SC/3)
Annex 3	Model Provisions on State Ownership of Undiscovered Cultural Objects
Annex 4	Basic Actions concerning Cultural Objects being offered for Sale over the Internet
Annex 5	Model instruments for ratification/acceptance and accession to become Parties to the Convention
Annex 6	Cooperating partners for the fight against illicit trafficking of cultural property
Annex 7	Links of other Conventions to the 1970 Convention