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

Twenty-First Session
Paris, UNESCO Headquarters, Room XI
30 and 31 May 2018

FINAL REPORT
OPENING SESSION

1. The Chairperson of the 20th session of the ICPRCP Committee, Mr Zsolt Visy, opened the session and the Director of the Division for Heritage, Ms Mechtild Rössler, also welcomed the delegates. The ICPRCP was created in 1978 by former UNESCO Director-General, Mr Amadou-Mahtar M’Bow, and was celebrating its fortieth anniversary. It had become a meeting point of several cultural entities and ideas, a think tank, and a diplomatic platform, spearheading efforts towards the return and restitution of illicitly trafficked cultural objects. UNESCO is active on several levels. The Secretariat had signed a strengthened partnership agreement with the Art-Law Centre of the University of Geneva concerning the consolidation of the ArThemis database; a decisive tool in ensuring the dissemination of legal knowledge and experience in this field, particularly for Member States wishing to initiate a procedure. Ms Rössler highlighted some important success stories. Turkey and the United States reached an agreement on 14 May 2018 regarding the return of 14 ancient mosaics from the ancient city of Zeugma acquired by Bowling Green State University. Venezuela restituted to Costa Rica 196 archaeological items in January 2018 that were illegally exported. The United States restituted three marble statues to Lebanon following a long-term investigation. These three cases reflected the importance of strengthening relations between States Parties. Ms Rössler also spoke of the responsibility to continue improving the rules governing the Committee’s operation. For this reason, at its 20th session in 2016, the Committee adopted Decision 20.COM 14 requesting the Secretariat to seek proposals to revise the Rules of Procedure. She thanked the States that had already submitted their contributions. The next two days would present the contemporary challenges faced by all the actors in the fight against the illicit trafficking of cultural property. The three important themes included: free ports, the online sales of cultural goods, and the use of modern technologies to protect movable cultural heritage. Ms Rössler thanked the presenters of the current session who would introduce these crucial issues. She reiterated the need to work with partners through the various legal and operational tools. The Chairperson spoke of his honour in having been entrusted with the task of proceeding over the debates during the last ICPRCP session. Interpretation was provided in five languages: Arabic, English, French, Russian and Spanish. The Secretariat informed the Committee that the ICPRCP would not be holding the one-day forum as per its Decision 20.COM 5 due to the tight schedule and the 1 June Conference at the end of the week. The working documents were presented, and the agenda was amended to include a request by Iraq on the case of Hebrew-Iraqi manuscripts.

ELECTION OF A CHAIRPERSON, FOUR VICE-CHAIRPERSONS AND A RAPPORTEUR

2. The Chairperson turned to the election of a new Bureau consisting of a Chairperson, four Vice-Chairpersons and a Rapporteur. It was recalled the renewal of half of the 22 Members of the Committee at the 39th session of the General Conference in 2017. The Chairperson sought nominations for the position of Chairperson. On behalf of Electoral Group III, Argentina nominated Mexico to chair the meeting, which was supported by Italy. Mr Frederico Salas Lotfe joined the podium and spoke of his honour to preside the Committee’s debates. He then invited nominations for Rapporteur. On behalf of Electoral Group V(b), Egypt proposed Mr Ali Al Taie from Iraq to serve as the Rapporteur. For the Vice-Chairpersons, Japan proposed Pakistan from Electoral Group IV. Zambia proposed Benin from Electoral Group V(a). Turkey proposed Italy as Vice-Chairperson on behalf of Electoral Group I. Romania proposed Armenia as Vice-Chairperson from Electoral Group II. The Chairperson declared Decision 21.COM 2 adopted.

1 ArThemis database: https://plone.unige.ch/art-adr
ADOPTION OF THE AGENDA

3. The Chairperson introduced the agenda and the timetable of the session. Palestine would briefly take the floor to inform the Committee of its intention to submit the case of the Dead Sea Scrolls. Decision 21.COM 3 was duly adopted.

ORAL REPORT BY THE RAPPORTEUR ON THE 20th SESSION OF THE ICPRCP

4. The Rapporteur of the 20th session of the ICPRCP, Mr Collins Chipote, recalled the opening remarks of the former Assistant Director-General of Culture, Mr Francesco Bandarin, who highlighted how the ICPRCP was created to facilitate bilateral cooperation and negotiations between Member States on matters relating to the return or restitution of cultural property. He spoke of the successful cases of the Buddha Statue from Norway to Myanmar, and the return of ancient Egyptian artefacts from France and the United Kingdom to Egypt. However, the Committee also observed the low number of cases brought before the 20th session, and it looked at the case involving the Parthenon Sculptures between Greece and the United Kingdom. Another case brought before the Committee, but was not discussed, concerned the Broken Hillman Skull. Another key point of reflection was the freeports and the risks of illicit trafficking of cultural property. A presentation was made by the World Customs Organization (WCO), an organization concerned with cross-border trade and the security and safety of free zones. As a result of the presentation on the free zones, the session requested the Secretariat to organize awareness-raising activities on the implications of freeports on the art market and the risks of illicit trafficking, as well as on good practices. The importance of regulating metal detectors and underground scanners in the context of treasure hunting and trafficking of cultural property to safeguard the archaeological context of objects was also presented.

REPORT OF THE SECRETARIAT

5. The Secretariat recalled Decision 20.COM 5 in which it was asked to prepare a report on the Committee’s working methods and to present its options for improving the effectiveness of the Committee. In its Decision 20.COM 14, the Committee requested Member States to submit proposals to the Secretariat to amend the Committee’s Rules of Procedure and for the Secretariat to submit a draft document containing the proposed amendments for possible adoption at the present session. Four proposals were received from Ecuador, Greece, Honduras and Switzerland. It was considered more appropriate to allow States Parties more time to submit their proposed amendments to which the Bureau agreed given the importance of the exercise. Consequently, under agenda item 6, the Secretariat would present the fundamental points in this amendment process, as well as a draft decision on the roadmap to guide this process. In its Decision 20.COM 5, the Committee decided to devote one day of its regular sessions to a permanent discussion forum so as to share good practices and promote bilateral cooperation. However, this discussion forum would not take place. Instead, a high-level international conference convened by the Director-General of UNESCO would be held on 1 June of this week, with Members of the Committee cordially invited. The Secretariat highlighted the list of mediators and conciliators appointed by their countries that now included 60 persons of 30 nationalities. In accordance with Decision 20.COM 5, the Secretariat conducted research and feasibility studies on the best ways to develop a database for the cases of returns and restitution. It suggested not to create a new base but to use the existing ArThemis database. The Secretariat thus concluded a partnership agreement with the University of Geneva from where the ArThemis database is currently managed. Pursuant to Decision 20.COM 12, the Secretariat updated its Report on Free Ports thanks to the contribution by Prof. Marc-André Haldimann. Two information cases would be presented in this session from Turkey and Iraq. There was also the case of return and restitution involving Venezuela and Costa Rica, and the case of three marble statues from the Temple of Eshmun returned to Lebanon by the United States. Another case involved the repatriation to Guatemala of 18 pre-Colombian archaeological items that were illegally exported in the 1960s. Other
cases included a collection of ancient artefacts that was returned to Italy by the United States. France returned eight archaeological pieces seized by the French customs in January 2010 to Egypt, and the Republic of Korea returned a dinosaur fossil illegally exported from Mongolia. There were also two ongoing cases before the Committee: the case of the Broken Hillman Skull submitted by Zambia, and the case involving the Parthenon Sculptures. Concluding, the Secretariat stated that the Fund of the Committee currently stood at US$ 320,000.

6. Italy remarked on how the ICPRPCP focused on cases where international Conventions could not be applied to objects illicitly exported prior to the entry into force of the 1970 Convention, and hence UNESCO's important role in this regard, as it fostered direct bilateral negotiations in the resolution of disputes. Cultural property must be returned to its country of origin as it is a key factor in national identity and social cohesion. Based on this assumption, Italy had for a long time adopted a policy to return cultural objects. Recent examples included a painting to Monaco, one important silver reliquary to France, and eight gold-ground paintings to Austria. More recently, in 2018, Italy returned a funerary stone to the Islamic Republic of Iran, and one painting to Belgium. This was possible thanks to the intensive work of the Italian Ministries of Foreign Affairs and Culture, as well as investigations by the Carabinieri. Ecuador commended the Secretariat for its work on these very important issues. Egypt wished to know why the discussion forum on the exchange of good practices would not take place. It also sought to know how the list of countries invited to participate in the 1 June conference had been drawn up. The Secretariat explained that the 1 June conference was an initiative of the Director-General to have an open debate that included political figures, academics and scientists on the increasingly important issue of return and restitution. The conference programme on the conference website included a high-level ministerial panel, round tables, as well as debates on ethical issues and the new role of museums hosting these objects. The Secretariat further explained that the ministers were invited to share their vision of the issues at stake so as to better understand how different countries view or have managed to address some of these issues. Moreover, the concept note clearly had links to the work of the Committee, and all delegations were invited to participate in the conference. Egypt understood the importance of the conference in which it would indeed participate. However, it did not consider the initiative as an implementation of the Committee’s decision. In addition, the Committee should have been consulted since these issues were under its responsibility.

7. Japan understood that four States Parties had responded with proposals for amendments to the Rules of Procedure, but that it was not enough. It also regretted that there were no documents under this agenda item and thus the discussion would centre on the process rather than the content. The Secretariat explained that the aim was to discuss the fundamental points that should be considered as a roadmap for inclusion in the Committee’s new Rules of Procedure. Turkey reiterated that the Committee clearly requested the Secretariat to allocate a one-day information forum on the exchange of good practices, and thus the Committee had not implemented its decision. It was hoped that decisions would be fully implemented in forthcoming sessions. Nevertheless, it fully appreciated and supported the initiative for the high-level conference. Greece informed the Committee that in the last two years, 16 cases of repatriation took place in Greece involving 1,300 ancient objects. A short 15-minute break followed. On behalf of the Working Group against Illicit Trafficking of Cultural Heritage, Chile displayed on the screen information given to its customs and police officers as part of its outreach approach. Other awareness-raising materials developed and distributed by the Group included a handbook put together by people working in the cultural heritage sector, work by the well-known naturalist Claude Gay, and information on various cases. Posters were also published and recently distributed in celebration of Heritage Day, and a small brochure was also published on the 1970 Convention. A summary of the existing legislation in force in Chile was also included. Another publication defined illicit trafficking and how to combat it, which was distributed on cruise ships and at airports. The Chairperson congratulated Chile on the work it was undertaking that demonstrated a very good practice. He then proceeded with the adoption of draft decision. Egypt proposed a new paragraph 4 that invited the Secretariat to implement Decision 20.COM 5 with language taken from the original decision, which was supported by
Turkey, Italy and Argentina, with slight amendments by Romania and Japan. The Chairperson then turned to paragraph 8 on the use of the mediation and conciliation procedure to facilitate the resolution of cases of return and restitution, which was adopted with a slight amendment by Hungary. Paragraph 9 recalled the 20.COM recommendation on the issue of the Parthenon Sculptures presented by Ecuador, supported by Armenia and Turkey. Turkey proposed a small amendment on the Broken Hill Man Skull, which was supported by China and Egypt. Turkey also proposed a new paragraph 11 that encouraged Member States to make further use of the Committee through submitting new cases, which was supported by Japan. The Chairperson then turned to the draft decision as a whole, and declared Decision 21.COM 5 adopted.

PROPOSALS FOR THE AMENDMENT OF THE RULES OF PROCEDURE

8. The Secretariat recalled Decision 20.COM/14 on the possible amendment on the Committee’s Rules of Procedure, which had not been amended since 1978. In this regard, UNESCO Member States and Associate Members were invited to submit to the Secretariat proposals for possible adoption at this present session. Four proposals had been received from Ecuador, Greece, Honduras and Switzerland. Over the years, the Secretariat had developed practices that were not reflected within the current Rules of Procedure. Also, the Secretariat suggested taking into account the proposals of the Working Group to promote diversity and inclusivity by limiting the mandate of its members to two consecutive mandates so as to promote the ICPRCP as a think tank in line with the practice in other culture sector intergovernmental and international bodies. Furthermore, a proposal may be required to update the list of organizations that participate in an advisory capacity as Observers in the meeting of the Committee. The Secretariat explained that proposals were required to improve the agenda, the Bureau and the conduct of business, building on the proposals submitted by Greece. Similarly, Greece proposed to strengthen the complementarity of the UNESCO organs, particularly the governing bodies of the 1970 Convention and the Committee. In an effort to harmonize and align with the section of the Rules of Procedure dedicated to the Bureau of the Committee and with other Committees within the culture sector, a new order and appropriate language could be proposed. The Secretariat suggested harmonizing the conduct of business in line with other culture sector Committees. The Secretariat also proposed the addition of a new section covering the procedure for the return and restitution, which would gather new information and guidelines currently available in several separate documents and would elaborate on issues, like the conditions for requesting return and restitution, the procedure for submission, as well as the use of standard forms. The Secretariat also proposed that Member States have the opportunity to present cases that concerned them without having to officially submit an information case to the Director-General. The Secretariat proposed the inclusion of a new section on mediation and conciliation services whose main objective is to increase awareness among Member States about the procedure for alternative means of dispute. Proposals were also required with regard to voting so as to clarify the secret ballot in line with other intergovernmental bodies. At the request of Greece, the Committee may wish to include a provision to emphasize the complementarity and mutually reinforcing nature of the activities of the ICPRCP and the Subsidiary Committee. The Secretariat also suggested a proposal in the eventual revision of the Statute of the ICPRCP. Finally, clearer proposals were required on the duties of the Secretariat, such as the provision of documents and reports, and the organization of meetings and deadlines in line with other intergovernmental bodies.

9. Ecuador thanked the Secretariat for bringing forward these possible changes to the Rules of Procedure in keeping with the recommendations adopted at the General Conference at its last session in November 2017. The important points included procedures, governance, return and restitution, multilateral and bilateral cooperation, mediation, and so on. One recommendation of paramount importance was the need for bodies like this Committee to adhere to a schedule of annual meetings so as to address these highly sensitive issues, though the cost of sessions should be borne in mind. Now more than ever it was essential for the Subsidiary Committee and the ICPRCP to be more closely connected. Unfortunately, the present session had no
agenda items dealing with this specific issue. The Bureau's role must be strengthened, especially with regard to sensitive issues that must be handled appropriately. However, the Committee should never shut the door on the possibility of discussion and dialogue between Member States whenever a case arises, yet it had spent many years on the same cases with barely a solution in sight despite considerable bilateral efforts. Thus, some gaps existed. Ecuador thanked the Secretariat for the opportunity to discuss at length the questionnaire. However, it was time to make very clear decisions rather than repeating the same situation every year, which also had a cost factor. It supported the important mechanism of mediation, but it was clear that there was no political will to return these cultural properties and thus the Committee should avail itself of other more appropriate mechanisms. With regard to the question of annual meetings, Ms Mechtild Rössler, explained that Rule 2.1 of the current Rules of Procedure allowed for ordinary plenary sessions at least once and not more than twice every two years, but that there was no budget for interpretation in the five working languages. Italy understood Ecuador's reflection, but wished to have been better informed of the proposals so as to reflect more fully on the issues. Some of the many notable changes to the present Rules of Procedure were reasonable that reflected evident needs, but others required further discussion. For example, it was better to give States the freedom to effect the restitution as they saw best rather than have very detailed and prescriptive procedures. Japan concurred with Italy that it would have been useful to have received an information document in advance, allowing delegations to elaborate ideas ahead of the session. The Secretariat explained that the aim of the proposed process was to allow for free discussion and the throwing of ideas together followed by consultations with the Bureau, and to give UNESCO Member States more time to send proposals to the Secretariat, after which the Secretariat would draft a document in early 2019 to share with Member States for adoption at the next Committee session in 2020.

10. Argentina thanked the Secretariat for the groundwork, echoing the remarks of Ecuador, Italy and Japan on the information document, but noting that there would be the requisite time to consider the proposals and come up with suggestions on an informed basis. Some of the proposals were purely procedural in nature, while others had a bearing on the Statutes. It was also important to take into account the results of the questionnaire. Moreover, for the sake of cooperation between the ICPRCP and the Subsidiary Committee, a joint session of the Members of both Committees could be held to discuss the proposals. Romania shared the same concerns expressed by Ecuador, Italy and Japan, and given the level of ambition, substance and complexity of the issues thus far sought more time for reflection and for more than the four contributions. Ecuador found it important to circulate the amendments before the 40th session of the General Conference, as the Working Group on Governance would meet in 2019 to review whether all the Subsidiary bodies, Committees, and so on, had taken on board their recommendations. Thus it hoped to receive the document by October [2018] or sooner so that the Committee could meet again to review the document for presentation at the 22nd session of the Committee for completion by 2019, i.e. before the General Conference. The other possibility would be to set up a working group. Moreover, Romania had made a very pointed remark in that only four States had submitted proposals. Palestine agreed with the substance of the report and the annual periodicity of the meetings. A number of proposals had been made by the Working Group on governance. An invitation had been extended to all Subsidiary Bodies to review and possibly revise their Rules of Procedure, so there was a real need for consistency among the different documents and different culture Subsidiary bodies within UNESCO. Palestine mentioned the matrix that had been drawn up to get a sense of the various Rules of Procedure with a view to making them more comparable; work that the Secretariat could perhaps undertake. Such a tool would be useful, based on which the Secretariat could advance a number of proposals and recommendations. It also agreed with the need for synergy between the ICPRCP and the Subsidiary Committee.

11. Greece had submitted proposals and it wished to see a document with all the proposed amendments. The existing text on the Rules of Procedure on Mediation and Conciliation, negotiated over many years was in fact very good and detailed. Regarding the interaction between the ICPRCP and the Subsidiary Committee, Greece recalled that the current Rules
of Procedure of the ICPRCP may by amended by a decision of the Committee. Czech Republic noted the problem of amendments of and revisions to the Rules of Procedure was common to all the other culture Conventions. A matrix that indicated the general aspects common to all these organs could help harmonize the Rules of Procedure, and perhaps a special unit linking all the culture Conventions within UNESCO could carry out this work. Ms Mechtild Rössler explained that there was in fact a team working on the logistics of all the different statutory meetings. Also, regular meetings were held with the different Secretariats of the six culture Conventions where areas of common interest were discussed. Moreover, at this stage the Committee did not have the resources to hold a second ICPRCP meeting in 2019, as this was not foreseen in the initial budget. Palestine wondered about the cost of a ICPRCP meeting, which the Secretariat suggested would cost around US$80,000.

**WEDNESDAY, 30 MAY, AFTERNOON SESSION**

12. The Committee had the opportunity to discuss the online document that was requested and presented by the Secretariat. Egypt asked whether the 1 June conference was financed by the Regular Programme or extrabudgetary resources given that there were insufficient funds to hold the Committee meeting on an annual basis. The Secretariat explained that budgets were allocated by biennium, making it difficult to anticipate funding into the next biennium for an additional meeting of the Committee. Ecuador spoke about the need to respect the recommendations of the General Conference, adding that the Secretariat was duty bound to find the resources so that Committee could meet annually to submit a report to the General Conference at its next session to fulfil the decisions adopted at the last General Conference. If Regular Programme funds had been used for the 1 June conference this implied that the C/5 would allow a certain amount of leeway in the biennium in some cases. The Secretariat agreed, but that statutory initiatives are given priority. For the 1 June conference, the Government of Germany had provided extrabudgetary funding to cover a part of the spent funds, and there had been a concerted effort by the Secretariat to cover some of the funds. In the case of working groups, they were financed using extrabudgetary funds. The Republic of Syria noted the sense of urgency to find the support and funding for a Committee meeting in 2019. Japan noted a number of points stemming from the report on governance, but that the discussion on the conduct of business was not necessary in the present session. Having read the Secretariat proposals, it was particularly interested in the information sessions for cases that were not submitted on time or were not ready. Palestine noted that the draft decision failed to mention what would happen should no funds be made available for a Working Group. A second point concerned the clarity of the mechanism for the consolidation of the proposals. Japan sought clarity on the kind of complementarity and cooperation envisaged in the work of the different UNESCO organs. The Secretariat spoke about strengthening and creating synergies and communication between the two bodies the Subsidiary Committee and the ICPRCP within the framework of what the Statutes of the ICPRCP allowed; an issue that had been discussed in detail by the Governance Working Group.

13. Greece clarified its proposal for the cooperation between the ICPRCP and the Subsidiary Committee in that research, public information campaigns and training of scientific and technical personnel should be encouraged, but that the bodies should not be merged. Hungary agreed with the decision of the Subsidiary Committee to increase synergy with the ICPRCP. The Chairperson turned to the adoption of the draft decision. Ecuador wished to recall in paragraph 1, Resolution 39C/87 of the General Conference that adopted the recommendations of the Governance Group and mandating it to proceed with the revision of the Rules of Procedure of the Committee, and noting a minor amendment in paragraph 2, which were duly adopted. Paragraph 3 and 4 [the new paragraph 5] were read out and duly adopted. Hungary proposed a new paragraph that welcomed the decision of the Subsidiary Committee to strengthen cooperation with ICPRCP to foster synergy. Italy sought to have more information on the proposals presented by the four countries, which would be made them available on the Convention website by the Secretariat. Turkey sought clarity on the decision cited in Hungary’s
proposed paragraph, which was clarified by Ms Mechtild Rössler as Decision 6.SC/6 on the Secretariat’s report. There followed a number of clarifications and amendments to Hungary’s proposed amendment by Italy, Egypt, Argentina, Japan, Mexico and Lebanon. The Chairperson adjusted the French version to the English version, and the new paragraph 4 was adopted. Paragraphs 6 and 7 were also adopted. Italy sought a new paragraph that requested the Secretariat to circulate the proposals to Member States together with the suggestions made by the Secretariat. The Secretariat proposed a deadline for submissions of 15 April 2019, before the Executive Board, as proposed by the Chairperson. Egypt fully supported the amendments by Italy with a slight amendment, as well as the proposed timetable. It did however have a slight wording amendment in the paragraph, which was supported by Argentina and Italy, and duly adopted. The Chairperson turned to the new paragraph 9 on the establishment of a Working Group. Benin noted a discrepancy between the French and English versions. Romania sought some clarity with regard to the availability of funds and the duration of the Working Group. The Chairperson understood that the proposal was to hold the meeting in May so as to link the Working Group with the Subsidiary Committee session. There followed a discussion on whether the Working Group should be open to all UNESCO Member States and Associate Members or solely to Member States of the ICPRCP.

14. Ecuador concurred with Romania that the Working Group should meet in May at the same time as the Subsidiary Committee meeting so that it could also examine the proposals. It also wondered whether the Committee could rethink the timeframe, as there would not be enough time to review the proposals. Hence, Ecuador’s reluctance to set up a Working Group, especially when the consolidated document could be submitted to the ICPRCP for consideration at its next session potentially convened in May 2019. Turkey shared Italy’s concerns that the Working Group should be open to Members of the ICPRCP, even if all the other Member States and Associate Members could attend for the sake of transparency. It also supported Romania’s proposal to hold the Working Group back-to-back with the Subsidiary Committee. Greece fully supported the concerns expressed by Italy and Turkey. The Secretariat provided some clarification on the adoption of amendments to the Rules of Procedure in that the ICPRCP had the competence to adopt its own Rules of Procedure, and thus there was no need for this document to be adopted by the General Conference. Italy returned to its proposal that the Working Group should only be open to ICPRCP Member States. Ecuador noted that there were no objections to its proposal to abandon the idea of the Working Group, and proposed that the Secretariat submit its consolidated report to the 22nd session of the Committee to be held in May 2019. Japan disagreed with Ecuador’s proposal because the Committee had not yet decided whether it would meet next year given the budgetary situation of UNESCO. Moreover, the revisions to the Rules of Procedure were extremely important and required the work of a Working Group. Argentina believed that Ecuador’s proposal deserved serious consideration, recalling that the Subsidiary Committee had initially spoke of having a three-day meeting, which was later reduced to two days. Thus, the budgetary resources saved could be used to convene a one-day meeting of the Committee. The Chairperson noted that the current proposal sought to establish a Working Group, which would act as a filter to address the voluminous information that would be received by the Secretariat. Ecuador reiterated that the possibility of having annual meetings was a decision made by the General Conference in its Recommendation 81, and that a solution should be found regarding meeting costs. Argentina suggested using the funds that would have been deployed for the 3-day Subsidiary Committee meeting. It would not stand in the way of a Working Group but suggested that it meet in March or early April, making it possible for the conclusions of the Working Group’s efforts to be presented in May [2019]. Ecuador agreed that the Working Group should be open to all Member States. Egypt concurred with Argentina regarding the remaining resources, and thus proposed to delete the part of the paragraph that stated, ‘subject to the availability of extrabudgetary funds’. Ms Mechtild Rössler confirmed that the wording ‘subject to the availability of funds’ had to be used because the Working Group had not been foreseen and the Committee would most definitely require extrabudgetary funds.
governed that there was no budget allocation from the General Conference for a ICPRCP meeting in 2019 nor a Working Group.

15. Japan remarked that it would be more realistic to work within a Working Group so that the Committee would be well prepared when it convened, as had been the experience with the 1970 Convention meetings. Greece referred to a Rule in the Rules of Procedure that stated that a Committee could set up ad hoc subcommittees or working groups that may include Member States of UNESCO, which are not Members of the Committee. Ecuador assured Japan that it was not opposed to the creation of a Working Group and it withdrew its amendments. However, the reference to extrabudgetary funds should be deleted. The Chairperson noted that the Committee had already agreed that the meeting should be open to all ICPRCP Members, as suggested by Italy. Ecuador reiterated that ‘subject to the availability of extrabudgetary funds’ should be deleted, and that the Working Group should meet in April 2019. The Chairperson clarified that the Executive Board would meet in April and thus there might be a scheduling problem. Ecuador then suggested March, if the Secretariat had the report by February. The Chairperson recalled Romania’s proposal of a back-to-back meeting with the Subsidiary Committee meeting at the end of May. Turkey noted that the discussion had turned to having both a Working Group and now an ordinary ICPRCP session two months after the Working Group, yet it did not see an issue with discussing the subject at the next session of the ICPRCP [in 2020] instead of an earlier session planned in 2019. The Secretariat shared a provision of the current Rules of Procedure that stated that the date and place of the next session could be determined by the Committee, and modified by the Bureau, if required. The Chairperson concurred that the Committee could agree on having the Working Group convene in May, as originally proposed. Ecuador understood that the consolidated report would require a considerable amount of time and it therefore suggested to extend the date to 15 April to allow time for the Secretariat to conduct its work so that the Working Group could meet in early May 2019. Turkey expressed its concerns once more for a more realistic position, as travelling in early May to then return two or three weeks later was not logistically or economically feasible, and thus preferred to keep the date as May 2019. Austria supported the Chairperson’s proposal to leave the date open. Japan supported Turkey’s position. The Secretariat shared Turkey’s concerns regarding the travel of experts, which was the reason behind the organization of the back-to-back ICPRCP and the Subsidiary Committee session in 2018, as well as the back-to-back Meeting of the States Parties and the Subsidiary Committee in 2019. The Secretariat thus proposed the date of 24 May. Moreover, this was one of the recommendations of the Working Group on governance that the meetings be grouped together. The Chairperson agreed that the Committee could support a fixed date. Ecuador suggested May 2019 with no specific date, as it was not a statutory meeting that had to be strictly planned. The Chairperson noted the suggestion to leave the date as May 2019.

16. Ecuador again sought to delete the reference ‘ICPRCP’ so that the Working Group could be open to all UNESCO Members States. Italy disagreed in that any Member State of UNESCO could already make proposals to the Secretariat, but the Working Group should be the prerogative of the ICPRCP Committee. The Chairperson concurred that a Working Group that is open-ended to all Members of UNESCO was not really a Working Group, and therefore it should be limited to delegations that were directly involved and have knowledge of the process. Palestine agreed that the Working Group should not be completely open to all delegations. Ecuador thus suggested that the Working Group be open to all ICPRCP Member States and Observers. Italy was in favour of transparency so would welcome Observers, but that the decision-making should be reserved for Members of the Committee. Austria agreed with Italy’s understanding. Egypt noted that according to Rule 10 of the Rules of Procedure, Working Groups created by the Committee may include Member States of UNESCO, which are not Members of the Committee. It understood Italy’s concern, however, in this specific case, especially with only a very limited number of responses to the questionnaire, the delegation suggested opening the meeting to Observer States. The Netherlands sought a compromise and recalled the World Heritage Committee and its ad hoc Working Group, which comprised two Members from the Committee from each Electoral Group and two members from each
Electoral Group that were not on the Committee. The Chairperson noted that the suggestion by Ecuador would read, ‘open to all ICPRCP Member States and Observers’.

17. Ecuador recalled Rule 10 of the Rules of Procedure that stated that these working groups or subgroups may also comprise Member States of UNESCO that are not Members of the Committee. Japan agreed with Egypt and understood Italy’s concerns. However, through experience with the Working Group of the 1970 Convention, very few Member States have knowledgeable experts who could participate. The Chairperson read out paragraph 9 that would establish a Working Group open to all ICPRCP Member States and Observers, which was duly adopted. He then turned to paragraph 10 and Ecuador’s proposal. Bearing in mind that a date had not been set, Ecuador could agree to keep the paragraph in its current form, which encouraged Member States to provide financial contributions for the establishment and functioning of the Working Group, which was duly adopted. Paragraph 11 reflected the points made in paragraph 9, and was thus deleted, as suggested by Ecuador. Italy explained that it had proposed to limit the Working Group for the sake of efficiency and for the ownership of the ICPRCP Member States in this exercise, but of course it welcomed the contributions and the participation of all Member States in this work. The Chairperson declared Decision 21.COM 6 adopted. Egypt asked that the Rapporteur include in the oral report that the organization of the 1 June Conference should have been done in cooperation with this Committee, including the topics for discussion, the agenda and the speakers.

18. Noting the time, the Chairperson moved to the presentations of the information cases, noting that both Greece and Zambia wished to postpone their presentations for the following day. He then turned to Turkey who agreed to present its case on the Zeugma Mosaics.

19. Turkey presented a successful case that resulted in cooperation between the Bowling Green State University and Turkey. A short video was shown for context, which gave an idea of the importance of the ancient site Zeugma for Turkey as one of the richest archaeological sites containing mosaics. Zeugma was looted in the 1960s with most of the mosaics taken abroad. Several mosaics were returned from the United States in the 1980s and also from Germany. The clandestine excavations in Turkey happened at a time when there was low awareness within the art market. In the 1960s it was impossible for Turkey to monitor sales and there was low awareness on the importance of provenance. The mosaics ended up 9,500 km with an art dealer, Peter Marks, who owned a gallery in New York. He sold the items to the Bowling Green University in 1965 as pieces from Antioch. Antioch is another ancient site within Turkey but it was annexed to Turkey in 1939. Thus, there is a time gap between 1923–1939 with regards to applicable legislation that art dealers use to their advantage when selling items. The Bowling Green State University was told that no government had claimed their return and thus the university acquired the items in accordance with the law of the United States at that time. In 2012, two US scholars conducted research on the mosaics and believed that the mosaics did not originate from Antioch. In a comparative analysis with mosaics from the Zeugma Museum the similarities clearly became apparent, convincing the Turkish authorities that the mosaics originated in Zeugma, which was later confirmed through scientific analyses. Bowling Green State University published the information, as they expected Turkey to make a claim. The university also informed the FBI, which was how the Turkish authorities became aware of the mosaics, after which they contacted the university. A case was built based on the current legislation and the legislation that was in force in the 1960s. The Turkish authorities convinced the university that there was no gap in State ownership. There were however time limitations. However, noting the collaborative manner of the university, bilateral negotiations were pursued that took six years. It was thus decided that Turkey would provide replicas of the mosaics to Bowling Green State University, which would replace the ones returned to Turkey. Moreover, the replicas would be produced by the craftsmen of Gaziantep with stones collected from the Euphrates; thus the very same stones that produced the original mosaics. Turkey was very proud of this cooperation, not only with the idea of returned artefacts, but by the cooperative
approach adopted by the institution that originally believed to have bought the artefacts legally. The United States was delighted to end the day on a successful and happy note, adding that it supported very strongly ICPRCP’s role. It was thrilled that the negotiations, although long, proved to be mutually satisfactory to all the parties involved.

THURSDAY, 31 MAY, MORNING SESSION

PENDING CASES BEFORE THE COMMITTEE

a) The Parthenon Sculptures (Greece and the United Kingdom)

20. Greece [first speaker] remarked that intellectuals and artists praised Parthenon and its sculptures as a unique achievement in world history. The painter Edward Dodwell attended the removal of the Parthenon metopes in the summer of 1801 by Lord Elgin. Unfortunately, Elgin’s attitude to this masterpiece was not delicate. For centuries, the chambers lay untouched with the eastern frieze of Parthenon and the image of Zeus. In order to transport this heavy piece, Elgin’s team divided it into two parts. The south metopes were thrown onto the ground, causing heavy damage to the building’s architecture. His team then collected the dispersed fragments. One of them belonged to metope no. 12 and a head and torso are now in the British Museum. Greek authorities have tried to put together the frieze fragments of the Parthenon sculpture from the Acropolis. The speaker showed a photo of Parthenon in the early 19th century and the Parthenon today after the excellent restoration work, which was made by studying every architectural detail and using every scattered fragment of the building. The Acropolis Museum has an ambition to present the Parthenon Sculptures to the world as complete as possible. Greece [second speaker] explained that the Parthenon Sculptures were central to the identity of Greece, and their return and reunification was a matter of national priority. Consequently, Greece had sought their return from the British Government since independence. The request reached the British authorities through a variety of means, including direct correspondence, public statements, confidential approaches through intermediaries, and communications with the British Museum; it was one of the most longstanding requests for the restoration of cultural heritage in the world. The British Museum repeatedly recognized ownership of the sculptures. In July 2013, the then Greek Minister of Culture and Sports requested UNESCO to encourage the UK to take part in the mediation process. UNESCO sent an official letter to the British Museum and the British Government, to which they replied two years later rejecting the initiative outright. The Greek Minister of Culture at that time pointed out that the United Kingdom ignored the related recommendations of the ICPRCP and UNESCO. The effort to revert to the issue as one between museums was also striking. The Parthenon is a unique monument of classical antiquity and an emblematic World Heritage monument of Outstanding Universal Value. The return of its sculptures would confirm the basic principle of the 1970 UNESCO Convention, namely the integrity of the monument.

21. Greece [third speaker] noted that between 1984 and 2016, the ICPRCP adopted at least 15 recommendations on the Parthenon. The British stressed that the Parthenon Sculptures in the British Museum were legally acquired by Elgin and that Trustees had clear title to the sculptures since 1916. In addition, the Greek request for mediation only sought to transfer of the sculptures to Athens and to deny the British Museum’s ownership. The UK thus refused to engage in any effort to reach a mediated solution. The UK consistently argues that the British Museum is a legal entity independent from the State, and the issue was decided upon by the Board of Trustees. This squarely laid the obligation to return cultural artefacts not on the government but on the museum, contrary to international law. The argument that it was holding the Parthenon Marbles for humanity was an attempt to justify a wrongdoing. Museums have argued that any legal decision to return the Marbles to Greece would set a precedent for emptying Western museums of cultural treasures that had been looted or purchased from other countries at other times. The Parthenon Sculptures however differ from other museum objects in that they emanate from a surviving monument and their reunification to the parent structure
would not create a precedent for other acts of return. The Greek Government called upon the British Government to reconsider its stand and to recognize the international claim.

22. The United Kingdom noted the strong aspirations of Greece to see all the surviving sculptures of the Parthenon reunited at the Acropolis Museum. The sculptures in the British Museum were legally acquired under laws at the time and legally owned by the Trustees of the Museum, which is independent from the Government. The Trustees believe that the Museum is the best place for the sculptures. The British Museum is a world museum with millions of visitors who can view the sculptures for free. The current exhibition of Rodin and the art of ancient Greece includes a number of the Parthenon Sculptures displayed alongside Rodin’s works lent as part of a collaboration with the Musée Rodin in Paris. The Trustees had never been asked for a loan of the sculptures by the Greek Government, only for their permanent transfer to Athens. The Trustees would consider any request to loan any part of the collection provided that the borrowing institution acknowledged the museum’s ownership. Irrespective of its size, the Museum viewed the status of all the sculptures in the same light and welcomed research in all of them equally, whether undertaken by UK, Greek or other international scholars. The British Museum has a long history of friendly collaboration with colleagues in Athens. In late 2016, the British Museum presented a replica of a lion’s head water spout from the Parthenon to colleagues in the Acropolis Restoration Service. The British Museum also lent four significant objects to the Acropolis Museum for an exhibition in summer 2017. The UK Government saw the mediation proposal as an attempt to achieve permanent transfer of the Parthenon Sculptures to Greece. Thus, mediation would not add anything to this debate. The UK Government fully supported the position taken by the Trustees of the British Museum.

23. Turkey had the pleasure to present earlier the return of 12 pieces of the Zeugma Mosaics to Turkey, adding that integration was a key element in return and restitution cases, and it looked forward to seeing the unification of the Parthenon Sculptures. In addition, if mediation was not an option, then what were the next steps to reach a mutually acceptable solution? Japan acknowledged Greece’s longstanding demand for the return of the Parthenon Sculptures, a symbol of Greece and the Greek ancient civilization, and it hoped that a solution could be found to satisfy both parties in the near future. Mexico remarked that the ICPRPCP needed to ensure that sites on the World Heritage List were kept whole so that their integrity could be assured. In addition, the situation today was radically different to the time when the Parthenon Sculptures were sent to England. For this reason, it fully supported Greece. The Republic of Korea stressed the importance of dialogue between the concerned parties to reconcile their different views considering the 30 years that this issue had endured, and it hoped for a speedy mediation. Zambia noted that the Parthenon Sculptures was an old case and it was unfortunate that no meaningful progress had been made, and it encouraged their return to Greece. Egypt supported the Greek claims and it appealed to the United Kingdom to revise its position. Argentina supported Mexico and was fully in favour with Greece’s claims for the restitution of the Parthenon Marbles. It appealed to the United Kingdom to review its position and to return the Parthenon Sculptures to Greece. Armenia expressed support to Greece, adding that it was important to engage in dialogue to speed up the process of negotiations for the benefit of the Parthenon Sculptures and as part of the World Heritage site of the Acropolis. Iraq supported Greece’s claim to have the Parthenon Marbles returned to their place of origin. It requested the United Kingdom to return or to reimburse these objects as an honourable act. Benin noted that the Parthenon Marbles was one of the oldest issues on the Committee’s agenda with no foreseeable outcome in the future, which should be a source of concern. It commended Greece’s endurance and it supported Greece’s legitimate fight to recover an important part of its cultural heritage. China fully supported Greece’s longstanding demand for the return of the Parthenon Sculptures. It hoped that the Committee, together with the Secretariat, would maintain its efforts to play an active role in encouraging both parties to continue their dialogue. Cyprus remarked that it was thus time to come to a resolution that would see the return of the Marbles to the Acropolis Museum. Austria remarked that this case demonstrated that there was no simple answer in many similar cases of cultural heritage. France was fully aware of the difficulties faced by the two countries, as it was also frequently solicited by this kind of request.
Nevertheless, progress should be made through bilateral consultations and it hoped that this could be achieved for a swift outcome. France was currently reviewing this issue – a conference was being held in UNESCO the following day – the results of which might therefore propose new approaches to restitution issues.

24. Greece thanked all the delegations that spoke in favour of the return and reunification of the Parthenon Sculptures. With regard to the cited Rodin exhibition at the British Museum, Greece remarked how Rodin was inspired by the Parthenon Sculptures, but lamented their exile from Greece. Also, the Rodin exhibition hardly justified the British Museum’s implacable refusal to discuss the return of the sculptures. With regard to Turkey’s question on other means of mediation, Greece replied that it would continue its fight to bring back the sculptures using all diplomatic means possible, as well as other alternative means of dispute resolution. The United Kingdom appreciated the views of the Member States. It also appreciated that this issue had gone on for very many years and that the matter should come to a mutually agreeable solution. The United Kingdom welcomed the continuing discussions both at government and museum levels with its Greek counterparts, with whom it enjoyed a very good relationship and cooperation whose focus should be on those very positive collaborations. The Chairperson noted that Greece and the United Kingdom had reached a compromise draft recommendation, and Recommendation 21.COM 7 was adopted.

b) The Broken Hillman Skull (Zambia and the United Kingdom)

25. It was noted that the case of the Broken Hillman Skull was briefly presented by Zambia at the 20th session of the ICPRPC with no follow-up discussion. The Broken Hills Skull is popularly known in Zambia as the Broken Hillman Skull. It is Zambia’s indigenous and earliest hominid find discovered in a small town, Kabwe, in 1921 during a mining activity. Upon discovery, a medical practitioner from the Broken Hill Hospital established the scientific value of the skull. As the country was under colonial occupation, and due to lack of expertise at that time, the Rhodesia Broken Hill Development Company, to whom the skull was presented, sent it to the United Kingdom for specialized study five months after its discovery. The transfer was seen as an investigative study rather than as a donation to museums in the UK. The skull is virtually complete and the best example available among archaic Homo sapiens. It is believed to have an age range of 600,000 to 400,000 years. The archaeological material was taken from the territory of Zambia at the time of colonial rule. At that time, the Zambian people had no say on matters of governance. In fact, many nations lost millions of objects due to colonialism and imperialist wars. Zambia informed the Committee of a number of scientific publications associated with the Broken Hill skull, demonstrating its important contribution in understanding human evolution. The Broken Hill skull thus bridged a very important gap in the human evolutionary process. The skull is the most unique archaeological discovery in the country and could be grouped together with other skulls from five other countries, namely, South Africa, Tanzania, Ethiopia, Greece and France. In terms of the geographical distribution of the hominid fossils in southern Africa, the Broken Hill skull provides an excellent link between the two fossil-bearing areas of South Africa and East Africa, filling an important gap in the evolutionary process in the study of human evolution in southern Africa. The Broken Hill skull is also of great sentimental value to Zambians and its absence had deprived Zambians of understanding research in human origins. The skull is part of a significant collection made during British Empire rule in northern Rhodesia. The British South African Company administered the territory of northern Rhodesia and the Broken Hill Development Company took the object to the United Kingdom for investigation. To date, there is no evidence of any export permit being issued for the object to be removed from the territory. When the skull was removed from northern Rhodesia, the Bushman Relics Proclamation was the only law that protected and regulated the removal of bushmen and other pre-historic remains at that time. The law required that certain categories of items or objects of antiquity could only be taken out of the territory by a permit issued by the administrator of the territory. There is no evidence that the permit was granted to the British South African Company nor to the Northern Rhodesia Broken Hill
Development Company or its agents. Thus, the defence of donation cannot be sustained in the absence of a valid export permit. Several attempts had been made by Zambia to request the return of the skull. The first request was made in April 1974 and the most recent on 25 February 2013. In its correspondence, the British Government cited the British Museum Act of 1963 that did not permit the Board of Trustees to return cultural property. The thenBritish High Commissioner to Zambia proposed a replica to Zambia. The skull is part of the cultural heritage of Zambia, and the Zambian people want the skull returned so that it could form part of its repository of archaeological heritage.

26. The United Kingdom explained that the British Museum was founded in 1753 with separate status in 1963, housing a collection of about 80 million items with about 4.5 to 5 million visitors a year with free entrance to the museum and exhibitions. It operates with independence from the Government and the collection is the property and responsibility of the Museum Trustees, not the UK Government. There are strict legal constraints on the powers of Trustees to give away, transfer or exchange items under the British Museum Act of 1963. The United Kingdom gave a detailed presentation of the physical features of the skull, and showed how Homo erectus, an earlier species from about a million years ago, compared to Homo heidelbergensis, the Broken Hill cranium, and the Neanderthal and Homo sapiens skull. It was discovered in 1921 in mining operations by the Rhodesia Broken Hill Development Company and brought to London where it was acquired by the museum through a donation. The fossil is now owned by the Trustees of the Natural History Museum. With regard to the legal context, the cited Bushman Relics Proclamation of 1912 exactly copied a 1911 South African Act aimed to protect bushmen relics and ancient ruins, particularly the material culture of the sand people or other people inhabiting the area. There is no indication that the proclamation was intended to apply to fossils or the remains of other species such as Homo heidelbergensis. There was no detectable legal objection from the authorities in 1921 or later. Thus, there was no indication that the legal authorities in Northern Rhodesia or South Africa regarded or intended any law as limiting the freedom of the company to possess, export or donate the fossil cranium, or that it was came within the scope of the proclamation.

27. The skull was currently on free and permanent public display in the Natural History Museum at the Human Evolution Gallery, which was opened in 2015, and it was on display in the Treasuries Gallery before that. The gallery shows the diversity in relationships of human relatives and ancestors over the past 7 billion years using casts and original specimens, and the museum’s international collaborative research on human origins is emphasized. A photo was shown of the entrance to the gallery showing the diversity of human relatives and the various species over that time period with the Homo heidelbergensis cranium from Broken Hill on display. The cranium is sometimes removed for research use and it is on display in a high-specification case, which provides a sealed environment. In the 1920s and 1930s, research work was carried out on the basic description of the cranium by museum staff; Arthur Smith Woodward was the keeper of geology at the time and W.P Pyecraft and others produced a definitive work on the early interpretation of the skull. Aleš Hrdlička was working at the Smithsonian and he did some detailed investigation into the circumstances in which the cranium was found. The past century has seen extensive scientific collaboration and wide reference to this skull in publications, and there had been progressive discovery of fossil remains of Homo heidelbergensis and other species that regenerated new ideas on the evolution of this group. New techniques continue to emerge and to generate new results and insights. Homo heidelbergensis was an intermediate, a relative of Homo erectus, and was very widespread over Africa and Europe. Up to 15 individuals have been found, including in the UK, dated between 700,000 and 150,000 years. The fossil cranium of Homo heidelbergensis, a species existing in parallel to Homo neanderthalensis and Homo sapiens, is an internationally valuable specimen for research and public understanding on the diversity in the evolution of Homo species. In terms of communication with Zambia, there was correspondence between Zambia and the Foreign Office in 1974, 1978 and 1982. It was noted that the ICPRCP’s modalities of requests for return or restitution state that only when bilateral relations had failed or had been suspended can a case be brought before the Committee. The UK, both at the
government and museum level, strongly believed that there was significant room for bilateral negotiations with Zambia and a need for closer discussion. Accordingly, UK officials wrote to Zambian counterparts in 2017 to propose bilateral negotiations that would allow mutual understanding of the issues and to arrive at a mutually agreeable solution that include discussion on the origins and status of the cranium, the administrative and legal background, the scientific and cultural importance of the cranium, including ongoing and future research, options for location and future access, capacity-building and institutional collaboration and other matters to be agreed.

28. Japan noted from the submitted standard forms that Zambia had quoted the national conservation acts and sought clarification on its retroactivity. Ecuador asked about the position of the British Government in this case. Benin found it increasingly incomprehensible that African cultural heritage was found everywhere in the world except Africa, adding that the debate centred more on the terms of legitimacy than of legality. It sought an explanation of the retroactivity of the Museum Act of 1963, given that the skull arrived in Great Britain in 1921. Turkey believed that the legislation of 1963 could weaken the possibility for negotiations, but since 1963, several initiatives had been taken at the international level on the return and restitution of cultural artefacts, specifically the 1970 Convention, the ICOM Code of Ethics for Museums, and UNESCO recommendations on museums and collections. It was thus timely to have fruitful debates in the future to revise national legislation that pose an obstacle to mutually acceptable solutions. Iraq supported Benin’s remarks on the cultural property of Africa. The Republic of Korea hoped the case could be resolved on the basis of mutual understanding and agreement between Zambia and the UK. It also drew attention to the Gyeongju Recommendation [here] adopted during the sixth International Conference of experts on the Return of Cultural Property held in Gyeongju in the Republic of Korea in October 2016, which should be taken into account in the process of bilateral consultations. Egypt supported the legitimate claim by Zambia for the return of the skull. It also sought to know whether the United Kingdom had reviewed its legislation at the end of colonialism to make it possible for certain objects that had reached the UK during the colonial era to be returned. Hungary sought clarifications on the different interpretation of the Bushmen Relics Proclamation and the absence of an export document.

29. China fully acknowledged the value of the Broken Hill Skull and supported Zambia’s position, welcoming both parties to continue their cooperation. Italy noted that this case was presented to the Committee for the first time. It believed that the existence of legislation, preventing the return of cultural property, was not an insurmountable obstacle as States could also change legislation and make exceptions. Argentina agreed on the importance of bilateral negotiations. Greece was of the view that the emblematic cultural property of Zambia should be returned to its place of origin. As in the previous case, it was noted that only the Trustees could decide on the return of the object and thus the case was relegated from the intergovernmental level to one between a State and a foreign museum. India supported Italy’s remarks that laws are not written in stone, and in British law, Parliament is the supreme body for all law-making. It recalled the actions of the East India Company that ruled in India for one hundred years by the Act for Good Governance by which in 1858 the entire country was transferred to the British Crown. Pakistan supported Zambia’s case for the return of the Hillman skull. As pointed out by Italy and India, national legislation should not preclude international obligations. The Republic of Syria spoke of the prerogatives of the Committee that recall the legitimacy and unquestionable sovereignty of Member States with regard to their cultural heritage. It also sought to know whether the Secretariat could serve as a favourable mediator so as to avoid any legal loopholes in this process that might thwart future procedures for restitution. It also wished to have advice of legal experts in archaeology who could speak during the Committee’s debates.

30. Venezuela fully agreed with Benin that African heritage had been spread all over the world without any consideration of historic or cultural legitimacy. The historic heritage of humankind emerged from Africa and had enriched all cultures, and thus in a spirit of a culture of peace this case could be set out as a model or precedent to underscore the contributions made by
the Zambian people to humankind as a whole. The United Kingdom appreciated the views of the Committee Members, adding that the Government’s position was the same as the Natural History Museum on behalf of the British Museum. The Natural History Museum is a public institution sponsored by the Department of Culture, Department for Digital, Culture, Media and Sport and is under UK law. The Trustees have independence on the decisions concerning the collections. The British Museum Act of 1963 replaced previous Acts, and at the time the skull was brought to the British Museum, this was under the British Museum Act of 1753, which apply to collections as a whole. The United Kingdom was keen to have bilateral discussions with Zambia with their counterparts and also with the British Museum.

INFORMATION CASES

31. Iraq presented the case of the Hebrew manuscript that was stolen from Iraq and smuggled to Israel. Israel had not negated the existence of the manuscript on its territory, which was publicized in Israeli media. A short film on the case was projected. There was no discussion on this issue.

32. Palestine presented the case of the Dead Sea scrolls and other manuscripts and artefacts that were removed from the Palestinian Archaeological Museum in East Jerusalem. The Dead Sea scrolls were discovered around Qumran in Palestine near the Dead Sea between 1946 and 1956. At that time, the Palestinian territory was under Jordanian administration, which maintained the remaining scrolls. In June 1967, Israel occupied East Jerusalem where the museum and the scrolls were located. Very quickly, it appropriated the Dead Sea scrolls. Further fragments of the scrolls were excavated by Israeli authorities from Palestinian territory during the 1990s, which was a breach of the New Delhi Recommendation of 1956 and a violation of the provisions of the 1970 Convention. Qumran and the surrounding area near the Dead Sea are part of the 1967 territory. Palestine acknowledged the Biblical significance and importance of the Dead Sea scrolls for the great monotheistic religions and for universal human history. It requested the mediation of the ICPACP to assist in the repatriation of the Dead Sea scrolls, as well as all other artefacts to their place of origin. Israel spoke of the Palestine's declaration as an example of how UNESCO was being used to advance its political agenda, while trying to convince the Committee that it is a technical request. Israel regretted Palestine's declaration and it hoped that the spirit of honest cooperation and mutual understanding would be respected in the future.

CONTEMPORARY ISSUES CONCERNING ILLICIT TRAFFICKING OF CULTURAL PROPERTY

a) Free ports and the risk of illicit trafficking of cultural property

33. Mr Marc-André Haldimann from the University of Bern explained that Geneva had its own free port since 1849, but since that time there was growing concern about the recurrent use of harbouring illicit cultural objects. However, free ports are not a modern invention. The oldest institutional free port exempted of tax was Delos in 165 BCE. There is also a very rich history in European countries of free ports in terms of tourism mainly from the 16th and 17th century onward. In the case of Geneva, it functioned as a place of trade since 1888, gradually shifting after the Second World War from the trade of raw materials and foodstuffs to the storage of industrial items to help rebuild Europe. The free ports and special zones grew globally after the Second World War. In 1959, there were only two countries operating free ports, but by 2006 there were 135 countries with 3,500 free zones. All ports operate under the same basis; they store goods for a specific period of time and enjoy the exemption of any levied tax until the goods are sold and shipped to their final destination. Since the 1960s, there is a growing trend towards the transit of cultural goods, which has boomed since the 1980s with the Geneva free port specializing in cultural items since the late 1970s and early 1980s. This naturally brought about some high-profile cases, such as the case of the Italian merchant Giacomo Medici. Despite this, business went up from 2010 that showed how the free port of Geneva was still a
place where antiquities of illicit origin were being stored. The highest-profile case however involved Robin Symes, a notorious British art dealer who was later jailed for his activities. This prompted the Board of Trustees to set up a scheme to control and prevent the arrival of archaeological items acquired through illicit trafficking. The main areas of concern were mainly archaeological objects, with the whole scheme focused on addressing the regularity of operations, while deterring the arrival of illicit archaeological objects. An analysis of the imported good is first undertaken followed by a paper trail for every cultural item destined for import into Geneva. This information is recorded and controlled by the free port and the Board of Trustees. It was noted that this work was carried out on a paperwork basis with no physical appraisal of the items themselves. The major difficulty was incomplete documentation and photographic evidence, as this would help better identify the items.

Mr Marc-André Haldimann remarked that the processes implemented in Geneva, such as the paper processing of archaeological items to flush out illicit objects, was also transferred to ports specializing in fine arts elsewhere. In the Singapore free port, for example, which also runs operations in the domain of fine arts, as well as Luxembourg which specializes in fine arts trading. It was noted that newer free ports were much more legally binding than older ones such as Geneva. The vastly developing movement of free zones and free ports had raised issues within the European Union. The firm Deloitte undertook an audit on the existing laws and proposed implementing a generalized licensing and import operation for the European Union as a whole, while strongly recommending that only documented items from the country of origin be allowed to enter. This new law is currently being discussed at the European Parliament. These efforts had resulted in the collapse of the trade of cultural goods into Geneva, but the business has shifted elsewhere. Nevertheless, the future of free ports has not been reigned in, for example, there are plans in Great Britain to play a major role to improve income as Britain leaves the European Union.

b) Online sales and the illicit trafficking of cultural property – presentation by eBay

Ms Delphine Dauba-Pantanacce explained that there were other online market places other than eBay, such as webshops, Google, Craig’s List, Facebook and others. Global data on eBay showed that there are around 1.1 billion listings and around 171 million buyers, of which 80 per cent of items sold on eBay are new items. eBay operates as a marketplace, i.e. it is platform where buyers and sellers can connect. The items are not in eBay’s possession, so it cannot authenticate, control or validate any aspects of the item sold by the seller. Sellers can sell anything on eBay provided that they comply with any applicable laws and regulations. The success of eBay is therefore built on trust, as any buyer can provide feedback on a seller who thus builds up a reputation. Much effort has therefore been placed on educating users based on two pillars: enforcement and cooperation. With regard to education, a registered user must first accept the user agreement, as well as the prohibited and restricted items policy. There are around 54 policies online, including a policy dedicated to cultural goods, artefacts and antiques, which defines what can and cannot be sold. In addition to the information on legislation, eBay makes reference to the Red List database from the International Council of Museums, the UNESCO database, as well as the Interpol database to further help users. In addition, the antiquities buying guide had been developed in cooperation with the British Museum. With regard to the enforcement of policies, eBay removes non-compliant listings based on filters built on key words, which catches any non-compliant listings or an illegal product, after which the listing is removed. The report of an item is then sent to eBay agents. In addition, eBay removes non-compliant listings based on reports from authorities and NGOs. A report was however needed to remove an item, as it did not have the requisite expertise to do so. eBay also has the option to issue sanctions against sellers and their accounts, ranging from a warning to an account suspension. eBay participated in a symposium in New York in September 2015 to discuss ISIS looting in Iraq and Syria where government agencies presented information and evidence that ISIS was not just destroying ancient sites, but it was also looting and selling cultural items.
36. Ms Delphine Dauba-Pantanacce gave an example of successful cooperation with authorities involving a EU cross-border case after a report was received from the German Museum in Cologne regarding a listing of a cuneiform tablet on eBay Germany. As a result, the German authorities were informed and reported the case to Interpol, as the seller was based in Switzerland. A house search of the seller was carried out and the item was seized on the same day. Another partnership was also put in place with authorities in Australia, Germany and Switzerland. eBay works with experts to further narrow its policy with regard to cultural goods, as well as law enforcement authorities. Thanks to their expertise and knowledge, eBay was able to amend its cultural goods policy on its German, Australian and Swiss sites. Experts also monitor the sites and identify listings without proper documentation. It was noted that after four weeks, eBay could see the level of compliance on the site had increased significantly. Other examples of partnerships included with UNESCO, the EU Commission, Interpol, the US State Department, and the Department of Homeland Security. Other joint cooperations included the Manchester British Museum, and the Egyptian and Peruvian embassies that had reported listings. Finally, eBay has a dedicated page for law enforcement agencies where they can find information on how to send a request for an investigation, with a dedicated eBay team dealing with requests and sharing the information with the concerned law enforcement authorities.

37. Ecuador noted the improvements made on the issues of free ports and Internet sales. An essential point for the Committee is to implement the Operational Guidelines that clearly pronounce on the issue of Internet sales and measures that could be adopted both by the art market and by museums. It also noted the measures taken to increase the capacity of EU countries to deal with these issues. Turkey commented on the CBS News article alluding to research that ISIS-related cultural artefacts were being sold through Turkey, informing the Committee that Turkey was taking all the necessary measures to prove the origin of cultural artefacts. Zambia thanked all the countries that had supported its stance, adding that it would join the bilateral talks with the UK. The Republic of Syria remarked that the task of combating illegal trafficking reflected the importance of synergy in the work of the Committee and the Subsidiary Committee. Syria took the opportunity to assert its constitution, laws and regulations that govern Syrian cultural heritage, and it wholly endorsed conciliation and consensus with all stakeholders. Germany agreed that the issue of free ports deserved the Committee’s attention because they risked being part of the chain of illicit trafficking in cultural property. Thus, greater transparency and more specific legislation on this issue was required. Moreover, objects were moving away from Geneva to other free ports, which was also the case on eBay as items get moved to other online platforms. A Representative of the Secretariat introduced three 1-minute videos2 on the fight against illicit trafficking and the repatriation of objects, showing the collaboration of the Secretariat and its partners, and produced by the excellent team at Unite4Heritage at UNESCO. Film screening of three videos.

THURSDAY, 31 MAY, AFTERNOON SESSION

c) Online sales and the illicit trafficking of cultural property – presentation by Facebook

38. Mr Timothy Fagan spoke via videoconference to present the Facebook policies around online sales. Working in law enforcement liaison, he provides operational guidance and training on criminal investigations. Every piece of content on Facebook falls into its policies and community standards. Its policies govern legal issues, and there are specific commerce policies related to trafficking and illicit goods around ‘Marketplace’. Any decision made to remove or block content or remove users is contained in a rulebook available online. Marketplace was launched in 2016 as a way to organize sales of products on Facebook, mainly through local groups or pages. However, Marketplace is not like eBay or Amazon, as it is much more local, and more like ‘Gumtree’ or ‘Le Bon Coin’ where you buy and sell within your own community. From its own

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2 The three videos: i) Have you ever heard of ‘blood antiquities’? [here]; ii) Eight artefacts seized by the French customs has been restituted to Egypt [here]; iii) Have you ever heard of Operation Gemini? [here]
data, it was known that 450 million people every month go to Facebook groups to buy and sell. When Marketplace was launched, Facebook did not know how people were going to use the products to sell illicit goods. So a specific dedicated trust and safety centre for launching Marketplace was built, which provides buying and selling tips for people, as well as a reporting mechanisms for when something looks suspicious, illegal or prohibited. One of the challenges with Internet is that a victim could be in one country and a suspect in another. Generally speaking, people involved in unlawful activity might not be using an authentic account. There is a wide range of things that can be reported, as well as a list of 13 things that are not allowed or are forbidden. Specifically, the illicit trafficking of cultural goods is a very grey area, as it is difficult to understand what might be an illicit good or when someone might not have the right to sell a good or import a certain good, as it is not a regulated product like pharmaceuticals, weapons or drugs, which is why Facebook works with law enforcement agencies.

39. Facebook supports law enforcement and investigations, and the disclosure of users’ data requires public guidelines, i.e. relative to IP addresses and dates of transactions. Thus, in case of an investigation, law enforcement can request information on that user. Effectively, Facebook can provide law enforcement with content data. The preservation of data is also important if there is an investigation, for example, in cases of deleted posts or groups. Facebook is generally good at detecting fake accounts and bad behaviour. From January to March 2018, for example, it removed 560 million fake accounts. Law enforcement and governments can demand preservations of user data in these cases. Facebook also has a transparency report, which openly explains to users what Facebook does with their data and how it is handled. Information disclosed can include: requests from government and law enforcement, how often Facebook complies with user data requests, how often it restricts content at the behest of governments, but also about enforcements. There are also different types of sales forums. Marketplace, is the official way for listing products, and groups is another. Groups can be anything that people are interested in, including artworks and cultural goods. There are 3 types of group: i) a public group; ii) a closed group; and iii) a secret group. Facebook has different ways of detecting harmful or illicit behaviour. So if Facebook gets a request from law enforcement, it can disclose information based on a user name or the URL of a group, page or profile, as well as the creator and administrator of the group.

40. Japan remarked on the very worrying situation in some countries where authorities were unable to tackle this type of problem. It recognized that eBay had made progress in this regard. It proposed that either the ICPRCP or the Subsidiary Committee could share guidelines that explain how States Parties could tackle this new problem. It wished to know from Facebook whether any secret groups of art dealers had been detected. Turkey asked that the Secretariat circulate Mr Fagan’s contact information for additional questions. Argentina remarked that eBay gave a sense of how they controlled things, whereas Facebook was superficial on these issues, adding that Mr Fagan’s points were seen from a service provider perspective in that there was no legal accountability. Argentina was confronted with a closed Facebook group that had put itself forward as a treasure hunting group. The Syrian Arab Republic wished to have greater clarification on the parameters on the issue of illicit trafficking of cultural property, i.e. a breakdown of risk factors, obstacles, challenges and difficulties, as well as the role of digital technology. The Chairperson noted that Mr Tim Fagan had shared his email address.

d) Use of drones for the monitoring of heritage sites

41. Mr Salvatore Rapicavoli spoke on behalf of the Carabinieri – specialized in the protection of cultural heritage and works of art – that deploy preventive measures, control museums, auction houses and antiques dealers, and browse websites. It also performs contract activities, investigations and the recovery of illicitly exported items from abroad. It has 50 years of experience of training law enforcement agencies at the national and international level, and it increases awareness among citizens about the importance of protecting cultural heritage, particularly students and young people. In this regard it created the #Unite4Heritage task force that intervenes to protect and recover damaged buildings in case of threats to national cultural
property. Italy deals with several types of crime, such as art thefts and forgeries, illicit exportation of cultural heritage, and the trafficking of archaeological artefacts. It also tries to follow new technologies, using them in several areas of activity. This is the case for the fight against illegal excavations. It was also shown that the number of discovered excavations had decreased in recent years. In the past, helicopters had been used, but tests had now begun with drones, particularly in the cultural heritage sector as they were useful for monitoring and analysing sites, and to reach inaccessible areas. It was also possible to reconstruct 3D models to study areas in real-time and off-site. There are fixed wing drones and rotary wing drones. The fixed wing drone makes no noise when flying but does not support a heavy load. Rotary wing drones have several electrical engines and therefore produces noise, but it can transport any type of device as payload, though with more limited battery life. Several different types of sensors, such as geothermic sensors, can be used with both. Italian law strictly recommends that only a qualified pilot of an aircraft can pilot these devices remotely. A drone was used over an archaeological area known as a site of illegal excavations and it was possible to identify anomalies, i.e. holes in the ground. After checking at ground level, the drone operators realized that a 2-metre-wide pit contained an ancient tomb that had been looted by grave robbers. A drone is also easy to prepare and transport, and overhead flights are piloted by computer software where the drone’s route is plotted. The different pictures help construct an overview of the entire area, and a geothermal camera can be used to reveal anomalies. With software it is possible to construct a 3D model of the site, which is useful to study these areas. Mr Rapicavoli then spoke of the use of drones by the #Unite4Heritage task force following the earthquakes in central Italy. The unit wished to recover some artefacts from a church and had used the drones to inspect the site because it was impossible to enter. As a result, the masterpieces were recovered. The use of drones had many benefits for the sector of cultural heritage, such as photogrammetric surveying, as well as for making 2D or 3D models, keeping costs low, while enabling the scouting of many sites. Also, drones could load several devices. Law enforcement could thus use drones to monitor ecological areas, monuments, landscapes and so on, as well as for use during natural disasters.

Ms Mechtild Rößler remarked that UNESCO used drones in a number of projects, for example, in the Bamyan Valley in Afghanistan to monitor the situation. The World Heritage Committee had made a presentation on using drones in Aleppo, and a film was presented on the situation in Mosul. There were thus many benefits, but also damage to a number of World Heritage sites due to tourist use, which required restrictions. Ecuador and Latin America enjoy excellent cooperation with Italy, and a number of bilateral agreements had been signed with Italy, encouraging other countries to follow suit, particular countries receiving cultural objects through art markets in Europe and in the United States. From this standpoint, Ecuador noted the many European countries that had introduced creative initiatives to return cultural objects to their countries of origin. These practices could be included on a list of best practices on the Convention website. Italy wished to know how much a well-equipped drone would cost for archaeological investigation. A professional drone with a mounted sensor would cost from about €12,000 to €16,000. Ghana was delighted of the progress made in monitoring and preventing illicit trafficking, but wished to know how people were deterred from trafficking and buying stolen cultural goods given that the art markets and antique dealers were the key stakeholders in this chain of illicit trafficking. The Secretariat engaged in work with the art market in raising awareness among professionals towards deterrence. Increasingly, Member States were equipping themselves in terms of legislation. For example, the Council of Europe had just adopted a Convention in addressing this aspect of criminalization in the illicit trafficking of cultural property. It was thus part of the current debate on the issue.

THE BROKEN HILLMAN SKULL (ZAMBIA AND UNITED KINGDOM)

43. The Chairperson returned to the draft recommendation 21.COM 8 agreed upon by the United Kingdom and Zambia, and Recommendation 21.COM 8 was declared adopted.
CONTEMPORARY ISSUES CONCERNING ILLICIT TRAFFICKING OF CULTURAL PROPERTY

e) Blockchain technology for the protection of cultural heritage

44. Mr Isola Giorgio, co-founder with Martino Merola of the start-up KAPU³, explained that Kapu aimed to create a worldwide database to record information on archaeological items in a simple, safe and free manner. Capua (which lent its name to KAPU) was one of the few Roman cities to form an alliance with Hannibal, cutting all relations with Rome and creating and distributing its own currency. The city of Capua put in place a system that preserved people’s registers, and copies were made and distributed geographically across strategic places in the city. This idea of preserving and ensuring the longevity of precious information underpinned the KAPU project. KAPU is a crypto-currency based on block chain technology. Its objective is to preserve virtual information on archaeological items. The crypto currency is just one of many different applications of the block chain. Thanks to a lack of centralized management, the block chain can be sent with no intermediary, allowing for the risk-free exchange of data between two entities. The block chain databases are made up of various nodes, which are interconnected computers, each one containing an exact copy of the database within it. Each node verifies new information added to the block chain and is capable of inserting new data into the database. This, in fact, makes it possible to prevent any form of sabotage and do away with the central authority. So block chain is a decentralized database distributed and encoded with specific safety rules. It is an archive open to all participants (the nodes) who can change the data with the agreement of all the others. A block chain is open and transparent. All participants can see all the information at all times. The transactions are archived in blocks, which are managed through cryptography by the nodes, i.e. the computers connected to the block chain network. Each block is unique and linked to the preceding block by a system of verification and approval. This results in each node being an archive of the entire block chain. There are various systems – the best-known block chain is the proof-of-work system, which is used by Bitcoin. Contrary to this, KAPU uses the so-called DPoS system, Delegated Proof of Stake, which has much lower energy consumption and is therefore more eco-friendly. In the DPoS system, the approval of blocks does not cover the entire network of 51 delegated nodes; a form of representative or delegated democracy. The validation activity of the blocks by the delegated nodes is a process called ‘forging’. When a delegated node validates a block there is compensation paid in the form of a cryptocurrency called KAPU. So the KAPU system has two entities: the KAPU coin, which is a crypto-value, and the DIANA, which is the technological hub of KAPU. There are two main applications of DIANA: the approvals and authorization. The notaory approval means recording the archaeological items by authorized subjects, such as archaeologists or museums, which guarantees a certificate of authenticity. There is also the possibility to transfer ownership of the item. The aim of KAPU is therefore to use all possible technological innovations to preserve the cultural and archaeological heritage of humankind.

45. The Chairperson closed the session and thanked all the presenters. Germany clarified that it had only financed the participation of five representatives from Africa for the 1 June conference. Japan believed that eBay, Facebook and the others could have been invited to a joint session with the Subsidiary Committee, while the aim of ICPRCP should instead focus on the two cases, namely, the Parthenon Sculptures by Greece and the Broken Hillman Skull by Zambia, for which they could have been given more time to speak, as this was at the heart of ICPRCP’s work. Guatemala congratulated the Chairperson, adding that Mexico always consistently showed leadership on these issues. Also, Turkey’s successful case should be included in a list of best practices, giving greater visibility to the Convention. Ecuador agreed that some issues should be taken up by the Subsidiary Committee with more linkages between the two bodies. Preparing the next session, it would be beneficial to have prior consultations so as to flesh out the items on the agenda, as recommended by the General Conference. For this reason, the work on the Rules of Procedure would be very important. Ecuador agreed with Japan that it

³ Read more about the project at https://kapu.one
was regrettable that the countries involved in these cases were only given a couple of minutes to discuss these weighty and serious issues given that this was the ICPRCP’s mandate. Hence the importance of a far-reaching revision of the Committee’s working methods and the Rules of Procedure. The Republic of Korea appreciated ICPRCP’s role as the platform of negotiation, mediation and conciliation for the restitution of important cultural objects, and that the Committee should strive to enforce and strengthen the combined efforts of NGOs and public and private institutions, including museums, libraries and religious organizations, as well as the general public and local communities. It reiterated the importance of the comprehensive report of the sixth International Conference of Experts on the Return of Cultural Property held in Gyeongju, Korea, in October 2016, including the Gyeongju Recommendations. It held the view that the low-level networking of experts independent of governments was equally important as intergovernmental cooperation. Egypt returned to the remarks made by Japan regarding the topics that may best be suited to the Subsidiary Committee, adding that it might be interesting to consider a 4-part document, including: i) the principles of such a synergy, while clarifying the boundaries of the two distinct entities to reassure some concerns; ii) the topics that are the sole responsibility of the 1970 Committee; iii) the subjects that are the sole responsibility of the ICPRCP; and iv) the exact modalities of synergy. South Africa was encouraged by the compromise reached between Zambia and the United Kingdom on the Broken Hillman Skull, as well as the willingness of both countries to resolve the issues of recovery. The Syrian Arab Republic thanked the Chairperson for the important consensus text on the case of the Broken Hillman skull, and congratulated Zambia and the United Kingdom for their willingness to work towards a consensus. It was also important to listen to international partners, such as Interpol, UNIDROIT, WCO, ICOM, and have presentations on such contemporary issues as technology.

46. Germany echoed the remarks by Japan and Guatemala on the importance of the work of the Committee, but also recognized that it was set up specifically for cases falling outside of the 1970 Convention, whereas illegal trafficking in cultural property, questions of import and export and due diligence fell within the remit of the Subsidiary Committee and the Meeting of the States Parties of the 1970 Convention. Thus, synergy between the Committees was very important. It agreed with Japan that the Committee should focus on the two pending cases put forward. Greece was grateful to Japan for raising this important issue of the time allocated to agenda items concerning disputes, which deserved more time. The Secretariat confirmed Germany’s clarification that it was not involved in the organization of the conference. Palestine concurred with the remarks concerning the agenda of this Committee and the Subsidiary Committee in which some issues were common to both while others were exclusively within the remit of this Committee. Nevertheless, pending cases should be given more time.

DATE AND PLACE OF THE 22ND SESSION OF THE ICPRCP

47. Ecuador repeated its earlier comment that it wished for the Committee to meet in 2019 so as to comply with the mandate of the General Conference, which applied to all the Subsidiary bodies. The Committee should at least convene an extraordinary session pursuant to Rule 4.2 to address the proposed amendments to its Statutes and the Rules of Procedure. However, should the Working Group achieve some concrete results, then it could meet during the General Conference. Japan reiterated that it was not keen for the meeting in 2019 for financial reasons, and because this did not have to be done before the General Conference as the Statutes would remain untouched. Armenia sought clarification regarding the necessity for changes to the Rules of Procedure to be approved by the General Conference. The Secretariat clarified that the ICPRCP had full sovereignty to amend its Rules of Procedure and it was thus not a requirement. Benin also sought a clarification on a proposal by the Secretariat to limit the number of mandates, which pertained to the Statutes. The Secretariat explained that any amendment to the Rules of Procedure of the ICPRCP must be done within the framework of the Statute for which the General Conference must validate the changes. However, the current understanding was that the Committee was amending its Rules of Procedure within the current Statutes of the Committee. Benin felt that this was thus limiting the scope of the revision.
Guatemala noted the increased momentum and visibility of the Committee’s work and asked what would be the additional cost to convene a meeting during the General Conference. The Secretariat explained that there were financial and practical implications, for example, the availability of rooms and the schedule already planned in 2019. The Secretariat reiterated that the Rules of Procedure could be amended, but with the exception of Articles in the Committee’s Statutes. The mandate of the Committee could only relate to the Rules of Procedure and this decision must be taken in plenary by a two-thirds majority of the Members present and voting. The Committee could not touch the Statutes of the Committee, as they were accountable only to the General Conference. Egypt understood the rationale behind Ecuador’s suggestion, as well as the financial and legal considerations, and the fact that the Committee may not be in a position to adopt any proposals as yet. However, it wondered whether it was possible to adopt a conditional text, i.e. to convene a quick meeting, pending financial considerations. Japan was not against the meeting, but was concerned about the financial situation.

The Secretariat noted that there were two meetings proposed: the 22nd session of the Committee, and the extraordinary meeting. Moreover, financial and logistical considerations were extremely important with regard to the Secretariat being able to implement the decision. The Chairperson clarified that the original proposal decided on the date of the next session of the Committee, as well as a second paragraph that took into account the proposal presented by Egypt subject to the availability of extrabudgetary funds. Egypt concurred that this was a compromise proposal for a second paragraph, and not a replacement of paragraph 1; the meeting could be held for five or ten minutes just to adopt the proposals. In terms of organization, the Secretariat explained that whether the meeting took place for ten minutes or one full day, the cost would be the same. Egypt clarified that the meeting could be brief, for which interpretation would not be required. Ecuador was grateful to Egypt for its attempts to come up with a consensus, but it could not accept Japan’s amendment. It fully understood that the next regular Committee session would take place in 2020, but the extraordinary session needed to be convened. The General Conference had asked the Committee to exert efforts to adopt amendments to the Rules of Procedure, which should not rely on the availability of extrabudgetary resources. Ecuador sought to hear from the Legal Adviser. The Chairperson clarified that whenever a meeting was organized within UNESCO it was contingent upon budgetary resources. An extraordinary meeting would thus require additional resources. Italy recalled that the Working Group meeting would be held in May 2019, and the extraordinary meeting could take place immediately afterwards. Japan explained that it could not conclude an outcome of the Working Group without first submitting its results to its capital for legal input. Egypt remarked that at the end of May, should the Rules of Procedure be ready, each Member State could send a notification to the Secretariat agreeing with the Rules of Procedure.

Ecuador found the idea interesting as long as the General Conference was aware of the ongoing amendments, which could be seen as a green light by the Working Group. The Chairperson appealed to Ecuador’s understanding as it would not be possible to consult the Legal Advisor. Ecuador wished to hear from the Secretariat whether other Subsidiary Committees that reported directly to the General Conference would meet during the course of the General Conference, and whether budgetary resources were an issue. The Secretariat explained that any extraordinary session has financial implications. Armenia remarked that this meeting was clearly important for some Members of the Committee, and to avoid the financial implications, the Working Group could possibly convene in March or April to agree on the changes to the Rules of Procedure. After which a 30-minute extraordinary meeting of the ICPRPCP could be held before the opening of the Meeting of States Parties. The Chairperson clarified that the Committee had already taken a decision on the Working Group. The Chairperson asked Ecuador whether it would object for this Committee to take a stance in this case, even if it was not necessarily the case for other Committees, given the extraordinary financial situation currently faced by the Convention. Ecuador accepted the amendment as it currently stood. Nevertheless, the Committee had to find a way to get the Working Group and the Committee to adopt the proposed amendments. With no further comments or objections, the Chairperson declared Decision 21.COM 12 adopted.
50. Algeria remarked that any change in the Statutes must be adopted before the next General Conference because it must also take into account the fact that the composition of this Committee would change at the next General Conference, which might alter the position taken on some of the amendments. It was also extremely uncomfortable with the decision regarding extrabudgetary funding, as the adoption of statutory amendments should not be dependent on extrabudgetary funds, which would set a precedent. Any fundamental text of any Committee must be carried out with Regular Programme funds. The Secretariat reassured the Committee that it was committed to the success of the Committee’s work and would thus take all the necessary steps to find the extrabudgetary funds required.

ORAL REPORT OF THE RAPPORTEUR

51. The Rapporteur, Mr Ali Al Taie, recalled that the session was opened by Ms Mechtild Rössler, who had highlighted the core of the work of the ICPRCP and the importance of international cooperation. A new Bureau was elected at this 21st session of the ICPRCP. Mr Federico Salas Lotte, as Chairperson, and Armenia, Benin, Italy and Pakistan were elected as Vice-Chairs. The Secretariat’s report was presented, followed by discussions on the need to amend the Rules of Procedure of the ICPRCP; only four Member States had submitted proposals. Some Members of the Committee expressed concerns about the 1 June conference replacing the forum of discussions that was originally decided, and for not having been consulted regarding the content. The forum of discussion would now take place during the next session of the Committee. The Secretariat presented some proposals for the amendment of the Rules of Procedure. The Committee agreed that broad participation was essential to ensure that the new amended Rules of Procedure be consolidated and discussed during the Working Group convened in 2019. Various discussions took place regarding the timeline for the examination and future adoption of these Rules. Many Members stressed the importance of fostering synergies between the ICPRCP and the Subsidiary Committee. Turkey presented the positive outcome of bilateral cooperation with the United States of America on the restitution of the Zeugma Mosaics. Another information case concerned the Hebrew Iraqi Manuscript with Iraq calling upon Israel to return the object. Palestine provided information on the Qumran Dead Sea Scrolls. With regards to pending cases, Greece and the United Kingdom presented the case of the Parthenon Sculptures. The second case involved the United Kingdom and Zambia on the Broken Hillman Skull. Presentations were given on free ports in which Mr Haldimann explained the challenges, indicating that the art market in particular should ensure that they only sell legitimate and fully documented cultural property. eBay explained the policies put in place to fight the illicit trafficking of cultural property. Facebook discussed ‘Marketplace’ and how it cooperates with law enforcement agencies. The Italian Carabinieri presented the use of drones. The KAPU team presented its ongoing project regarding the application of block chain technology in the protection of cultural heritage. Many Member States stressed the need to strengthen the cooperation between the Subsidiary committee and the ICPRCP, thus opening further opportunities for Member States to discuss relevant issues of concern. Furthermore, the Committee decided to convene an extraordinary session on the condition of available extrabudgetary funds. The official and formal session would be held in May 2020 in Paris.

52. On behalf of the Assistant Director-General, the Secretariat thanked the Committee Members, partners, experts and Observer States for the discussions throughout the session, reminding the delegations of the important 40th anniversary of the Committee. The Assistant Director-General was aware of the importance of the Committee with regard to the growing number of requests for the return and restitution of cultural goods. Good practices had been shared and certain States emphasized that the Committee’s role was more relevant than ever. The Secretariat and the Assistant Director-General of UNESCO also took note of the conclusions that emerged from these discussions on the governance of the Committee and the Committee’s decision to establish a Working Group to consider amendments to the Rules of Procedure, but also to consider an extraordinary session of the Committee with a view to improving working methods and increasing efficiency. The 1 June conference would present a
new perspective of the circulation of cultural property and shared heritage. The Assistant Director-General understood the concerns of the Member States regarding the organization of the conference, reassuring them that the Chairperson, Mr Federico Salas Lotfe, would officially close the conference. The Secretariat thanked all the colleagues who had worked tirelessly on the two statutory meetings, as well as all those working behind the scenes. The Chairperson offered thanks to all the Members of the Committee, the Observers and experts that had joined the Committee, as well as the Secretariat and the conference support team. The Chairperson closed the 21st session of the Committee.