EFFICIENCY IN THE IMPLEMENTATION OF THE CONVENTION

The questions below relate to the implementation of paragraph 3 of the Decision SC 6 bis with regard to the efficiency in the implementation of the Convention.

1) How does your country wish to improve the implementation of the Convention (please elaborate briefly).

- Dispute resolution procedures specified in the 1970 Convention are Article 7, 9, 13 and 17; amongst them, Article 7 and 9 are needed to be standardized and strengthened.
- Article 7 states a specific procedure subject to the ‘public collection’ that is documented as appertaining to the inventory of an institution including a museum. In order to secure effective implementation of the Article 7, bilateral treaty between the interested States as well as domestic legal system for criminal and civil seizure and forfeiture are required. However, a low level of practical measures to implement Article 7 has been undertaken by each State Party due to an inadequate signing of a bilateral treaty and a big gap of domestic legal system concerning the criminal and civil seizure and forfeiture.
- Article 9 is so called ‘crisis provision’ and aims to protect specifically archaeological or ethnological materials. This Article not only specifies calling upon other States Parties, controlling exports and imports and international commerce, and taking provisional measures but also requests to participate in a concerted international effort. Although signing of a bilateral treaty between the interested States and creating a ‘regional initiatives’ are necessary for effective implementation of this Article, it has not been well practiced so far.

2) Which pillar(s) of the Convention should be given priority in terms of strengthening the implementation? (Please tick the box(es) and provide explanations if need be).

( ) Prevention

( ) Return and Restitution

( V ) International Cooperation
- Given the fact that transfer and traffic of a stolen cultural property often occurs between the neighbouring countries, information sharing and constant
cooperation between the police, customs, and cultural property authorities of the neighbouring countries are essential.

- To implement Article 9 specifically stating the necessity of international effort as mentioned above, strong cooperation and information sharing between police, customs and cultural property authorities are required.

( ) other

3) Does your country have any specific proposals and examples regarding the strengthening of the implementation and efficiency of the 1970 Convention? If yes, please provide your input under the most relevant section.

a) Prevention

- Professional and systematic investigation on the cultural property contributes significantly to the prevention of illicit traffic of cultural property, whereas training investigator specialized on the cultural property requires certain period of time and experiences.

- The Korea National Police Agency adopted Cultural Heritage Investigator System on July 20, 2015 and commissioned the Cultural Heritage Administration to provide education and training on the cultural property to the police officers selected by the Agency. After training, each two or three officers are assigned to an investigation of cultural property at the Intellectual Crime Investigation Team of each local police agency. This system allows cooperation between the two organizations when a cultural property related investigative case opens.

b) Return and Restitution

- On April 7, 2017, the Government of the Republic of Korea returned illegally imported Mongolian dinosaur fossils to the Government of Mongolia. This return was made possible through information sharing on the illicit trade of the fossils between the prosecutor’s offices of the two countries from the beginning of the investigation.

- Given the Article 7 states the recovery and return of a cultural property that is documented as appertaining to the inventory of a religious or secular public monument or similar institution shall be made through diplomatic offices, buried cultural property which cannot be documented as an inventory of such institution could not be the subject of diplomatic cooperation between the States Parties.

- Thus, the Korean government has actively cooperated with the Mongolian Prosecutor’s Office in order to effectively cope with the clandestine excavations of buried cultural property from the early stage of this case such as through securing the evidence of illicit trade of the property. The fossils were finally seized according to the Korean criminal law and returned to the Mongolian government.
c) International Cooperation


- Although cooperation on the prevention of illicit traffic of cultural property between the nations generally made through diplomatic channels, diplomatic offices are lack of expertise on the cultural property and have no authorities in investigation. Moreover, domestic legal restrictions often cause substantial amount of time. Thus, it is essential to maintain close cooperation between the governmental organizations responsible for the practical matters of stolen cultural property.

- In case of the Republic of Korea, cooperation with the U.S. government has been significant issue given cultural properties stolen by the soldiers served during the Korean War (1950-1953). Accordingly, the Korean Cultural Heritage Administration established direct cooperative channel with the U.S. Immigration and Customs Enforcement and the Homeland Security Investigations which has the authority of investigation, seizure, and forfeiture of the stolen cultural property in the U.S.

- This has accomplished remarkable results since the Korea-U.S. investigative cooperation started in 2010 and multiple important Korean cultural properties have been returned to Korea.

d) Other

4) With regard to Return and Restitution, does your country have any suggestions regarding the interaction between the Subsidiary Committee and the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in case of Illicit Appropriation (ICPRCP)?

- ICPRCP is an intergovernmental committee responsible for seeking ways and means of facilitating bilateral negotiations and providing good offices, mediation for the restitution or return of cultural property illicitly exported from the country of origin due to the war, colonization, occupation by foreign army, etc. Subsidiary Committee is mainly responsible for monitoring the strengthened implementation of the 1970 UNESCO Convention.

- As a way to ensure ICPRCP’s role and function as a pivotal international organization of dispute resolution through an assistance from the Subsidiary Committee, notable matters of Subsidiary Committee can be reported at
ICPRCP Session to enhance Member States’ understanding on such matters.

5) Considering the momentum gained through the establishment of the Meeting of the States Parties, the creation of the Subsidiary Committee and the adoption of Operational Guidelines for the implementation of the Convention, how could these governing bodies be better utilized in order to strengthen the Convention and support States Parties’ interests?

- With long-term view, revision of the convention can be considered in order to establish and provide financial support a general meeting and subsidiary committee.

6) How useful in your experience, are the existing legal and practical tools produced by the Secretariat? Do you have proposals for possible future deliverables by the Secretariat? If so, would you be prepared to provide resources to deliver them?

- Importance of the International Code of Ethics for Dealers in Cultural Property can be highlighted by the fact that it enhances transparency in trade and prevents the illicit traffic. With acknowledgement of such significance, the dealers in Korea voluntarily announced the Code of Ethics on August 1, 2007 and have made efforts to secure the transparency in trade of cultural objects.
- Based on the UNESCO Database, the Korean Cultural Heritage Administration has conducted in-depth research on the common law to prepare civil replevin since 2010.

7) Do you have further suggestions to improve the dissemination of the tools produced by the UNESCO Secretariat?

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¹ Practical tools: Model Export Certificate for Cultural Objects (UNESCO-WCO); UNESCO International Code of Ethics for Dealers in Cultural Property; UNESCO Database - National Cultural Heritage Laws Basic Actions concerning Cultural Objects being offered for sale over the Internet (INTERPOL-UNESCO-ICOM)

Legal tools: Model Provisions on State Ownership of Undiscovered Cultural Objects; Rules of Procedure for Mediation and Conciliation
- No specific suggestions

8) Once a tool is produced to support the implementation of the Convention, endorsed by the relevant governing bodies, what steps should be taken by the national authorities in order to ensure that all relevant governmental or related experts are aware of the existence of the tool and make use of it?

- Since 2016, the Korean Cultural Heritage Administration has offered three-days of educational course to the experts working at the museums, police agencies, and customs for the enhanced understanding and utilization of the tools produced by UNESCO Secretariat.

- Through sharing their expertise and experiences, the participants were highly satisfied with this course.

9) Have you or other stakeholders in your country benefited from capacity-building activities/tools related to preventing illicit trafficking of cultural property developed by the Secretariat? If so, give examples and indicate briefly the resulting effect or change.

- Since 1999, the Korean government has distributed Korean version of Object ID to the museums and institutions in the nation and in 2002, commissioned the National Museum of Korea to apply Object ID and develop synthetic computerized program called Standard Collection Management System and provide it any museum or institution in need free of charge.

- Each national museum independently established Collection Regulations to strengthen provenance research in advance to the purchase of a cultural object and check the illicit trade including theft.

- Such changes demonstrate the significant improvement in the Korean national museum’s cultural object purchase policy.

10) Do you have suggestions for how the capacity-building programme could be further improved, should financial resources be available?

- No specific suggestions

VISIBILITY AND PROMOTION OF THE CONVENTION
The questions below pertain to the implementation of paragraph 3 of the Decision 5.SC 6 bis with regard to the visibility of the Convention.

11) What steps have been taken by your national authorities to promote the Convention and its implementation in your country?

▷ Improvement of Cultural Heritage Import and Export Policy

- According to Article 39 and 60 of the Cultural Heritage Protection Act of the Republic of Korea, export of cultural property requires permission from the Administrator of Cultural Heritage Administration. This enables monitoring the export of Korean cultural property.
- The Korean Cultural Heritage Administration has dispatched cultural heritage appraisers to the fourteen airports and ports in the country for continuous monitoring of the illegal import and export.

▷ Changes in Collection Management Policy of the Korean National Museums

- As mentioned in the answer to the question no. 9, the Korean government has distributed Korean version of Object ID to the museums and institutions in the nation since 1999, and in 2002, commissioned the National Museum of Korea to apply Object ID and develop synthetic computerized program called Standard Collection Management System and provide it any museum or institution in need free of charge.

▷ Consciousness Enhancement through Promotion

- The Korean Cultural Heritage Administration has established a National List of the Stolen Cultural Property both in the Korean and English languages since April, 2014 and distributed it to the States Parties of the 1970 UNESCO Convention, Interpol, and the U.S. Homeland Security Investigations for enhancing the consciousness on the stolen cultural property.

▷ Awareness-Raising through Education

- The Korean Museum Association has offered regular educational program on the prevention of illicit traffic of cultural property to the curators working at around four hundred museums in the country.
- Since 2016, the Korean Cultural Heritage Administration has conducted professional education to the officials serving the central and local government, cultural heritage institutions and museums, etc.
12) Does your country have any proposals regarding the improvement of the visibility and further promotion of the Convention including through the following organs/activities?

a) Statutory bodies

b) Capacity-building activities

c) Awareness-raising activities
   - Most vital activities to prevent the illicit traffic of cultural property are to establish a National List of the Stolen Cultural Property by each UNESCO Member State and manage such lists by UNESCO in a way of providing easy access to them.
   - Promoting the stolen cultural property not only can exclude good faith acquisition in civil law but also facilitates proof of Mens Rea in criminal law.
   - From the users’ perspectives, the Stolen Artefacts List currently provided through the webpage of the 1970 UNESCO Convention has certain limitations in its effectiveness as it is not categorized in a standardized form such as Object ID and not all the UNESCO Member States uploaded the lists.
   - On the other hand, the Works of Art Database established by Interpol contains diverse data in a standardized form of Object ID and has been offered to around two thousand people in the field of police agencies, customs, museums, and art dealership, but its access to the public is limited.
   - Thus, it is proposed that the UNESCO Secretariat considers the way to share Interpol’s database on the stolen cultural objects with UNESCO for the public users’ easy access.

d) Education material and activities

e) Publications

f) Online resources and web-pages
g) Media

13) Does your country benefit from the information and links available on the 1970 Convention webpage. Do you find information to be easily accessible and useful? If no, how would you recommend the Secretariat to develop its webpage?

- Please refer to the answer to the question no. 12.

14) Please provide any additional suggestions to increase the visibility of the Convention.

- It is suggested that in partnership with International Council of Museum (ICOM), World Customs Organization (WCO), and Interpol, UNESCO Secretariat develops a variety of educational materials containing the information on the implementation of the convention for the persons handling the practical matters at the museums, customs, police agencies, and auction houses.
- It also is proposed that each governmental bodies responsible for the implementation of the convention translates and distributes the materials to the relevant organizations and the Subsidiary Committee monitors each State Party’s distribution status.

CAPACITY BUILDING AND GOOD PRACTICES

The questions below pertain to the implementation of paragraph 3 of the Decision 5.SC 6 bis with regard to the opportunity to establish a List of Good Practices.

15) Does your country maintain a List of Good Practices pertaining to the implementation of the Convention? If yes, which criteria are used to establish such a national List?
- In 2015, the Korean government published a book on the List of Good Practices for the public education.
- The list was categorized according to the war, occupation by the foreign army, colonization, stolen and illicit export, division of the nation, etc, and selected based on the public interest and cultural heritage value.

16) Does your country inform the Secretariat on national good practices concerning the protection of cultural property?

( V ) yes
- The Korean National Commission for UNESCO informed the UNESCO Secretariat of the eleven Mongolian dinosaur fossils returned to the Mongolian government in April, 2017 through international investigative cooperation between the Korea-Mongol prosecution's offices.

( ) no

17) What in your view should be the criteria and assessment mechanism for a possible international list?

- It can be considered to establish a list categorizing the war, occupation by foreign army, colonization, illicit traffic and export, and a nation division and connecting each category with the dispute resolution ways such as negotiation, good offices, mediation, conciliation, investigative cooperation, and legal actions.

18) Does your country support the idea of the creation of an international list on the best practices of return and restitution cases?

( V ) yes
( ) no

19) How could Good Practices be better integrated in capacity building initiatives to strengthen the implementation of the Convention?

- In order to integrate Good Practices in capacity building initiatives, it can be suggested to provide success factors of each Good Practice drawn from legal analysis. It also can be considered to offer contact information of each case for further inquiry and feedback.
20) Additional Comments:

- Article 17 of the 1970 Convention states UNESCO may extend its good offices for a dispute resolution between the two States Parties at their request. While ICPRCP’s good offices are non-obligatory recommendation on the issues to which 1970 Convention is not applicable such as colonization and occupation by foreign army, the good offices stated in Article 17 are recommendation based on the treaty. Considering the good offices according to Article 17 have never been extended, its effectiveness can be questioned. Thus, it is suggested that UNESCO Secretariat conduct research and review on the good offices of Article 17 for its better utilization and implementation.