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**Fourth Session of the Subsidiary Committee of the Meeting of States Parties to the
Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and
Transfer of Ownership of Cultural Property (UNESCO, Paris, 1970)**

Provisional agenda item 7:

Summary of the round-table meeting with representatives
from the art market

This document contains the summary of the round-
table meeting with art market representatives

Background

1. The organization of this round table is intended to spread a joint message from UNESCO and the *Conseil des ventes volontaires* (CVV), in October 2015, to professionals in the art market, calling for greater vigilance on the provenance of cultural property originating from conflict zones.¹
2. It is also based on several decisions taken by the Subsidiary Committee of the Meeting of States Parties to the 1970 Convention at its third session, (28-30 September 2015),² with the goal of promoting dialogue between different stakeholders, in particular strengthening cooperation with art market professionals.
3. UNESCO and CVV, co-organizers of this event, hoped to encourage dialogue between States and all stakeholders in the art market, in the current context of growth in trafficking of cultural property. In this regard, it is essential to assess this trafficking, analyse its characteristics with regard to the international situation, evaluate prevention and enforcement mechanisms and, most importantly, identify synergies to develop so as to strengthen international cooperation.
4. The round table brought together more than 200 participants: representatives from the art market (professionals from the major auction houses, international, European and national auction house federations, associations of antique dealers and experts, etc.), museums, international organizations (INTERPOL, World Customs Organization, United Nations Security Council Monitoring Team, United Nations Office on Drugs and Crime (UNODC), International Institute for the Unification of Private Law (UNIDROIT), International Council of Museums (ICOM)) as well as government representatives, legal experts and cultural heritage protection specialists.
5. To introduce the four thematic sessions that marked the discussions, two experts presented studies on the state of the international art market (Ms Françoise Benhamou) and the state of trafficking in cultural property in the world (Mr Sam Hardy) (see programme in annex hereto).

Introduction

6. Françoise Benhamou, expert in cultural and digital economics, university professor, presented an overview of the current state of the international art market³, highlighting the following points:
 - The art market is polarized, paradoxical, divided, speculative and volatile.
 - While this market recorded consistent growth until 2014, auction sales around the world dropped by 10.6% in 2015.
 - Mapping the international art market shows that it is concentrated in five major cities (New York, London, Beijing, Hong Kong and Paris) and three areas (United States of America, China and Europe). Forty-three percent of the international market is concentrated in the United States of America alone.
 - The success of free ports reflects, in particular, the growth and globalization of the art market, and stakeholders' propensity to develop tax optimization strategies.

¹ http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/pdf/MESSAGE_UNESCOCVV_FINAL.pdf

² http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/pdf/3SC_List_of_Decisions_FR.pdf

³ http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/pdf/Francoise_Benhamou_Etat_du_marche.pdf

- Among the new models proposed to achieve greater balance in the art market are digital disintermediation (absence of intermediaries in sales) and the development of related markets (private sales, minor markets, etc.).
7. Samuel Andrew Hardy, archaeologist, historian and criminologist specialized in antiquities trafficking, presented the main results from his study on trafficking, provenance research and due diligence,⁴ emphasizing that:
- There are at present many threats to cultural heritage, in all its forms around the world.
 - Data on trafficking of cultural property is very disparate, unreliable and often absent.
 - Still, there is sufficient evidence to demonstrate that antiquities trafficking encompass not only petty crime and white-collar crime, but also organized crime and terrorism financing.
 - Trafficking in cultural property is particularly harmful in conflict zones, where it worsens the insecurity, and where vulnerable persons may be directly or financially forced to participate.
 - In this context, it is more important than ever to investigate organized crime and online trafficking, and to develop an evidence-based understanding of trafficking out of the zones of crisis, particularly in the Middle East and North Africa.
 - Cultural heritage cannot be effectively protected without market transparency and due diligence.

Round Table 1: The difficulty of establishing provenance for cultural objects from plundered archaeological sites

8. At this first session, three experts represented “source” regions (Latin America, Middle East and West Africa). They all emphasized the many concrete difficulties encountered in terms of archaeological pillaging and the exercise of due diligence in ascertaining provenance of cultural property.
9. Each of them also indicated that archaeological pillaging was linked to the subsistence needs of local populations and to political and economic instability in certain countries (in particular Iraq, Syrian Arab Republic, Libya, Mali and Yemen at the present time). In most cases, it appeared that fake or falsified documents accompanied trafficked cultural property, making it difficult to trace its provenance.
10. In countries with a rich archaeological and cultural heritage, local populations must take greater charge of this heritage so as to better protect it. Greater awareness was then especially crucial in this domain.
11. For their part, auction houses had greatly reinforced their surveillance and regulation mechanisms over the previous ten years, and considered they had significantly improved their practices in terms of ethics and diligence requirements.
12. Furthermore, in addition to the major role played by technology, the importance of the human factor in combating trafficking in cultural property was reiterated.
13. Finally, collectors and museums, as the final stage in the acquisition of cultural goods, must be proactive and take every useful precaution to ensure the legality of property on sale.

14. With regard to the current situation in the Middle East and the international moratorium established by United Nations Security Council resolution 2199 (2015) concerning Syrian and Iraqi cultural property, buyers should refrain from acquiring goods from these two countries.

Round Table 2: The role of transit States and market professionals in combating trafficking

15. Conflicts currently raging, mostly concentrated in the Arab States, have highlighted the now inextricable link between cultural heritage protection and international security. Accordingly, the countries through which transit cultural goods of illicit origin from this region have a crucial role to play in combating trafficking of cultural property.
16. The experts explained, with many examples, the long, complex supply chain of trafficked cultural goods, most often transiting several countries and using different types of transportation. This component clearly made it more difficult to research provenance and trace such objects.
17. The experts were unanimous that it was absolutely necessary for the transit States to gather data, as concrete and precise as possible, on trafficked cultural property to ensure better information sharing with law enforcement services in the destination country.
18. United Nations Security Council resolutions 2199 and 2253, both adopted in 2015, clearly indicated that trafficking of cultural property, and of oil resources in particular, contribute to the revenue of terrorist groups. Accordingly, the responsibility of stakeholders in the art market in curbing these funding sources was more important than ever.
19. Regarding the fight against money laundering and tax fraud, some States had strengthened the legal framework for customs transit, following the example of free ports in Switzerland. Thus the Swiss legislation included more restrictive measures: all cultural goods entering transit zones must be inventoried and the exporters are required to declare the destination of these objects and provide information on the identity of the buyer.
20. Furthermore, the lack of human and financial resources was clearly a major obstacle to combating trafficking in cultural property; police and customs agents in port, airport and border zones must also focus their efforts on other forms of trafficking (drugs, weapons, etc.).
21. The art market experts stressed the necessity of starting a continuous dialogue between professionals in the industry and States, in particular in case of doubt regarding the provenance of cultural goods for sale. The importance of inventory and other preventative measures was also emphasized, as well as the fact that using such tools had already enabled the restitution of cultural goods.

Round Table 3: Diligence of professionals and market regulation to combat trafficking

22. The destination countries (United States of America, Europe, etc.) were the majority at this session.
23. The art market representatives emphasized again the progress made in the sector for greater transparency in the stakeholders' professional practices. Accordingly, it was also highlighted that their active participation in the fight against trafficking in cultural property defined their reputation and showed them to be morally, ethically and economically responsible.

24. All of the speakers underlined the importance of in-depth criminal investigations and increasing international cooperation for information sharing and the identification of stolen property in circulation, as well as merging existing databases.
25. The harmonization of national legislation was the principal challenge. To remedy shortcomings in the restitution of cultural goods, over 20 years ago UNESCO established UNIDROIT, the International Institute for the Unification of Private Law, responsible for applicable legal provisions in private law around the world. The UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects was adopted in 1995 but this international legal instrument has been ratified by only 37 Member States to date. However, the legal protection mechanisms in this Convention complemented those of the 1970 UNESCO Convention, covering private law and illicitly excavated archaeological objects. These provisions also included a reversal of the burden of proof regarding the owner of a stolen object; the owner must then prove to have exercised due diligence when acquiring the aforementioned object, taking all necessary precautions to ensure that the acquired cultural good had not been stolen. In this regard, the Convention has allowed for an array of indicators for determining good faith especially: position of parties, price paid, prior consultation of registers of stolen cultural property, etc.
26. The influence of this Convention on the new applicable provisions concerning the fight against trafficking in cultural property was currently growing, including in countries who have not yet ratified the Convention (Switzerland and the Netherlands, for example). Some of these fundamental principles, including the principle of due diligence, were reflected in Directive 2014/60/EU, which European Union Member States were required to transpose into their own national legislation.
27. The issues with online sales of cultural property also evoked great concern and controversy, in particular regarding the difficulty of ascertaining the volume and type of goods for sale on the Internet. For the most part, simple sales platforms were used and the goods sold did not pass through the company's warehouse; thus it was more difficult to adequately monitor and regulate sales. Furthermore, the teams in charge of regulations were unable to conduct searches or seize objects. They were only able to withdraw certain goods from sale or delete online accounts of those not respecting the applicable legislation. Nevertheless, partnerships had been developed between certain online sales platforms and States, and such initiatives should be more expanded more broadly, all the more so as Security Council resolutions 2199 (2015) and 2253 (2015) aimed to freeze the financial and non-financial holdings of terrorist groups and as cultural property was at present on the list of revenue-generating assets for their ruinous activities.

Round Table 4: Challenges, solutions and prospects

28. The panellists at the last round table reiterated and emphasized the arguments developed at previous sessions, highlighting the measures needed to make the market more transparent, better implement due diligence, and strengthen cooperation with States in the fight against trafficking of cultural property.
29. All stakeholders in the art market also expressed their determination to actively combat trafficking. With that goal in mind, they expressed the hope that the many preventative tools and resources would be made available to them in order to better use them and distribute them to their members.
30. The speakers also all reiterated the absolute necessity of harmonizing the different national legislations in order to better regulate the international art market and sanction any involvement in illegal activity. Some examples included bills currently being discussed in France. The first bill dealt with organized crime and provided for a specific infraction

regarding trafficking of cultural property by a “terrorist group theatre of operations”. The second provided for the cancellation of a public acquisition in the instance where evidence of the illicit origin of cultural property sold was confirmed after the sale had taken place.

31. Finally, combating trafficking in cultural property was so complicated to define and implement because States were faced with numerous challenges, and many of them were considered to be source and transit and destination countries. There were then a great many networks and channels feeding this devastating practice that were difficult to control.

Summary of suggestions and recommendations

32. In light of the different statements, the organization and structure of international cooperation and the reinforced application of ethical standards could be interpreted as:

- Reinforcing preventative measures and implementing them in the countries of origin.
- Increasing vigilance of the record of ownership of an object on sale.
- Harmonizing legislation applicable to the fight against trafficking in cultural property to prevent looters and traffickers taking advantage of the legal void.
- Systematically verifying the authenticity of provenance documents, with regard to the significant amount of falsified information.
- Intensifying cooperation and communication between the various stakeholders involved, at all steps in the process.
- Ensuring more extensive training on provenance research and object identification for museum and auction house professionals.
- Further consulting countries of origin (through embassies in particular) of cultural property for sale.
- Systematizing the use of existing practical tools (ICOM Red Lists, the INTERPOL Stolen Works of Art Database, etc.).
- Strengthening border controls.
- Optimizing the implementation of regulations.
- Systematically alerting law enforcement authorities so that their agents are able to strengthen the process of investigation, seizure and arrest.
- Increasing collaboration and information exchange between the different stakeholders involved, in particular between States and auction houses.
- Applying civil and criminal penalties in the instance of the absence of diligent control.
- Emphasizing the liability regime of art market professionals in terms of trafficking and money laundering.
- Making police registers compulsory in order to improve traceability of cultural property for sale and strengthen requirements for art market professionals.

33. The suggestions and recommendations above are explained in detail in the Operational Guidelines for the Implementation of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (UNESCO, Paris, 1970),⁵ thereby demonstrating their usefulness.

Closing of the Round Table

34. Ms María Vlazaki, Chairperson of the Subsidiary Committee of the 1970 UNESCO Convention, Ms Catherine Chadelat, Chairperson of *Conseil des Ventes Volontaire* and Ms Mechtild Rossler, Director of the UNESCO Division for Heritage welcomed the quality of the debates and the importance of an event which had enabled them to bring to light crucial challenges and encourage all stakeholders to work more closely together in order to more effectively combat trafficking in cultural property, in particular that originating from conflict zones.

35. It was clear from the speeches and debates that in order to better curb and end this problem, there was an absolute need for greater awareness-raising, cooperation and communication between public and private sectors. An increase in the level of diligent control, in particular, by stakeholders in the art market (art dealers, gallery owners, online sales platforms and art collectors) was recommended, as was reinforcing criminal sanctions, increasing training for police and customs agents and harmonizing national and international regulations.

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http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/pdf/OPERATIONAL_GUIDELINES_FR_FINALE_FINALE.pdf