



Organisation
des Nations Unies
pour l'éducation,
la science et la culture



Convention
pour la lutte
contre le trafic illicite
des biens culturels

Extra MSP

C70/13/Extra.MSP/Rapport
Paris, 6 August 2013
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**Extraordinary 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)**

Paris, UNESCO headquarters, room XI
1 July 2013

Final report/minutes

SESSION OPENING

1. The Extraordinary Meeting of States Parties to the 1970 Convention on Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (hereafter referred to as “the Convention”) took place in UNESCO Headquarters in Paris on 1 July 2013. It featured 315 participants, including: 272 from 109 of the 123 States Parties to the 1970 Convention; 14 from 8 States not Parties to the Convention; 7 representatives of 5 intergovernmental organizations; 8 participants from 3 Non-Governmental Organizations (NGOs); 1 observer; and 13 members of the UNESCO Secretariat.

2. In an audio-visual address, **UNESCO Director-General**, Ms Irina Bokova, emphasised the historic importance of the Meeting, which was intended to help strengthen the means of action of the 1970 Convention by electing a Subsidiary Committee. She also hailed the States Parties' collective will to speed up the spread and application of this treaty and thereby give better protection to cultural property. She mentioned the example of Syria, where all world heritage sites have been inscribed on the list of world heritage in danger, in order to highlight the need to tackle all forms of illicit trafficking in cultural property. Lastly, the Director-General saluted encouraging initiatives such as the recent return of two Khmer statues to Cambodia by the New York Metropolitan Museum of Art.

3. On this subject, the **Cambodia** delegation recalled that this return coincided with the work of the 37th Session of the World Heritage Committee in Phnom Penh and Siem Reap Angkor, which was held between 16 and 27 June 2013. During the opening ceremony, the New York Metropolitan Museum of Art handed statues of Sahadeva and Nakula back to Cambodia, with these statues being two of the nine statues of the Prasat Chen of Koh Ker, which date back to the 10th century and of which eight were stolen and illegally exported in the 1970s. The Cambodian representative then hailed the exemplary collaboration implemented by the Royal Government of Cambodia, UNESCO and other friendly countries. He also thanked the Metropolitan Museum and its president, Ms Emily Rafferty, and paid tribute to the professional ethics underpinning the transaction. Cambodia eventually issued an urgent appeal for institutions and individuals holding the other parts of the collection ¹to follow the example set by the Metropolitan Museum and hand back these heritage elements.

4. The **Assistant Director for Culture (ADG/CLT)** recalled that during their last General Assembly, in June 2012 during the Second Meeting of States Parties, the UNESCO Director General proposed convening this Extraordinary Meeting in 2013, i.e. one year ahead of the schedule provided for by the Internal Regulations that had just been adopted. He reiterated that the States Parties agreed that the aim of this was to speed up the creation of governing bodies and elect the members of the Subsidiary Committee. Mr Bandarin emphasised the international community's political will to take a united stand against the illegal trafficking of archaeological and artistic objects in an emergency situation across the world, notably in Mali and Syria. The ADG/CLT expressed his gratitude to the Swiss Government for its constant support with the programme's implementation and thanked China, Greece and Turkey for their help with organizing the Meeting. He also mentioned the use of the Emergency Fund authorized by the DG. An appeal was issued to States Parties to increase their support of the Secretariat in terms of human and financial resources. The Convention Secretariat is run by a team of just four people. Mr Bandarin thanked Belgium and Italy for funding, respectively, an associate expert and an expert on secondment from the Carabinieri. He appealed for this team's capacities to be

¹ One of these pieces is the subject of a trial in a New York court and the other is at the Norton Simon Art Foundation in Pasadena (United States of America).

strengthened, noting that, owing to UNESCO's critical financial condition, such strengthening could only take place with the support of States Parties to the Convention. Finally, he thanked Professor L.V. Prott, who was in attendance, for producing the preliminary study that laid the foundation for the draft Operational Directives elaborated and put forward by the Secretariat.

5. The **Secretariat** presented the working documents and highlighted two mistakes in document C70/13/EXTRA.MSP/3, namely:

- On page 4 of the English and French versions, the table at the end of the document mentions Group V(a) twice: it should read Group V(a) and V(b).
- In the English versions, the second option given in paragraph 5 should be corrected as follows: "The first half of the Members of the Subsidiary Committee will be renewed at the 4th Ordinary Meeting of States Parties in 2016 [not 2014] (three-year term of office) and the second half of the Members of the Subsidiary Committee will be at the 5th ordinary Meeting of States Parties in 2018 [not 2016] (five-year term of office)."

I. ELECTION OF THE BUREAU

DocumentC70/13/Extra.MSP/1

ResolutionExtra.MSP 1

6. The **ADG/CLT** announced that the Secretariat had been informed of the nomination of Ms Flora Van Regteren Altena (Netherlands)for the position of Chairperson of the Bureau, and submitted that to the States Parties.

7. This nomination was backed by a large number of delegations and she was elected President by acclamation.

8. The remainder of the Bureau was made up as follows:

- Ms Humaira Zia Mufti (Pakistan): Rapporteur;
- Bulgaria, Honduras, Iraq and Democratic Republic of Congo: Vice-Chairs.

II. ADOPTION OF THE AGENDA

DOCUMENT C70/13/Extra.MSP/2/REV

Resolution Extra.MSP 2/REV

9. The **Chairperson** recalled the main points of the provisional agenda (doc. C70/13/Extra.MSP/2/REV), namely the election of an 18-member Subsidiary Committee whose main task would be to discuss the draft Operational Directives prepared by the Secretariat.

10. **Mexico** raised the question of the length of the terms of office of members of the Subsidiary Committee and proposed that a point entitled "Length of terms of office "be introduced to the agenda prior to the point about the election. **Canada** supported this proposal and indicated its concern regarding draft resolution Extra.MSP 2 (document C70/13/

Extra.MSP/3) about the terms of office of Committee members, which should come before Point 4 listing the States elected to this Committee. These observations were backed by **Peru, France, Argentina, Honduras, Belgium, China** and **Mauritania**.

11. Taking account also of two rewordings suggested by **Germany** and **Peru**, the **Chairperson** made sure that the amended agenda reflected the discussions and that a new

Point 3 – “Decision on the extraordinary terms of office of members of the Subsidiary Committee”- was added.

12. Following a proposal by **Spain**, the reference to a two-year term of office in the new Point 4 was replaced by reference to a “shorter” term of office and **Grenada** raised points suggesting that “the adoption of resolutions” and the “meeting closure” should be covered respectively in a Point 5 and a Point 6 of the agenda.

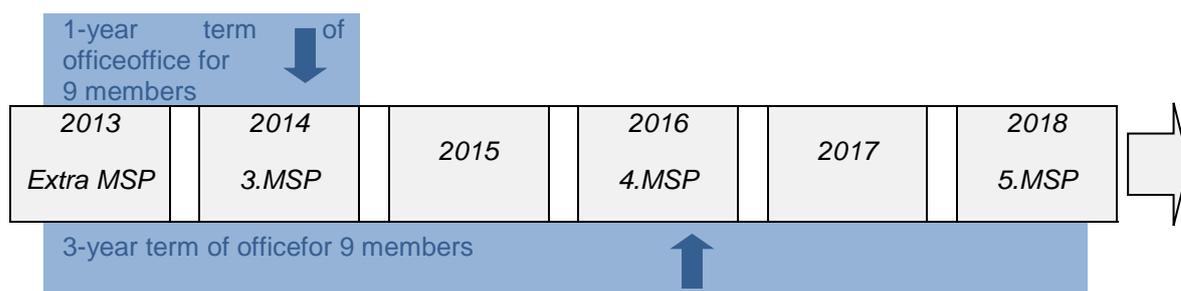
13. Regarding the issue of the name of the Subsidiary Committee in Point 4 of the agenda, **Spain** expressed its preference for using the term “Subsidiary Committee of the 1970 Convention” instead of “Subsidiary Committee of the Meeting of States Parties”. However, on the basis of Article 14.2 of the Internal Regulations of the Meeting of the States Parties, the **Legal Advisor** proposed keeping the original name mentioned in the agenda, as the body was indeed the Subsidiary Committee to the Meeting of the States Parties, being a subsidiary body established by the plenary assembly that is the Meeting of the States Parties. However, this opinion, which was accepted by Spain, did not satisfy **Peru**, who was backed by **Argentina, Mexico and Venezuela**. These delegations insisted that the term “Subsidiary Committee of the Convention” be adopted. The **Legal Advisor** again showed that such a formulation could not suit, since the Convention did not make mention of any committee. He also emphasised that the issue of the Committee’s name could be debated later by the States Parties and that this stage was only about adopting an agenda. **Peru** then proposed deleting any reference to the Convention of the Meeting of States Parties and only mentioning the “Election of the 18-member Subsidiary Committee”. This proposal was supported by **Zimbabwe, Argentina, Afghanistan, Bolivia, Guatemala and Honduras**. That wording was used in the final version of the agenda.

III. DECISION ON THE EXTRAORDINARY TERM OF OFFICES OF THE MEMBERS OF THE SUBSIDIARY COMMITTEE

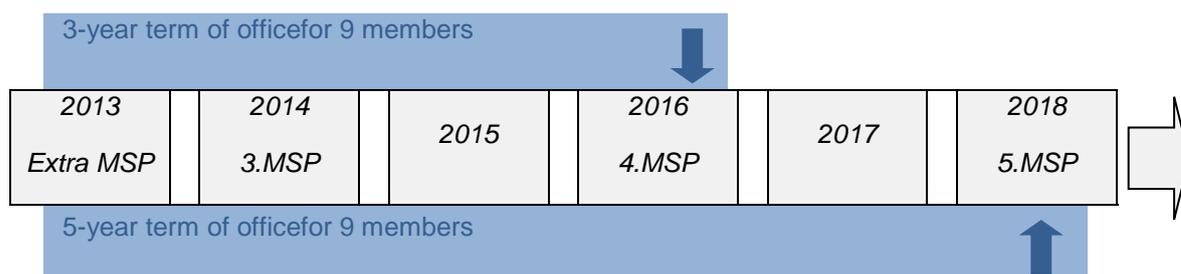
DOCUMENT C70/13/Extra.MSP/3
Resolution Extra.MSP 3

14. When presenting this point to the Committee, the **Secretariat** explained that the members of the Subsidiary Committee could not have terms of offices of 2 and 4 years, as provided for by Article 14.5 of the Internal Regulations of the Meeting of the States Parties, because they would be elected at an Extraordinary Meeting of the States Parties held between the 2012 and 2014 Ordinary Meetings of the States Parties. So the Secretariat proposed two options to the States Parties: term of offices of 1 to 3 years or of 3 to 5 years. This alternative was summarised in the two diagrams below:

Option 1



Option 2

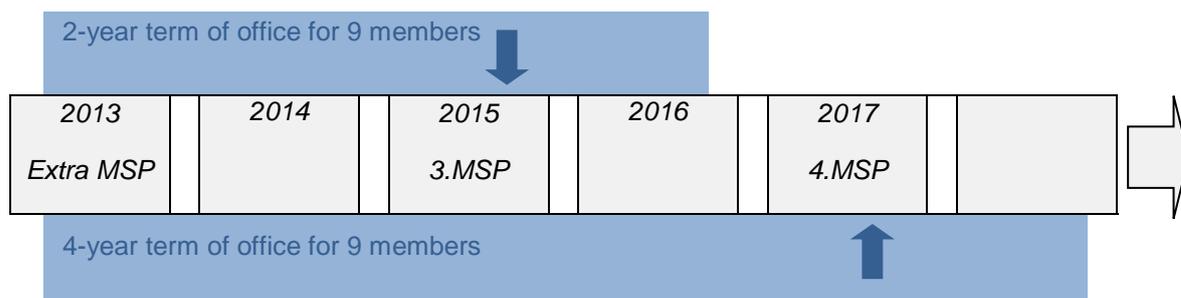


15. This issue gave rise to a long debate between the States Parties, who were eager to find a balance between equitable participation of each State and the ability of the Subsidiary Committee members to pursue their action in a sustainable and effective way while ensuring a certain continuity to their work. The first option was supported in particular by France, who saw it as a way of ensuring respect for equality and dialogue between the various States Parties.

16. The second option was supported in particular by **Honduras, Mexico and Peru**, who deemed it to be a way of ensuring stability and consistency. The extension of the term of office of half of the Committee members to 5 years (i.e. one year more than the 4 years provided for by Article 14.5 of the Internal Regulations) did not seem unjustified given the exceptional nature of the situation and the urgent need for States Parties to get to work on the concrete implementation of the 1970 Convention.

17. Germany eventually proposed a compromise aimed at addressing the disadvantages of both options: giving members elected at this Extraordinary Meeting of States Parties an exceptional 3-year term of office so as to catch up, in 2016, with the usual cycle of Ordinary Meetings of States Parties, and submit the members elected to the Committee from 2016 to the system provided for in the International Regulations, i.e. term of offices of 2 and 4 years. This proposal, with the notable support of **Canada and the United States**, was not pursued by the Committee because of the issue of the re-eligibility of Committee members (3 non-renewable years or 7 years for re-elected members).

18. Faced with these discussions, **the ADG/CLT** proposed making an exceptional amendment not, as hitherto envisaged, to the terms of term of offices of States Parties to the Subsidiary Committee but to the data of the next Ordinary Meeting of the States Parties. This meant electing, at this Extraordinary Meeting of States Parties, a Committee in which half the members would be assigned 2-year term of offices and the other half would be assigned 4-year term of offices. The first half would be renewed at the Third Ordinary Meeting of States Parties, which would thus be held in 2015 rather than in 2014 as initially planned. The second half would be renewed at the following Ordinary Meeting of States Parties, in 2017.



19. The **Legal Advisor** gave reassurances that the option proposed by the Secretariat complied with the Internal Regulations of meeting of States Parties, particularly Article 14.1, which stipulates that « the Meeting of States Parties is convened every two years» (it does not specify whether this is to be an ordinary or extraordinary Meeting of States Parties). As the Extraordinary Meeting of States Parties is to be held in 2013 and the next Ordinary Meeting of States Parties is due in 2015, Mr Bandarin's proposal adheres to the two-year regularity rate laid down by the Internal Regulation.

20. The issue of the timing of the Ordinary Meeting of State Parties matching that of the UNESCO General Conference was also raised, so the **Legal Advisor** made it clear that the States Parties to the 1970 Convention could choose between using the opportunity provided by their delegations' presence in Paris to hold their meeting during the Conference or arranging their meeting for another time in the year. The **Secretariat** recalled that in 2012 the General Assembly of States Parties did not set a date or agenda for its next meeting.

21. The delegates who had initially been in favour of the second option decided to back the Secretariat's proposal and consensus was reached on this option.

22. During discussions it emerged that delegations were particularly concerned by the need to achieve equitable representation of the various electoral Groups. States Parties worried about the method of drawing lots to determine the Subsidiary Committee members whose terms of office would be shortened, fearing that some regions could end up without any seat on the Committee.

IV. ELECTION OF THE 18 MEMBERS OF THE SUBSIDIARY COMMITTEE AND DRAWING OF LOTS OF THE 9 MEMBERS WITH SHORTER TERMS OF OFFICE

DOCUMENT C70/13/Extra.MSP/3
Resolution Extra.MSP 4

IV.1. Election of the Subsidiary Committee

Presentation of the procedure

23. After giving a reminder of how the election of the Subsidiary Committee works, as specified in the Internal Regulations (18 members, 3 per electoral group, in accordance with a principle of equitable geographical representation), the Secretariat informed States Parties that four of the six Groups had reached agreement on the nomination of their three candidates (Groups II, III, V(a) and V(b)). So the elections would only involve Groups I and IV.

Withdrawal of nominations

24. Iran raised a point of order to announce the withdrawal of the nomination of **Afghanistan** for Group IV. For this same group, **Iraq** had announced earlier in the discussions that it was also withdrawing its nomination. Lastly, **Switzerland** also declared its decision to refrain from putting itself forward for election to Group I and gave its full backing to the nomination of Canada.

Appointment of tellers

25. After the Chairperson served a reminder that the tellers must come from States that have not been nominated for the Subsidiary Committee, **Cambodia** and **Palestine** were appointed.

Discussions on geographical representation

26. There was particularly active debate around the issue of equitable geographical representation of the various regions, which was already discussed during the selection of options for the terms of office of Committee members, and the worry that the random process of drawing lots to determine which members would get shorter terms of office could deprive certain Groups of representation beyond two years.

27. The **United Kingdom**, in particular, stressed the importance of knowing before the election which method would be used to draw lots, since this information could influence its vote. It wanted to make sure that no Group would have to renew all its members after two years and the draw would not be based on the number of votes won during the election to the Subsidiary Committee.

28. The **Legal Advisor** gave a reminder that the content of document C70/13/Extra.MSP/3, paragraph 7, features the following line about the draw: "Once States Parties have ruled on this issue [of the terms of office of Subsidiary Committee Members], the Chairperson shall draw lots to determine the 9 members of the Committee who shall be renewed in 2014 or 2016". These dates were no longer valid, as States Parties decided in the meantime that the next elections would be held in 2015 and 2017, but the rest of the proposal remained correct.

29. The **Chairperson** temporarily closed the debate in order to hold the election first, while making sure, never the less, that there would be no question of basing the draw on the election results. 113 States voted, 10 were called a second time before being considered absent². The election results were as follows:

- Group I: Greece, Italy and Turkey;
- Group II: Bulgaria, Croatia and Romania;
- Group III: Ecuador, Mexico and Peru;
- Group IV : China, Japan and Pakistan;
- Group V(a): Madagascar, Nigeria and Chad;
- Group V(b): Egypt, Morocco and Oman.

30. During the election, **Greece** asked for the recurring distinction between so-called "source" States and "market" States to be scrapped, as this type of categorisation was not only erroneous (all States being affected by the consequences of illicit trafficking of cultural property) but also hindered discussions between States Parties.

IV.2. Drawing of lots for members with shortened terms of offices

²Namely: Bahamas, Barbados, Bhutan, Central African Republic, Estonia, Kyrgyzstan, South Africa, Rwanda, Swaziland and Tajikistan.

31. With regard to the drawing of lots for the 9 members of the Subsidiary Committee members whose terms of office will be shortened, the **Chairperson** recalled that in accordance with Article 14.5 of the Internal Regulations: "Committee Members are elected for a term of four years. However, the term of office of half of the elected Committee members is limited to two years. The identity of these members is determined by the drawing of lots at the first election. Every two years the Meeting of States Parties renews half of the Committee Members. A Committee member cannot be elected for two consecutive terms of office". She also highlighted the fact that there is no particular provision in the working documents with regard to the drawing method.

32. On several occasions the **Chairperson** and the UNESCO **Assistant Director** gave reminders that equitable representation of the various regions will always be upheld guaranteed, irrespective of the drawing method chosen, as the Internal Regulations stipulate that each regional group has 3 seats on the Subsidiary Committee. When a member state that has been elected for two years has to leave its position, it will have to be replaced by another State from the same group. While the terms of office affect the frequency of renewal, they carry no threat whatsoever of any electoral group being under-represented.

33. Taking up a suggestion made by **Cyprus** and supported by **Serbia**, the **ADG/CLT** proposed holding an initial draw within each regional group to determine 6 members to sit on the Subsidiary Committee for 4 years; a second draw can then be held among the remaining 12 States to appoint the other 3 members to sit for 4 years.

34. Some delegations questioned whether the draw was supposed to appoint members States to shortened terms of office (2 years) or normal terms of office (4 years). The **Secretariat** defended the concept of drawing lots to determine the States to sit for 4 years, since the intended aim was to make sure that at least one member of each electoral group would stay for 4 years. This proposal, which was supported by **Grenada** and **Morocco**, was eventually adopted.

35. To avoid all members of a group being appointed for 4 years terms of office, **Ecuador** suggested excluding from the draw any group that already had two members with such terms. Greece, Saudi Arabia, Peru, Palestine and Qatar agreed with this. However, for the sake of speed, and after reiterating that shortened terms of office would not lead to inequalities between groups because vacated seats could only be re-assigned to States from the same electoral group, the **Chairperson** chose to stick with two draws, as per the system described by Mr Bandarin. With no opposition emerging, she drew the lots for the member States to receive 4-year terms of office:

- 1st round: Italy (Group I), Bulgaria (Group II), Ecuador (Group III), Japan (Group IV), Madagascar (Group V(a)), Morocco (Group V(b));
- 2nd round: Greece (Group I), Mexico (Group III), Nigeria (Group V(a)).

36. As a result, the member States with shortened 2-year terms are: Turkey (Group I), Croatia and Romania (Group II), Peru (Group III), China and Pakistan (Group IV), Chad (Group V(a)), Egypt and Oman (Group V(b)).

V. ADOPTION OF RESOLUTIONS

RESOLUTION Extra.MSP 1

The Extraordinary Meeting of States Parties,

1. *Elects Ms Flora van Regteren Altena (Netherlands)*, Chairperson of the Extraordinary Meeting of States Parties;
2. *Elects Ms Humaira Zia Mufti (Pakistan)*, Rapporteur of the Extraordinary Meeting of States Parties;
3. *Elects Bulgaria, Honduras, Iraq and the Democratic Republic of Congo*, vice-chairs of the Extraordinary Meeting of States Parties.

RESOLUTION Extra.MSP 2

The Extraordinary Meeting of States Parties,

1. *Having examined the document C70/13/Extra.MSP/2/REV ;*

Meeting opening

- | | |
|---|------------------------|
| 1. Election of the Bureau | C70/13/Extra.MSP/1 |
| 2. Adoption of the agenda | C70/13/Extra.MSP/2/REV |
| 3. Decision on the extraordinary term of office of Subsidiary Committee members | C70/13/Extra.MSP/3 |
| 4. Election of the 18 Subsidiary Committee members and drawing of lots for 9 members with shorter terms of office | C70/13/Extra.MSP/3 |
| 5. Adoption of resolutions | |
| 6. Meeting closure | |

2. Adopts the agenda as amended above.

RÉSOLUTION Extra.MSP 3³

37. **Nepal** commented that there is no definition in the fifth paragraph of the draft resolution of « the first half of the Committee members ». **Canada** suggested removing all references to renewing Subsidiary Committee members, as this procedure is fully covered in the Internal Regulations. **Grenada** asked for the reference to Article 14.5 of the Internal Regulations to be kept.

The Extraordinary Meeting of States Parties,

1. *Having considered the issue of the term of office of Subsidiary Committee members,*
2. *Recalling Article 14.5 of the Internal Regulations of the Meeting of States Parties to the 1970 Convention,*
3. *Decides to hold the Third Ordinary Meeting of States Parties in 2015.*

RESOLUTION Extra.MSP 4

38. After re-reading the draft resolution, the Chairperson, taking up a proposal of the Secretariat, suggested removing Part 3.a, as the proposed procedure presented by the Secretariat was not fully followed. Grenada believed that the procedure was followed and said that this part should, therefore, be kept. The Legal Advisor explained that this part of the sentence specifying what had been followed partially or fully was not needed. Eventually, Part 3.a of the draft resolution was removed and the resolution was adopted as amended.

The Extraordinary Meeting of States Parties,

³N.B.: This draft resolution, which is contained in the document C70/13/Extra.MSP/3, was unduly numbered Extra.MSP 2: it is in fact draft resolution Extra.MSP 3.

1. *Having examined* document C70/13/Extra.MSP/3 ;
2. *Recalling* Articles 14.4 and 14.5 of the Internal Regulations of the Meeting of States Parties to the 1970 Convention, adopted at the Second Meeting of States parties to the 1970 Convention in June 2012;
3. Decides to elect 18 States Parties, who are listed hereafter, as Members of the Subsidiary Committee of the Meeting of States Parties to the 1970 Convention;

Group I: Greece, Italy and Turkey
 Group II: Bulgaria, Croatia and Romania
 Group III: Ecuador, Mexico and Peru
 Group IV: China, Japan and Pakistan
 Group V(a): Madagascar, Nigeria and Chad

Group V(b): Egypt, Morocco and Oman

Results of the drawing of lots

Group I	
Greece	2013-2017
Italy	2013-2017
Turkey	2013-2015
Group II	
Bulgaria	2013-2017
Croatia	2013-2015
Romania	2013-2015
Group III	
Ecuador	2013-2017
Mexico	2013-2017
Peru	2013-2015

Group IV	
China	2013-2015
Japan	2013-2017
Pakistan	2013-2015
Group V(a)	
Madagascar	2013-2017
Nigeria	2013-2017
Chad	2013-2015
Group V(b)	
Egypt	2013-2015
Morocco	2013-2017
Oman	2013-2015

VI. MEETING CLOSURE

39. The **Chairperson** concluded by thanking the member States for their collaboration and inviting them to consult with each other regarding the composition of the Bureau (Chairperson, Vice-Chair, Rapporteur, etc.) so that deliberations could start rapidly at the first session of the Subsidiary Committee the next day (2 July).