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pour la lutte
contre le trafic illicite
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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)**

**Paris, UNESCO, Headquarters, Room II
26 – 28 September 2016**

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ITEM 1 OPENING OF THE SESSION

The fourth Session of the Subsidiary Committee of the Meeting of States Parties to the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (hereafter “the 1970 Convention”) took place at UNESCO Headquarters in Paris from 26 to 28 September 2016. It was attended by 200 participants.

The Assistant Director-General for Culture (ADG/CLT), Francesco Bandarin, highlighted the importance of the Committee’s mandate to safeguard and protect cultural heritage and to strengthen the implementation of the 1970 Convention. He stressed the need for international standards for checking the provenance of cultural objects, especially considering the current situation in the Middle-East, and the linkage between illicit trafficking, money laundering, organized crime and the financing of terrorism. Mr Bandarin concluded his speech by encouraging the Parties to the Convention to support the Secretariat’s work with additional financial and human resources.

The Bureau was composed as elected during the Third Session of the Subsidiary Committee, as follows: Ms Maria Vlazaki (Greece) Chairperson; Mr Nevil Antonio Montenegro (Ecuador), Rapporteur and India, Iraq, Nigeria and Poland, Deputy Chairpersons.

ITEM 2 ADOPTION OF THE AGENDA

Documents C70/16/4.SC/2/Rev2, C70/16/4.SC/INF.2A/Rev2; C70/16/4.SC/INF.2B/Rev3
Decision 4.SC 2

The President of the Subsidiary Committee informed the room that the Delegation of Ukraine made a request, on 8 of August 2016, in relation to adding a new item 6 bis on the ‘Aivazovsky paintings’ into the provisional agenda. However, she notified that, after a consultation meeting with the Bureau Members, the Bureau proposed to the Subsidiary Committee not to include this as a separate point, and that the representatives of Ukraine and the Russian Federation be heard under the item 6, on the Secretariat Report, but that no discussion take place and no decision be made about it. The proposal was accepted and the agenda was adopted as amended.

ITEM 3 REPORT ON THE JOINT MEETING OF CHAIRPERSONS OF THE UNESCO CULTURE CONVENTIONS

The Secretariat gave an oral report on the joint meeting of Chairpersons of the UNESCO Culture Conventions held in the morning of 26 September. During the session, each Chairperson presented a brief overview of the activities carried out under each Convention under their respective responsibility. All the Chairpersons echoed the call to encourage the exchange of information and synergies among the Conventions, acknowledging their important role for protecting cultural heritage and cultural diversity in times of conflict. Furthermore, there was a call for strengthened cooperation between particularly between the 1954 and 1970 Conventions. As concerns the 2030 Agenda for Sustainable Development (SDGs), the six Chairpersons emphasized how the Conventions could serve as a tool to achieve the SDGs and emphasized the importance of all stakeholders working together to endorse a clear message that culture is pivotal for human development.

ITEM 4 ORAL REPORTS ON THE INFORMAL REFLECTION GROUP MEETING

The Chairperson of the 1970 Subsidiary Committee, Ms Vlazaki, gave a brief report on the informal reflection groups (item n.4) that were held in preparation for the Subsidiary Committee meeting, in (Delphi (Greece), June 2016 and Paris, July 2016). The topics covered during these informal meetings focused on the strengthened application of the 1970 Convention. Discussions addressed the importance of the increasing of ratifications of the

1970 and 1995 Conventions, the development of initiatives for the protection of cultural property, such as reviewing standard procedures for restitution of cultural objects illegally on sale on the market, encouraging regulation and professional diligence, including the importance of provenance checks to the training of authorities, updating periodic reports to ensure the implementation of the 1970 Convention by States parties, the harmonization of legislation applicable to the fight against illicit trafficking, and improving cooperation and communication between various parties involved from Member States to art market actors.

ITEM 5 ORAL REPORT ON THE SYNERGIES BETWEEN THE 1970 AND 1954 CONVENTIONS

The Chairperson of the Committee of the Second Protocol of the Hague Convention of 1954, Ms Papathanasiou, gave an oral report on synergies between the 1970 and 1954 Conventions. She noted that this meeting was organized in accordance with Decision 4.3 of the Third Session of the Subsidiary Committee, which enabled the Secretariat of the two Conventions to discuss on issues of mutual interest such as awareness-raising and capacity-building. Ecuador's representative agreed with this initiative and noted that the tools available to regulate this issue are sufficient but that Member States have to implement better the two Conventions.

ITEM 6 REPORT OF THE SECRETARIAT ON ITS ACTIVITIES

Document C70/16/4.SC/6
Decision 4.SC 6

The Secretariat informed the audience of the restructuring of the Heritage Division and of the current composition of the 1970 Convention Secretariat, which currently includes: four permanent staff – the Chief of Section, a Programme Specialist, an Associate Programme Specialist, a Young Professional - supported by four temporary members and interns.

The Secretariat presented to the Subsidiary Committee the report on its activities since September 2016. After acknowledging the ratifications of the Convention by two new States (Lao People's Democratic Republic and Ghana), the Secretariat also pointed out that three regions - the Caribbean, Southern and East Africa and Asia Pacific- were experiencing low levels of ratification.

Among the numerous activities undertaken, emphasis was placed on emergency actions, particularly in Iraq, Libya, Mali, Nepal, Syria and Yemen – countries which require specific responses to effectively fight against the illicit trafficking in cultural property. The Secretariat also highlighted a range of awareness-raising activities and capacity building programmes carried out in all parts of the world in 33 different countries, in addition to several initiatives supported within the framework of the 'Unite4Heritage' campaign. The Secretariat also drew attention to cooperation with UNESCO's main partners and research institutions as well as with national police corps, in order to promote a complementary approach between all activities. Finally, the Secretariat recalled the 30th March 2016 Round Table that focused on the art market and its role in the fight against illicit trafficking in cultural property, organized in partnership with the Conseil des Vents Volontaires.

Both the Ukrainian and Russian Delegations took the floor for 5 minutes to make a statement on the case of the Alivazovsky Paintings enlisted in the Tretyakov Gallery in Moscow. Russia assured that the paintings would be returned to their respective museums once the exhibition ends.

During the discussion on the Decision 4.SC 6, Italy proposed that the Secretariat focuses on children and youth in upcoming awareness-raising activities and promotes specific programmes in the framework of formal and informal education systems. Ecuador, backed by Greece, encouraged States Parties to continue discussions on the synergies between the

1970 and 1954 Conventions during the Fifth Session of the Subsidiary Committee and to ensure the effective implementation of the Convention with special focus on its Operational Guidelines (paragraph 12).

Finally, the Committee agreed to insert a new paragraph to welcome the adoption by the UN General Assembly of Resolution A/RES/70/76 on the return or restitution of cultural property to the countries of origin (paragraph 10).

Germany presented a report on its new national legislation, adopted in August 2016, to better implement the 1970 Convention and the EU Directive 2014/16. The new legislation is based on four main pillars: (i) import and export provisions in line with the 1970 Convention, (ii) return of cultural property provisions, (iii) due diligence in dealings with cultural property, and (iv) enhancing penal sanctions. He further articulated the importance of updating inventories and using object ID for cultural property in order to better facilitate returns. Finally, he asked States Parties to the Convention to participate in a questionnaire to develop an expert law database in cultural property that would be available for the public on the web. The representative of Germany indicated that one of the documents they had used to update their legislation had been the Operational Guidelines of the 1970 Convention.

The Peruvian representative observed that in her experience, controls of exit points, training of customs and police officers as well as requirement of export certificates has been very useful in preventing the illicit trafficking of cultural property. In this regard, she referred to the recovery, in the last 10 years, 7500 cultural objects, and of further 6000 objects that are currently being claimed.

A representative from the French Customs Organization discussed the recent confiscation of Syrian cultural property from Roissy airport in Paris. However, he highlighted that this case was still under investigation but he informed that the cultural property had crossed several countries from Syria and passed Europe with the intended final destination being Asia.

The Secretariat broadcasted a short documentary produced in accordance with decision 3.SC/4 (11) on 'Actions to Combatting Trafficking in Cultural Property', made with the contribution of Argentina, Armenia, Bolivia, Colombia, Ecuador, Estonia, Germany, Greece, Hungary, Italy, Spain, Syria and Turkey. The Subsidiary Committee welcomed this new awareness-raising tool and encouraged the Secretariat to spread it among its partners as well as on the web.

ITEM 7 SUMMARY OF THE ROUND TABLE MEETING WITH REPRESENTATIVES OF THE ART MARKET

Document C70/16/4.SC/INF.7

The Secretariat gave a summary of the Round Table meeting with representatives of the art market, which was held on the 30 March 2016. During the meeting, art market actors, representatives from NGOs and IGOs, stakeholders and institutional players discussed various topics related to the illicit trafficking of cultural property such as challenges regarding the reinforcement of preventative measures of prevention in source markets, harmonizing legislation, enhancing vigilance regarding goods on the market, improving the due diligence of the art market, and setting better standards for checking provenance and insurance liability regimes. A detailed report on the Round Table is available on the 1970 convention webpage.¹

During the discussions, the Rapporteur suggested that there should be an increased focus on high level meetings, perhaps with ministers of culture in 2017, subject to financial

¹ <http://www.unesco.org/new/en/culture/themes/illicit-trafficking-of-cultural-property/meetings/art-market-round-table/>

resources. He stressed that this is essential to improve the visibility of the work of the Secretariat. The Secretariat agreed and emphasized the need for greater budgetary funds in order to cover these projects, the limited regular budget being entirely absorbed by mandatory statutory meetings.

ITEM 8 PRESENTATION BY THE UN SANCTIONS MONITORING TEAM (SMT)

The Representative of the UN Sanctions Monitoring Team (SMT) addressed the Committee on the issue of monitoring illicit trafficking of cultural property with a particular focus on the financing of terrorism. She provided information on sanctions currently in force on terrorist and criminal groups and stated that the list currently comprises 400 individuals and 80 terrorist organizations. She highlighted that the UN SMT mandate covers three areas: assessment of threats, evaluation of sanctions and intelligence work in conjunction with Member States. The Representative underscored the responsibility of Member States to seize any cultural goods illegally removed from Syria since 2011 and Iraq since 1990, as this is a violation of Security Council Resolutions. Finally, she announced that in the beginning of 2017, negotiations on the United Nations Security Council Committee Resolution 1267 will take place and will lead to an assessment of UN Security Council Resolution 2253 and its amendment.

ITEM 9 AMENDMENTS TO THE RULES OF PROCEDURE OF THE SUBSIDIARY COMMITTEE

Document C70/16/4.SC/9/Rev

Decision 4.SC 9

The Members of the Committee examined amendments contained in document C70/16/4.SC/9/Rev. The Committee decided to delete rule 1.3 regarding the election of Member States as it has been decided that all the members of the Subsidiary Committee would be elected for a four-year term. Furthermore, the Committee decided to change the majority required by rule 2.5 from two thirds to simple majority (10 States).

As initially proposed by the State of Bolivia, the Committee decided as well that the election of the Bureau would take place at the beginning of each ordinary session. Consequently, rule 12.1 has been amended. As a result, the Committee also decided that the current Bureau would continue its mandate until the beginning of the Fifth session. This change was recorded in paragraph 6, decision 4.SC 9.

Additionally, the Committee adopted the Secretariat's proposal to add rule 45.2 to the Rules of procedure of the Committee, according to which, the report to the Meeting of States Parties shall be drafted by the Rapporteur and endorsed by the Bureau. The Chairperson shall then consult and obtain approval of the report from the Committee before submitting it to the Meeting of States Parties.

Finally, the Committee recommended that the Meeting of the State Parties amend rule 14.5, to allow the Member States of the Subsidiary Committee to be re-elected for one additional term of office.

ITEM 10 ONLINE SALES OF CULTURAL OBJECTS

Document C70/16/4.SC/10

Decision 4.SC10

Dr. Brodie (United Kingdom) made an intervention on online sales of cultural objects. He explained that this issue emerged in the early 2000's, and that the recent development of the internet market has had an impact on the overall sales of cultural property online. He

informed that objects that are sold online tend to be of low value, high volume and small size making it harder for authorities to control.

During the discussion, Syria underlined the great need for international cooperation in this field. The Syrian Ambassador explained that, since the armed conflict in Syria, over 6000 items were on the brink of leaving the country and some 100 items were recovered and restored from customs all over the world.

During the adoption of the decision 4.SC 10, the Committee decided to encourage States Parties to regularly monitor online sales in order to stop the illicit trafficking in cultural property using all the relevant instruments, such as the United Nations Convention against Transnational Organized Crime

ITEM 11 FOLLOW UP TO THE RECCOMENDATIONS OF THE EXTERNAL AUDITORS “REPORT ON THE GOVERNANCE OF UNESCO AND DEPENDANT FUNDS PROGRAMMES AND ENTITIES”

Document C70/16/4.SC/11

Decision 4.SC 11

The Secretariat gave an overview on the follow-up to the recommendations of the External Auditor’s Report, and discussions ensued, in particular on recommendations on the ‘acceleration and shortening of sessions’ and the ‘improvement of dissemination of results’. In that regard, Ecuador observed that more time was required to study it. Additionally, the Rapporteur mentioned that the Bureau already managed to group meetings together as suggested in the recommendation, (Subsidiary Committee back to back to ICPRCP).

During the debate, several suggestions were raised, such as proposing that a representative of the Meeting of States Parties to the 1970 Convention should attend the General Conference and the Executive Board to represent all of the State Parties together as an entity; the use of teleconference was also recommended to be limited to informal meetings and working documents on meetings were requested to be circulated in advance in order to give the possibility to the Member States to discuss the document prior to the meeting, with the aim to improve and streamline the working methods of the Governing Bodies of the 1970 Convention.

ITEM 12 PRESENTATIONS BY MEXICO ON THE ILLICIT TRAFFICKING OF DOCUMENTARY HERITAGE

The Secretariat thanked Costa Rica for their contribution on this issue and invited Mexico to present a study on the illicit trafficking of documentary heritage on behalf of the Secretariat of Interior, Secretary of Governorship SEGOB, and the National Archive. The presentation illustrated what documentary heritage is and what programmes for its safeguarding exist, such as the Memory of the World Programme established by UNESCO in 1992. With regards to strengthening the protection of documentary heritage, the Delegation of Mexico suggested to organize a meeting of experts in October 2017 to have larger discussion on this topic.

The Netherlands, backed by Japan and Poland, highlighted the importance of preventative measures, digitalization and databases that record stolen archives. Finally, **UNIDROIT** recalled that the issue of documentary heritage was considered during the drafting of the 1995 UNIDROIT Convention and that the definition of ‘public collections’ was drafted in a way to ensure the inclusion of archives. Consequently, archives stolen can also be returned, and there is no statute of limitation under this convention.

During the adoption of decision 4.SC 12, the Committee encouraged States Parties to implement the UNESCO Recommendation concerning the preservation of, and access to, documentary heritage including in digital form (2015).²

ITEM 13 PRESENTATIONS BY THE UNESCO MEMORY OF THE WORLD PROGRAMME

Mr La Rue, Assistant Director-General for Communication and Information, reminded that the objective of the programme is to preserve documentary heritage, develop universal sharing of information and knowledge, and to make documentary heritage accessible all around the world. Ms Panevska, the Programme Specialist, explained the functions of the Memory of the World Programme as a UNESCO initiative to raise awareness regarding documentary heritage, with the aim to ensure preservation and facilitate universal access. She underlined that the programme does not only cover paper but also documents.

ITEM 14 PERIODIC REPORTING FOR THE IMPLEMENTATION OF THE 1970 CONVENTION

Document C70/16/4.SC/14/Rev
Decision 4.SC 14

The Secretariat presented document C70/16/4.SC/14/Rev and reminded that the purpose of the reporting is to facilitate and strengthen the implementation of the Convention and identify good practices. Finally, the Secretariat stressed as well that only 19 States Parties replied to the questionnaire.

During the discussion, Turkey welcomed the questionnaire as a useful tool to improve domestic practices. The Committee adopted its reporting form, as amended during the debate, in accordance with the Operational Guidelines of the 1970 Convention.

ITEM 15 PRESENTATION OF THE STANDARD ACTION PLAN FOR THE RETURN AND RESTITUTION OF CULTURAL PROPERTY ILLEGALLY ON SALE ON THE MARKET

Document C70/16.4.SC/15
Decision 4.SC 15

The Secretariat presented the Standard Action Plan for the Return and Restitution of Cultural Property underlining that this document is an indicative tool at the disposal of Member States, it however realized that it does not replace national or international legislation. Two different procedures are conveyed in the document, the procedure for stolen objects located abroad and the procedure for illegally exported objects located abroad. In both cases, States may take the matter before the Court (judicial proceedings) or explore diplomatic or administrative channels (extra-judicial proceedings).

To clarify the understanding of this procedure General Fabrizio Parrulli from the Italian Carabinieri for the Protection of Cultural Heritage (TPC) demonstrated the process using a flowchart prepared by the Italian Delegation.

During the discussion, several States underlined the importance of this document and congratulated the Secretariat and Italy for drafting the document and its annex. After a short debate on the wording of the title of the document, Decision 4.SC 15 was adopted by the Committee.

² http://portal.unesco.org/en/ev.php-URL_ID=49358&URL_DO=DO_TOPIC&URL_SECTION=201.html

ITEM 16 PRESENTATIONS ON A NEW MECHANISM ON THE REPATRIATION OF CEREMONIAL OBJECTS AND HUMAN REMAINS

Ms Carmen, representative of Yaqui Nation (USA), presented a new international mechanism on the repatriation of ceremonial objects and human remains. She demonstrated that cultural property of indigenous people represents an expression of self-determination and the preservation of their heritage is a holistic and intergenerational concept. She then provided information on the UN Declaration on the Rights of Indigenous People (2007), and explored the shortfalls of the 1970 Convention to clarify the regulatory mechanism to cover the return of cultural property to indigenous people. Her proposal for a new mechanism or process for international reparation includes offering indigenous peoples direct access to information about various items held in each country. In addition to including a regulation to halt the international transport of indigenous peoples sacred items.

During the following discussion, the Secretariat informed that a UNESCO policy on indigenous people is under preparation and will be presented to the 2017 Executive Board.

ITEM 17 COUNCIL OF EUROPE PRESENTATION ON A NEW DRAFT CONVENTION

The Head of Criminal Law and Counter-Terrorism of the Council of Europe, Mr. Carlo Chiaromonte, discussed the ongoing drafting a new convention to replace the 1985 Delphi Convention, which never entered into force. The new text will deal with the illicit trafficking of cultural property, especially those that fund organized crime and terrorist organizations from a criminal law perspective. Mr. Chiaromonte informed the Committee that the new Convention is inspired by the UNESCO and UNIDROIT Conventions in provisions unrelated to criminal offences, and would be finalized during the first half of 2017.

ITEM 18 FINANCIAL TASK FORCE (FATF) PRESENTATION ON MONEY LAUNDERING, TERRORIST FINANCING AND THE ILLICIT TRAFFICKING OF CULTURAL OBJECTS

Mr. John Carlson gave the Committee an overview on the functions of the FATF intergovernmental body which was created in 1989 by the G7 countries. He underlined that the FATF core objectives are to set global standards for money laundering and terrorist financing, in addition to assessing countries compliance with these standards and the study of threats and vulnerabilities that may exist. FATF attempts to create standards to cover criminal offences related to seizure and confiscation of proceeds of crime and this also includes profits generated from the trafficking of cultural property. He demonstrated that according to the IMF, 2.7% of the global GDP is made up of proceeds of crime. Finally, the presentation was concluded by Mr. Carlson, encouraging the exchange of information and cooperation between the two Organizations.

ITEM 19 PROVISIONAL AGENDA, DATE AND PLACE FOR THE 5TH SESSION OF THE SUBSIDIARY COMMITTEE

The Secretariat proposed that the Fifth Session of the Subsidiary Committee would be held in May 2017, back to back to the Fourth Meeting of States Parties to the 1970 Convention, in Paris at UNESCO headquarters.

ITEM 20 ADOPTION OF DECISIONS

Having read through all of the Decisions, the Chairperson declared them to be adopted in their entirety (See Annex)