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Return or restitution of cultural property to the countries of origin: report of the Secretary-General 1237

President: Mr. Ismat T. KITTANI (Iraq).

AGENDA ITEM 21

Return or restitution of cultural property to the countries of origin: report of the Secretary-General

1. The PRESIDENT: I call on the representative of Zaire to introduce draft resolution A/36/L.22/Rev.1.

2. Mr. KAMANDA wa KAMANDA (Zaire) (*interpretation from French*): In its resolution 34/64 of 29 November 1979 the General Assembly, aware of the importance attached by the countries of origin to the return of cultural property which is of fundamental spiritual and cultural value to them, reaffirming that the restitution to a country of its *objets d'art*, monuments, museum pieces, manuscripts, documents and any other cultural or artistic treasures constitutes a step forward in the strengthening of international co-operation and the preservation and further development of cultural values, requested the Secretary-General, in collaboration with the Director-General of UNESCO, to submit to the General Assembly at its thirty-sixth session a report on the implementation of that resolution and of all previous resolutions adopted by the Assembly on this question.

3. In response to that resolution, the Secretary-General has submitted his report on the question [A/36/651].

4. I should like here to pay a tribute to the Secretary-General and especially to the Director-General of UNESCO for the report, which sums up clearly and concisely the efforts made by the United Nations to meet the concerns of Member States in this important field whose impact on the integral development of our States cannot be denied. We are grateful to the Director-General for the constant interest which he has shown in this problem and which was particularly evident in his solemn appeal on 7 June 1978 for the return of an irreplaceable cultural heritage to those who created it; we are also grateful for the conclusive efforts he has exerted to enable a certain number of countries to conclude bilateral arrangements making possible the return of cultural property to which they attach particular importance.

5. As the report of the Secretary-General recalls, the question of restitution of works of art to countries victims of appropriation was first considered by the General Assembly at its twenty-eighth session, in 1973, at the request of the President of the Republic of Zaire.

6. The major contribution of culture to the definition of societies in which people wish to live harmoniously was stressed, for all the States of our continent, in the Cultural Charter for Africa adopted in 1976 in Mauritius. At the Conference of Ministers of African Member States Responsible for the Application of Science and Technology to Development, at Dakar, UNESCO drew the attention of member States to the importance of culture in the definition of development models which would be useful to our peoples. This is valid for all the developing countries. It is in this context that one must view the initiative taken during recent years by a certain number of developing countries for the return or restitution of cultural property to the countries of origin.

7. From the most distant origins of mankind, in the east and in the west, in the north and in the south, man, whatever the colour of his skin, has wondered about his origins, his existence, his *raison d'être*, his reasons for living, his future and his coexistence with the vastness of nature and, finally, about the mysterious future. To these various questions man—wherever he may be on our planet—has found answers which at various times of his evolution have satisfied the demands of his spirit and his mind. Thus he traced his origins to water, fire, the sun, rain, the supernatural—that is, in the material or the immaterial. He found that life was absurd and without meaning, or that it had great meaning. He discovered that death was either an ending or a transition, a bridge to the beyond. He perceived the need for the organization of life in society and the production and distribution of resources, based either on the primary satisfaction of the individual or on that of the community but in any case on that of the human being. Thus man used nature and mastered it to satisfy his needs. This explains the stone-cutting, the wood-working, the use of bronze and iron, the building of huts, caves and bridges, the invention of the bow and arrow and the flute as well. He left pictures of himself and, through painting and sculpture, of his environment, his tools and the animals of the time. He sang about births and marriages, about his deeds; he sang epic poems; he wept for the dead.

8. The responses to the principal, fundamental questions dictated to each people its way of living, its own customs and its choices. It formed its own vision of a specific world, which covered all fields of human activity for a given people and in a given country. Within this vision of a specific world the culture of a people was born, that is, the whole set of spiritual and material values which that people created and forged throughout its evolution in time and space. Each people thus has had its responses to the existential problems and set up a specific system of its picture or vision of the world. It created its culture and its civilization and its own values which it cherishes and which speak for its genius, belonging to its own identity and the continuity of its culture. It is the blueprint of man's journey through the world.

9. The works of art, manuscripts, documents, archives and other cultural or artistic treasures are precisely these

values of culture to which each people attaches great importance. The cultural heritage of a people conditions in the present and in the future the flourishing of its artistic values and its integral development. The promotion of national culture can increase the aptitude of peoples for understanding the culture and civilization of other peoples, and thus can have a fortunate effect on international co-operation. Massive and virtually free transfers of works of art from one country to another which are carried out under foreign or colonial occupation, the expropriation of works of art, the import and export and illicit transfer of cultural property mutilates the capacity of our children and our grandchildren to understand their culture, to be inspired by it and to build societies deeply rooted in their own culture, thus making them open and receptive to external influences and modernity.

10. Development conceived of as a global process of change in structures to satisfy the essential needs of the people must have a basis, a point of departure. This basis is to be found in the distillation of values, in the inventory of the heritage of values, which makes it possible to define a strategy for development. It is an effective method of struggle against wretchedness, poverty, underdevelopment, alienation and dependence.

11. The importance attached to economic and social growth, to the development of political awareness and to the realization of our aspirations in the various fields of human activity make ever more important the expression of the ideas of our peoples in the changing circumstances of their present life. The culture of a people, an inexhaustible mine of wisdom and action, traces its history from the very beginning; it affirms that it belongs totally to mankind and is proof of its participation in the life of the world, of its contribution to the search for the happiness and progress of man and of peoples. Thus we must protect our origins, our particular character and our genius. It would be criminal as far as future generations are concerned if we were to ignore or make them unaware, to despise or make them despise the precepts which have governed the life of our peoples in the past. For they have known glory, they have known flourishing art, they have known the development of social and cultural values and peace and tranquillity.

12. In our quest for progress, we must seek in our culture the elements to build our societies, the elements to recreate our origins, the elements to adapt to external contributions, the elements to struggle against non-valid external contributions, the elements to judge the effects of our contacts. With other people of the world we must seek the elements to revise or correct outdated structures which we have inherited. That is why these values of culture are a source of inspiration, of creation, of struggle and of love—not because we wish to entrench ourselves in our “unique race”, but to wed our specificity, our originality to the heritage of other peoples’ culture.

13. It should be recalled that it is through a movement of the spirit and of the heart, refusing the humiliating slavery of thought, through an intellectual effort, through an affirmation of our cultural identity, that we have refused the depersonalizing assimilation, have shaken the foundations of colonization and shaken off the yoke of foreign domination. That is how we prepared our future political independence. It is not through our economics that we achieved political independence. In the past, our culture was denied, and therefore everything was denied to us and we were ripe for colonization. Today it is with development in mind that we must tackle the problems of

education, of art, of culture, of science, of technology. We must study and teach our children the contribution of culture, of education, of art to development—that is to say, the conditions they must fulfil in order to take part in our development efforts. Thus, we must gather together our cultural and artistic heritage to accomplish this mission.

14. It will be recalled that during the Second World War Hitler plundered the Louvre museum and carried off and kept in Germany magnificent works of art from that museum. When the liberation came, even before thinking about signing the armistice, France rightly undertook by all means the necessary efforts to recover its works of art. That shows, if it is still necessary to do so, the legitimate importance which a people attaches to its cultural heritage, which conditions the flowering of its artistic values and its integral development.

15. Draft resolution A/36/L.22/Rev.1, which I have the honour and privilege to submit on behalf of its sponsors, is inspired by that legitimate concern. In essence the General Assembly would do the following under the terms of the draft resolution. It would reaffirm that the restitution to a country of its *objets d'art*, monuments, museum pieces, manuscripts, documents and any other cultural or artistic treasures contributes to the strengthening of international co-operation and to the preservation and further development of universal cultural values through fruitful co-operation between developed and developing countries.

16. It would invite Member States to take adequate measures to prohibit and prevent the illicit import, export and transfer of ownership of cultural property, and to put an end to the illicit trafficking in priceless *objets d'art* and museum pieces by all the necessary measures within each country's jurisdiction with the full co-operation of courts and customs authorities, and it would also invite Member States to draw up, in co-operation with UNESCO, systematic inventories of cultural property existing in their territories and of their cultural property abroad.

17. It would appeal to museums and public and private collectors to return totally or partially, or make available to the countries of origin, particularly the items kept in the storehouses of museums, and to help the countries of origin, with the co-operation of UNESCO, in their endeavours to formulate an inventory of these collections. It would remind Member States of the need to strengthen museum infrastructures, in particular conservation techniques, museographic facilities and procedures adapted to local conditions and the training of qualified personnel.

18. It would appeal to Member States to encourage the mass information media and educational and cultural institutions to strive to arouse a greater and more general awareness with regard to the return or restitution of cultural property to the countries of origin. It would urge all Governments to reproduce reports and studies made by archaeologists and explorers from the developed world, especially if those studies are out of print, and to make them available to the countries of origin.

19. It would renew its invitation to Member States to sign and ratify the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, of 14 November 1970.

20. It would reiterate its desire that the second World Conference on Cultural Policies, to be held in 1982,

should devote considerable attention to the question of the return or restitution of cultural property, with a view to improving international cultural co-operation.

21. On behalf of all the sponsors, and on our own behalf, we should like to thank very warmly certain States Members of the Organization, France and Belgium in particular, for having taken, in accordance with the relevant resolutions of the General Assembly, constructive measures for the return or restitution of museum pieces and *objets d'art* to their countries of origin under bilateral arrangements. We hope that such examples will be followed by other Member States.

22. In conclusion, I should like to appeal to all Member States to give their support to draft resolution A/36/L.22/Rev.1, in the interests of strengthening international co-operation and preserving and developing universal cultural values, thanks to fruitful co-operation between the developed and the developing countries.

23. The PRESIDENT: I call on the representative of Viet Nam, on a point of order.

24. Mr. NGUYEN THUONG (Viet Nam) (*interpretation from French*): The policy of the Government of the Socialist Republic of Viet Nam has always been, and remains, to attach the greatest importance and attention to any work connected with the preservation and restoration of our national cultural heritage. The presence now of a UNESCO delegation in Hanoi, headed by the Director-General of UNESCO, for the purpose of discussing with our Government the restoration of the city of Hué, the former imperial capital, is proof of that.

25. Viet Nam, an independent country, attached to its thousands-year-old past, is, like any other developing country, keenly interested in the question of the restitution of our cultural property to our patrimony. Much of that property was dispersed or taken away during the vicissitudes of several centuries under feudal and colonial foreign domination and recent wars of aggression against my country. However, to my great regret, the Vietnamese delegation regards as an obstacle in principle the presence among the sponsors of the draft resolution of the representatives of Pol Pot, whom my delegation does not recognize, for reasons that we have explained elsewhere. These persons represent—

26. The PRESIDENT: I call on the representative of Democratic Kampuchea on a point of order.

27. Mr. THIONN PRASITH (Democratic Kampuchea) (*interpretation from French*): Mr. President, is the representative of Viet Nam speaking on a point of order or explaining his vote? I would ask you to stop his explanation of vote; it is certainly not a point of order.

28. Mr. NGUYEN THUONG (Viet Nam) (*interpretation from French*): These persons represent only a régime that is well known for, among other crimes, its vandalism of all the cultural values and property of its own people's past. Hence, they represent neither the people of Kampuchea nor the Government of the People's Republic of Kampuchea—the sole legal and authentic representative of that people. Nothing said by those persons can have any value, since they represent no one.

29. In view of that obstacle my delegation, despite all the respect it has for the other sponsors of the draft resolution, must state that the Socialist Republic of Viet Nam

cannot participate either in the discussion or the decision on that draft resolution.

30. The PRESIDENT: I call on the representative of Poland on a point of order.

31. Mr. NOWAK (Poland): In the name of the delegations of Bulgaria, the Byelorussian Soviet Socialist Republic, Czechoslovakia, the German Democratic Republic, Hungary, the Lao People's Democratic Republic, Mongolia, the Ukrainian Soviet Socialist Republic, the Union of Soviet Socialist Republics, and Poland, I should like to state the following.

32. The delegations that I have just enumerated, as is widely known, have always supported the resolutions of the General Assembly on the return or restitution of cultural property to the countries of origin. It is their intention to pursue their co-operation in this field in the future also within the framework of the United Nations. I should like to add that this coincides with the traditional activity of my country in that regard.

33. Unfortunately, the sponsors of the draft resolution created a deplorable situation by allowing the representative of the Pol Pot régime to be included among the sponsors. In this connection, I wish to remind the Assembly that the list of crimes of the Pol Pot régime also includes crimes against the Kampuchean cultural patrimony.

34. In these circumstances, the delegations that I have enumerated have no choice but not to participate in the consideration of and voting on that text at this time. We hope that the sponsors will, in view of the situation that has been created, postpone further consideration of the draft resolution in order that a proper solution may be found.

35. Mr. ALBORNOZ (Ecuador) (*interpretation from Spanish*): I should like first to express the condolences of the Government of Ecuador to the Government of Colombia on the sudden death of Senator Juan Arango, former Special Ambassador and member of the Colombian delegation to the General Assembly.

36. The importance of the debate on this agenda item, which we do not regard as in any way a debate on matters of political interest, clearly reflects the desire of the developing countries to recover fundamental elements of their cultural heritage which at present are in the possession of Governments of or private institutions in the wealthier countries.

37. In the vestiges of colonialism and the emergence of neo-colonialism, we see not only the mark of slavery, which affected human beings and which still exists in the form of racial discrimination and *apartheid*, but also the extinction through exploitation of animal and vegetable species, and the expropriation of works of art—as a result of illicit trade and expeditions undertaken in the name of culture but which in the end deprived the countries that are the legitimate owners of the property of elements which represent the cultural dimension of their sovereignty, such as documents on past generations, expressions of the spirit of the people, and evidence of the creative capacity of their artists and artisans throughout thousands of years of history and evolution.

38. During the last two centuries the argument was advanced that cultural objects, the works of art of remote peoples or ancient civilizations, were better cared for

when catalogued and displayed in the museums of the large industrial centres of the world, and that in their countries of origin there were no museums, experts or appropriate legislation. That situation, whether fictitious or real, does not exist now. The establishment of museums with modern techniques in our countries, the training of experts in research, cataloguing and restoration, and the national interest in our indigenous cultural values are characteristic of a universal movement clearly demonstrated in the developing countries. Therefore, the time has come to return or restore works of art to their countries of origin.

39. In my country it is the task of the Central Bank of Ecuador to recover the age-old heritage of our people, and it has brought together important pre-Colombian works of art, expressions of Indo-European culture which represent the result of colonial occupation, and the traditional contribution of Spain as well as of modern Ecuador to universal art. Thus, after more than 20 years of patient work the museum shows the evolution of 12,000 years of the culture of Ecuadorian man from prehistoric times through the colonial period to contemporary times.

40. That museum has exhibitions on textiles, gold and ceramics from pre-Colombian times, sculpture from the city of Quito, collections of Christmas crèches and exhibitions of modern works of art by Ecuadorian artists who have been awarded prizes for their works. The Bank's programme includes expeditions in the Ecuadorian region and the restoration of artistic works with the help of international experts in a workshop with the latest equipment. Work is being carried out on a chronological list and restoration of monuments and ceramics, which represent the documentation of the history of our cultural past.

41. This work has extended beyond the doors of the Central Bank of Quito to the establishment of other special museums. The Camilo Egas Museum, which shows all the indigenous works, especially those of the present century, is located in a beautiful colonial house.

42. The Bank has also created the Museum of the Central Bank in Guayaquil which concentrates on the regional archaeology of the Ecuadorian coast and is in fact an ethnological Ecuadorian museum of great significance in the unravelling of our past. Nineteenth century art is shown in Cuenca and in the San Diego Monastery in Quito, which represent other steps in the defence of our cultural property.

43. In addition the convents of Quito have become museums and in them are kept treasures of architecture, goldsmiths, wood carvers, and paintings and sculpture of the sixteenth to the nineteenth centuries. There is found baroque art and the *mudejar* works of art, which represent the refined culture of the Arab peoples of the Hegira and their eight centuries of cultural contribution to the Spain of Al Andalus, which, along with the Spanish cultural mosaic, were reflected in particular in the religious art of the Americas.

44. The Central Bank also has an aesthetic history studies section and an architectural department that has already restored temples in certain parts of Ecuador with the technical co-operation provided by UNDP and its regional programme, which also gives counsel to the National Heritage Institute, which is cataloguing works of art covering the various stages of our culture. It is located in the San Augustin Convent in Quito, where we restore, in particular, paintings and sculptures of the colonial era.

45. From both the United States of America and Europe, in the last century and this century, expeditions have been sent out to investigate the roots of our indigenous culture. Useful conclusions were arrived at and valuable information was obtained; this we acknowledge. But at the same time those expeditions plundered our works of art, and large quantities of unique *objets d'art* were taken away. For example, the Saville Expedition, which provided works of art for the United States Heye Foundation, removed shiploads of archaeological pieces. There are hundreds of examples of the same object in the storehouses and warehouses of the museum which could be either returned to the country or lent to it, especially now that we have our own museums, such as the ones we have described. In this connection, in operative paragraph 7 of the draft resolution, we have addressed an appeal to public and private collectors.

46. In exhibitions offered by Ecuadorian museums we unfortunately have to limit ourselves to showing photographs of fundamental pieces that have been taken out of the country. Another clear case is that of the so-called Punin Man Skull, which testifies to the 13,000 years of existence of man in Ecuador. Since 1923 it has been in the American Museum of Natural History in New York.

47. Even today, in this decade, there is obvious vandalism in several Andean countries, where unscrupulous traders promote actions such as the removal and smuggling of objects from churches, altar-pieces and works from various parts of the country. Some of those works of art are taken out under cover of diplomatic privileges of immunities, which were most certainly established for other purposes concerned with mutual respect and coexistence among countries.

48. Several years ago the United Nations and UNESCO began to adopt resolutions urging the Governments of Member States to adopt measures to protect the cultural property of countries and to restore works of art to their countries of origin, especially when they had been acquired through illicit trafficking. But Governments generally say that such matters are subject to judicial procedures and that nothing can be done, following which, with the help of very clever lawyers, the legal machinery keeps the matter open for years and years and nothing happens.

49. Let me give an example. Four years ago the Government of Ecuador took a case to the Italian courts concerning the unlawful shipment of 12,000 works of art. Among them were objects of the Valdivian culture, which flowered on the Pacific coast of Ecuador 3,600 years before Christ, and many other pieces, including those of the Manteñas cultures, which preceded the arrival of the Spaniards in the sixteenth century. Those objects are in Turin, under Ecuadorian consular vigilance, but the final decision by the Italian court on handing them over is still pending a hearing next February. In the meantime the "dealer" has plagiarized publications concerning those objects, which are part of the heritage of our country.

50. This problem affects all the countries of the world. That is why it is urgently necessary for the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property to enter into force and for a campaign to be developed for the ratification of the Convention at the world level. This is the only way of stopping the plunder of and

unlawful traffic in cultural property, which affects our peoples and the universal heritage of mankind.

51. Another important aspect of the process of the transfer of information and knowledge which obviously falls within the purview of investigation and research is that the industrialized, more developed countries that have published information, especially with respect to the last two centuries, could bring out new editions in languages that are accessible to the interested countries. Those publications cannot be obtained at present. In many cases Latin American Governments have with great effort reproduced certain works, such as those of the *Cronistas de Indias*, *Noticias Secretas de América* by Jorge Juan and Antonio de Ulloa, and others are beginning to appear in European countries in facsimile versions—for instance, the historic account *A Voyage to South America*, also by Jorge Juan and Antonio de Ulloa published by the Spanish University Foundation in 1978—are most useful in recalling the joint action of French scientists such as La Condamine and Spaniards who went to Ecuador in 1734 to measure the quadrant of the earth's meridian in order definitively to determine the size and shape of the Earth. We likewise hope to have Spanish editions of the work of the great German naturalist and precursor of ecology, Baron Alexander von Humboldt and of Aimé Bonpland, the great French botanist. At least the 1907 work of Marshall Saville of the United States Heye Foundation, to which we have already referred, should be published. Although it began in the last decade, there should also be greater dissemination of the work of Charles Darwin, especially the voyage of the *Beagle* in 1831 through the Galapagos Archipelago and other parts of our continent.

52. Important regional work is being carried out in Latin America which should be acknowledged and applauded. It originated in the inter-American system and was confirmed in the Convention on the Protection of the Archaeological, Historical and Artistic Heritage of the American Nations, the so-called San Salvador Convention, adopted in 1976.

53. We welcome, and certainly applaud in the draft resolution, the work of UNESCO and particularly that of its Director-General, Mr. M'Bow, concerning the process for the restitution of cultural property to the countries of origin, as well as the work of the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation, of which Ecuador is a member, and the Committee on the Cultural Heritage of the World, which has declared the city of Quito and the Galapagos Islands of Ecuador to be of universal value and the heritage of mankind as assets of nature.

54. We must also applaud the action of some European countries, such as France and Belgium, which have begun to return cultural property to the countries of origin, and we must also praise the work of the Union de Banques Suisses, which deploys efforts and provides funds for the preservation of the cultural heritage and monuments of that country.

55. We hope that the resolutions of the General Assembly, the main organ of the United Nations and the forum in which the peoples of the world place their hopes, will be action-oriented. For a moment, rather than engaging in bitter recriminations and condemnation, we could deal with questions of cultural significance and measures that could make a positive contribution to the relaxation of tension and the reduction of international resentment. That

is why we hope the draft resolution will be adopted by consensus—I say by consensus over and above circumstantial political ulterior motives. We hope that adoption of the draft resolution by consensus will eliminate past abuses and ensure that the restitution of works of art, an invaluable cultural heritage of our countries, will be a clear demonstration of the international cultural and educational co-operation that is clearly laid down in the Charter.

56. Miss AL-TURAIHI (Iraq) (*interpretation from Arabic*): It is not surprising that the international community should be concerned with the return or restitution of cultural property to its country of origin. That is because this question represents the cornerstone of the achievement of international cultural co-operation on the basis of justice and equality and in a world where equity prevails.

57. We note that the developing countries in the three continents of Asia, Africa and Latin America are extremely concerned about this question because we have all been subjected to coercion and foreign occupation and we all fought for the achievement of liberation and independence and the liberation of natural resources. We read history in order to prepare the way for the promotion of our societies. Heritage guided us in our long march to transcend time and to catch up with the twentieth century, with all its dimensions and with all that it has brought as far as the new basis of international relations is concerned.

58. This issue is of major concern to my country because we have to bear in mind that Iraq was the cradle of civilization, as has been mentioned by André Malraux and others. Our human civilization started in the land of Sumer. Arnold Toynbee, in his famous work *A Study of History*, referred to the contribution of the civilization of the valleys to human civilization. As for Baghdad, it was a centre of the dissemination of culture in the ninth, tenth and eleventh centuries A.D., while Europe was in the Dark Ages. Baghdad at that time was a cultural crucible in which new schools appeared in the fields of philosophy, science and literature and all other branches of knowledge. The institution of the Home of Wisdom, which was established in Baghdad, played a role in the preservation of the cultural heritage and of Greek philosophy. The trade route that connected East and West, known as the Silk Route, played a role in establishing bridges of understanding among nations. Baghdad at that time was the heart of Arab and Islamic civilization and the primary source of the dissemination of culture. The way in which it cherished its library and documents was unequalled. We are proud that we were the first to work in the fields of chemistry and algebra, with terms that are still used to this day. This represented the beginning of modern technology, especially in the fields of mathematics and algebra. Our documents were dispersed all over the world after the invasion of Holako and his burning of the library of Baghdad.

59. I am focusing on Iraq, my country, because we feel sad when we visit the museums of the world, starting with the British Museum, the Louvre, the Metropolitan, the Berlin Museum and others, and see our treasures outside our country and displayed in the Assyrian, Sumerian, Chaldean, Babylonian and Islamic halls of those museums. We see our statues and monuments, friezes, manuscripts, and earthen tablets dispersed all over the world and imprisoned, so to speak, in foreign environments. We see our march through history, starting from Sumer, through Babylon, along the ceremonial road to Assyria

and its library of earthen tablets. I am quite sure that many of those present here from the third world feel the same sadness as we do because those monuments and that cultural property represent the symbols and ceremonies and worship of peoples. We consider them the mainstay of our being and our renaissance. There is no doubt that these monuments were not transferred with our agreement. Rather, they were stolen and plundered and the robbers even went so far as to invade the sanctity of the tomb. The Pharaohs might have guessed what would happen to their tombs, which is why—as legend tells us—they inscribed on them an eternal curse on those who disturbed them. Our culture was dismembered, which is why Tamuz entreats Astharot for resurrection.

60. For nearly a decade we have been calling for the return and restitution of our heritage, our monuments in order to create an edifice of human civilization based on just and equitable relationships. The world is based on challenges and on certain cultural responses. We are today calling on the contemporary world to respond to our cause more seriously.

61. We have stated previously that one of the matters that cannot be called into question is that historical monuments, in particular, are part of their natural environment because they are part of the identity and culture of the mother country. Despite the fact that we perceive cultural objects as the legacy of human civilization, we know at the same time that above all they belong to their country of origin and cannot be separated from the national and spiritual heritage of that country.

62. In 1977 we circulated a document¹ containing a list of some of the treasures that are scattered throughout the museums and museum storerooms of the world. I indicated the Ashur Banibal Library, which comprises 25,000 earthen tablets is now in the storerooms of the British Museum. Here I wish to refer to what is stated in operative paragraph 7 of the draft resolution, of which Iraq is a sponsor. We hope that we shall be able to reach agreement with the British Museum in line with that concluded with the Louvre Museum, by means of which the second original obelisk of Hammurabi was restituted to us. That obelisk's return to its original country is greatly appreciated because it contains the first legal texts known to history. The restitution of the obelisk will be, it is hoped, a symbol for the beginning of a new phase of the codification of laws concerning the restitution of property through bilateral agreements.

63. The call for the protection of cultural property and its return to its legal owners must not be confined to international organizations or be mere political slogans. That reveals the necessity for States to formulate legal provisions for the restitution of such property or its distribution in such a manner as to ensure the principles of justice, equity and balance. In this context the International Law Commission, which is a subsidiary organ of the United Nations entrusted with the codification and the progressive development of international law, formulated a set of legal articles on the succession of States with regard to State archives. The Commission completed those articles as part of the draft articles on the succession of States in respect of State property, archives and debts and has submitted them to the General Assembly at the present session, with the recommendation that a conference of plenipotentiaries be held to study them and to conclude a convention on the subject [see A/36/10 and Corr.1, para. 86]. What is interesting to us in those articles is that the International Law Commission has invoked resolutions

adopted within the framework of UNESCO, deriving from those resolutions a number of legal principles under which archives would be distributed, including archives of historical value.

64. Before dealing with the contents of the Secretary-General's report, which includes the report of UNESCO, I wish to state an important fact: the developing countries are keenly interested in entering a phase of deeds and not of words alone. For example, our museum is considered one of the most recent in the region; most archaeological expeditions are national ones. Foreign archaeological endeavors are organized through agreements with the relevant Governments. We have established strict laws to stop trafficking in monuments. We also have started to expand and modernize other museums in the Governorate's centres; I would particularly cite the museums of Babylon and of Nineveh. There are also periodicals that publish articles on cultural heritage, monuments and history, such as *Sumer* and *Arab Horizons* (Afaq Arabiya).

65. As regards the report of the Secretary-General, I regret to have to state once again that it does not describe any United Nations activities whatsoever concerning this vital issue. The Secretariat has resorted instead to its previous approach, that is, referring briefly to the UNESCO report.

66. As regards the report submitted by UNESCO we wish to thank the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation for holding two sessions, in 1980 and 1981. We also wish to pay a tribute to the Committee for its good offices in facilitating bilateral negotiations concerning the return or restitution of cultural property. We have noticed that during the first session one of the States referred to the principle of compensation. We wish to reaffirm here that Iraq rejects that principle because compensation cannot be made for those monuments since they are priceless, materially and spiritually. We share the view of the Committee that above all the principle of return or restitution should be affirmed.

67. At its first session the Committee adopted a series of recommendations. In the second recommendation, on the international community's concern at the continuation of illicit trafficking in cultural property, States are urged to accede to the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. It is regrettable that in more than 10 years only 50 Member States have become parties to the Convention. We hope that Governments will co-operate with countries victims of appropriation, to stop all illicit trafficking and take measures against those perpetrating this unethical act. It is evident that such activities may lead to the loss of human cultural heritage or its destruction. I remember in this connection that a European archaeologist, at the beginning of this century, shipped about 80 statues and friezes from the city of Assur on rafts; those priceless monuments sank near Al Qur-nah, where the Tigris and Euphrates meet. A few years ago we endeavoured to raise them, using the most modern underwater excavation techniques, but our efforts were to no avail. Our land preserved those monuments for nearly 2,000 years. Then an adventurous archaeologist came and lost them to us forever in a short time in the industrial age.

68. Further, we agree with the recommendations of the Intergovernmental Committee, reached at the second ses-

sion concerning the encouragement of bilateral negotiations and the undertaking of systematic inventories of cultural property in the original countries or others, to cover all collections.

69. As for the report on the activities of UNESCO, efforts in specific areas are commendable and we hope that even more will be accomplished. The report of the Director-General of UNESCO refers to the extreme concern of the international community over the small number of States that have acceded to the Convention.

70. In conclusion, I would say that the time has come to agree at least on cultural matters, even if we have not been able to agree on several political and economic issues. We hope that this draft resolution will be adopted unanimously and that we shall enter the phase of actual implementation in order that we may not have to repeat ourselves at the next session when we consider this subject.

71. Mr. OURABAH (Algeria) (*interpretation from French*): A debate on the return or restitution of cultural property to the countries of origin is taking place again this year, while third-world countries are attempting to establish an international order with new political, economic and cultural dimensions are also being made. It takes on coherence when seen in this light and restores meaning to the legitimate claim made in the very title of the agenda item.

72. To satisfy the legitimate and profound concern of countries plundered of the fundamental elements of their cultural heritage, our common duty here is to seek a consensus on the ways and means by which to implement the equitable principle of the return and restitution of cultural property to the countries of origin. We should like to pay a warm and deserved tribute to UNESCO and to its Director-General for their great perseverance in this field. In their efforts towards this end, they are genuinely working for, first of all, understanding between people, for international co-operation and, finally, for peace among mankind.

73. The increased interest shown by UNESCO in the right of peoples to recover such property, the testimony to their own genius and cultural values, expresses an international awareness of this major dimension of the preservation and development of the universal cultural heritage.

74. The establishment of friendly relations and co-operation among States depends upon respect for the cultural integrity of each people. The return of cultural property to their countries of origin would lead to the revitalization of relationships of international cultural co-operation, ultimately creating the dynamic crucible of a just and equitable cultural order that will develop the identity of each people to the benefit of all.

75. The present situation is the result of a history marked by centuries of relations of domination. It is the result of the plundering of the cultural and artistic riches of peoples which at one time in their existence were caught in links of dependence. The organized outflow of cultural properties which developed in parallel with that of material goods resulted in a financial drain on dominated peoples, which were robbed of both their natural resources and the symbols of their creativity. It even went as far as the plunder of their archives, the fabric of their collective memory.

76. We are assessing the scale of the damage suffered. We see the need for reparations, which are called restitution. What is more natural than that the peoples of the third world, as soon as political independence is acquired, should aspire to the recovery both of their natural riches and of their cultural property that has been dispersed to foreign countries? And, in truth, apart from the emotional impact of the loss of this property, there is the whole question of mastering all the elements of sovereignty, which they wish to be authentic and complete, facing newly independent countries. The recovery of cultural property is a burning topical issue because it is an integral part of the recovery of sovereignty itself. This fundamental requirement was specifically in the mind of the Director-General of UNESCO when he made his solemn appeal to member Governments of the organization to conclude bilateral agreements providing for the return of cultural property to the countries of origin. That appeal adds to the justice of the claim the moral authority of a universal organization dedicated to the promotion of harmonious cultural relations between nations. The fact that that appeal has not yet had all the desired impact and effect fully justifies the Assembly's repeating it and vesting it with its own authority.

77. We must welcome here, as examples to be followed by many more, the cases of voluntary restitution which have taken place so far throughout the world. Those examples honour those who took that action. Let us hope profoundly that those cases will not long remain isolated.

78. The restitution of cultural properties to their countries of origin is an inalienable right of the States which have been dispossessed of them. It must be based on the determining principle of equity. It calls for global solutions facilitating the re-establishment and return of this property to the territory of the countries of origin, thanks to broader international co-operation.

79. Commitment to such a process should not be hindered by technical difficulties; even less should it be subjected to prior conditions. There is, indeed, some contradiction in declaring acceptance of a principle that is broadly accepted whilst raising difficulties of a legal, technical or even psychological nature for not applying it.

80. The fact that the owners of certain property are private individuals, talk about the inalienable nature of certain property which is part of a public collection, the argument of lack of conservation infrastructure or qualified staff in the countries of origin or, finally, fear of the feelings that might be aroused by the restitution of certain property which the public of the country in possession wrongly feels to be a part of its own national heritage—none of this is any reason for preventing just and necessary restitution. On the contrary, all this indicates the need for increased international co-operation to overcome the subjective or objective difficulties of returning cultural property. Finally, it is maintained that the dispersal of this property throughout the world ensures that the genius of our peoples radiates throughout broad sectors of the world population. Who is not aware that for a culture to be impervious to other cultural currents means sclerosis? But we must first of all put an end to an abnormal situation which forces the peoples of the third world to seek outside their own countries the symbols of their own cultures and the traces of the history of their own peoples. That is a political problem that must be tackled in terms of co-operation and equity.

81. Only a constructive dialogue in a climate of mutual understanding and international solidarity can result in the establishment of a genuine policy of restitution of cultural property to the countries of origin. The United Nations and UNESCO, in particular, could make a tangible contribution to the definition and implementation of such a policy. We hope that, with the creation of the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin, UNESCO will take a more active part in the achievement of this pioneer work in the peaceful settlement of differences in this field.

82. We know that, while maintaining their very specific nature, archives, particularly historical ones, are an integral part of this cultural property, an essential part of the heritage of all national groups. We know, too, that archives are property that enriches those who share it; by promoting a better knowledge of the past they contribute to better understanding for the future.

83. But we must be clear. The recovery of its archives is, for a newly independent State, the recovery of a part of itself, after the momentary eclipse during the colonial night. It is an aspect of its liberation from the chains of past history. It is for each people one of the most valuable means of regaining its spiritual and material well-being. Archives are a part of the collective memory. They also serve considerable practical interests through their use scientifically for the administration of the territory and for socio-economic and cultural development planning of every kind.

84. Since its accession to independence, Algeria has worked constantly for the recovery of this important part of its cultural heritage, which is testimony not only to the political, economic and cultural life of an organized society, but also of the history of a State which existed before colonial occupation. Algeria, moreover, has associated itself with the legitimate claims of the third world countries for serious, realistic codification of this important aspect of the succession of States.

85. Today, my country and France have embarked upon a good course, paved with mutual respect and the will to co-operate fully in order to settle our disputes over archives. Both countries are taking new attitudes in the search for new solutions to maintain these friendly relations and to serve as an example to the world.

86. In a world where the harmonious coexistence of cultures is necessary, particularly because of the great mobility of people and thanks to the enormous development of the media, the promotion of friendly, co-operative relations depends upon respect and appreciation of each other's culture. Thus each nation has the right to deepen its national culture by developing its own values in order to preserve its personality. Similarly, all peoples have the sacred right to participate with equality and dignity in the work of international cultural co-operation and in the enrichment of the universal cultural heritage in all its diversity.

87. We are living in an age of profound change which calls into question a system of monopolistic and exclusivist rationality based on the elimination of cultural diversity and the plurality of cultures. The new international cultural order to be set up calls precisely for the preservation of each personality, and its ultimate goal must be the promotion of all people, of all mankind. The question of the recovery of cultural property falls within

this context, for it is in the awareness of their special nature that peoples find the best catalyst for their development and, beyond that, for the development of the cultural heritage common to all mankind.

88. Mr. THIOUNN PRASITH (Democratic Kampuchea) (*interpretation from French*): For nearly 10 years now the General Assembly has been dealing with the question of the return or restitution of cultural property to the countries of origin. UNESCO continues to study it, and the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, adopted on 14 November 1970, to which Democratic Kampuchea is a party, is an expression of the concern of countries to preserve their own civilization and national identity. We should like to repeat here our sincere congratulations and great appreciation to UNESCO, which under the guidance of its Director-General continues to carry out patient work and to make its constructive contribution to the search for appropriate solutions to this problem.

89. Kampuchea is a land of ancient civilization and culture. The northern region of the Great Lake of Tonlé Sap had been inhabited for many thousands of years before our era. A bronze-age civilization appeared in the twelfth century B.C. and left most remarkable traces in Samrong Sen, in the northern province of Kompong Thom. Throughout a long, essentially endogenous development that civilization flourished for eight centuries—that is, for as long as the Roman civilization. It was characterized at the end by the manufacture of agrarian instruments and iron tools and by the construction of an irrigation system whose rationality, admired by all, made possible abundant and regular agricultural production capable of feeding the population of Angkor, the capital, which was estimated to have 1 million inhabitants. It also produced monumental bronze art which has lasted to this day.

90. The marvellous historical monuments that cover an area of several thousand square kilometres in Kampuchea, notably the famous monuments of Angkor, attest to the development and brilliance of that fascinating and extraordinary art, known and admired for its multiple aspects: sociological and human, ritualistic and symbolic, royal, religious and divine.

91. The people of Kampuchea is legitimately proud of its past and has spared no sacrifice to defend and preserve its cultural heritage, whatever the cost. All statesmen, diplomats, journalists and tourists who visited Democratic Kampuchea before the Vietnamese invasion are unanimous in saying that the monuments of Angkor were in a good state of preservation. The three towers of Angkor Wat, seen from the front, have always been the symbol of the national identity of the people and nation of Kampuchea on our country's national flag. Since the Vietnamese invasion, Kampuchea has become a devastated land. Together with the destruction of economic structures and the mass extermination of the population by conventional and chemical weapons and the weapon of famine, the invaders plunder and destroy much of Kampuchea's national artistic heritage, in Phnom Penh and the monuments of Angkor and the pagodas and museums in provincial towns in Kampuchea. They have stolen and transported to Viet Nam bas-reliefs, sculptures and statues from the Angkor monuments. Very often, in order to escape the wrath of the population, they camouflage their booty in coffins which they send to Viet Nam.

92. It is worth recalling here the following vivid testimony of an American journalist which appeared in the *Washington Post* of 25 September 1979, a few months after the Vietnamese invasion:

“There is convincing proof of pillage in the antique shops of Ho Chi Minh City and Hanoi. The theft and export of Cambodian art treasures must be widespread judging by what we found in Vietnamese shops. There were ordinary wooden buddhas, priceless stone sculptures, copper objects, Apsara dancing figurines and what were described as busts from the Angkor period.

“One piece was mounted on a block of black wood of the type used by museums.

“Questions asked of the dealers about those objects and their origin led to police surveillance, and my guide brusquely terminated my shopping day when I insisted.

“‘Cambodian art began appearing in Ho Chi Minh City about February or March 1979, two or three months after the Vietnamese invasion’, declared a foreign resident. ‘It is only now that it has reached Hanoi’. The wooden buddha was still, I am sure, smeared with axle grease from a Vietnamese army lorry.”

93. Moreover, the Vietnamese invaders destroyed a large part of the admirable forests of the Angkor complex, thus taking away the charm and serenity of these remnants of the ancient Khmer civilization.

94. Such are the crimes of the Vietnamese expansionists of Hanoi, who, through the plundering and destruction of *objets d'art* and historic monuments of Kampuchea, are carrying out a deliberate policy aimed at destroying the people of Kampuchea by destroying their cultural and historic roots, in order to turn them into a national minority without a past and without the proofs of their history. The people of Kampuchea have never forgotten that the Vietnamese expansionists totally absorbed the Islamic Kingdom of Champa, which constitutes central Viet Nam at present, and totally destroyed the civilization and culture of Champa towards the end of the seventeenth century. The Kampuchean people will never allow the Vietnamese expansionists to annihilate their civilization, their identity and their national soul. They categorically refuse to become the second Champa of Viet Nam.

95. Present world civilization is the result of a synthesis of many civilizations that has gone on for centuries and even for thousands of years, together with the fruitful, rich and varied contributions of all civilizations and cultures which have developed to our day, an important part of which belongs to the newly independent and sovereign countries. Just as a writer can reach the universal only by remaining profoundly personal, so a people cannot make its contribution to world culture unless it is deeply imbued with a profound sense of its own culture. If, as is unlikely, the regrettable day comes when the world has only one civilization and one way of thinking, world civilization will begin its decline. However, if each people is to be able to develop its own national culture based on the originality of its identity and its national personality, it is necessary that its independence and its national sovereignty be respected integrally and rigorously.

96. Indeed, the monuments of the Khmer civilization are an integral part of the cultural heritage of mankind, but, above all, they represent the soul and the memory of our people, the eternal symbols of our identity and our national personality. That is to say, one of the major concerns of the Government of Democratic Kampuchea is the return as soon as possible of these invaluable treasures to the heart of the country, to the people of Kampuchea, the inheritors of this thousand-year-old civilization. That is why my delegation is a sponsor of draft resolution A/36/L.22/Rev.1.

97. It is indisputable that the question of the restitution and return of cultural and artistic property to the countries of origin is closely linked to that of the defence of peace and international security, to that of the defence of the Charter of the United Nations, particularly the principles of non-intervention in the internal affairs of States and the non-use of the threat or use of force and the principle of equality of the rights of peoples and their rights to self-determination. That is why the preservation of the Khmer civilization and art can be envisaged only with the halting of the Vietnamese invasion and the restoration of the inalienable right of the people of Kampuchea to determine their own future in accordance with General Assembly resolutions 34/22, 35/6 and 36/5. It is to that end that the people of Kampuchea continues its multifaceted struggle, a struggle for the survival of its nation, its civilization and its national identity, a struggle which, with the support and solidarity of all peoples and countries that cherish peace and justice, plays a part equally in preserving the cultural heritage of mankind.

98. It is most regrettable that the representatives of Viet Nam and Poland have disturbed our debate, which we had all hoped would be a peaceful one. Their statements made a few moments ago under the pretext of speaking on a point of order are only manoeuvres to try to camouflage their crimes and to escape the condemnation of the international community.

99. Apart from the proofs that I have cited here, we have photographs of the monuments of Angkor taken before and after the Vietnamese invasion of Kampuchea, which clearly show the destruction and the plundering of the Angkor monuments by the Vietnamese invaders. In fact we should perhaps be grateful for the statements of those two representatives, which confirm what everybody knows. It reminds us all in fact, first, that the expansionists continue to violate the Charter and to trample underfoot all the relevant resolutions of the United Nations which condemn the Vietnamese invasion of Kampuchea and the Soviet invasion of Afghanistan and call for the total withdrawal of Vietnamese troops from Kampuchea and of the Soviet forces from Afghanistan. Moreover, it reminds us that the Vietnamese expansionists and the Soviet expansionists are the new colonialists of the end of the twentieth century and far worse than the old colonialists. In fact they plunder the cultural property of the countries they invade and they want to destroy the oldest civilizations, which are part of the heritage of mankind, and to replace them with their own, which is only that of the law of the jungle. Their fallacious pretexts only confirm that they are in fact the ones that are really guilty of crimes against mankind.

100. Mr. CORTI (Argentina) (*interpretation from Spanish*): Argentina has always been deeply aware of the importance of the subject under discussion. Since it first be-

gan to be dealt with, we have understood the necessity to co-operate actively in its consideration. This we have done in UNESCO and in the United Nations, with countries that have a great cultural heritage and that, during centuries of the colonial yoke, were despoiled of their most precious treasures, leading to the loss of their traditions and customs. The despoliation of ritual religious and artistic objects and monuments, the destruction of historic sites and the wrongful displacement of populations and alteration of their environment have had a negative effect in many countries on their age-old traditions, changing their way of life and their cultural identities.

101. There is no more elementary or just right than the right to preserve in a proper manner one's art, culture and religion. Many countries have been deprived of these by colonial plundering, by the greed of collectors or by the cultural black market. It is high time this situation of injustice was ended, and the United Nations has begun that task, slowly but with tenacity and patience and undismayed.

102. In this connection, my delegation wishes to pay a tribute to UNESCO, which objectively and dispassionately, but at the same time with businesslike and careful action, has created the pertinent bodies and in this field, as in other fields, is doing exemplary work.

103. We are acquainted with certain truly significant achievements. The procedures used are delicate and do not always allow of publicity, which might be prejudicial to the final result of the endeavour, but the reports we have received are highly encouraging. We also express our gratitude to those countries which, aware of the new state of affairs, have shown their readiness to co-operate, if not in putting an end immediately to the situation at least in changing it and permitting the start of the return of items, objects and documents to the countries of origin.

104. Scientific and technological progress has substantially changed certain cultural concepts. Geographical distances, political boundaries and even the very idea of an ideological barrier are yielding to the progress achieved with a view to integrated cultural development, not only within regions but also between them.

105. The new trends on the subject tend to change the traditional idea of a static monumental museum and to replace it by a more fluid dynamic concept. Peoples no longer want those enormous cathedrals of art and culture; rather, the latter's art and culture should go to the people. Increasingly, exhibitions based on individual subjects and mobile exhibitions provide easier access by the masses to a culture and even to knowledge that in the past was the preserve of intellectual élites. The Gioconda and the Pietà travel the world as ambassadors in a new form of culture, culture for all. Malraux said that the new dialogue will be between Zarathustra and Benares. When that happens, the United Nations will have taken an important step towards peace and international understanding.

106. Mr. RODRÍGUEZ-MEDINA (Colombia) (*interpretation from Spanish*): The international community has gradually become convinced of the vital need for Member States to preserve within their geographic sphere the creativity of its peoples. National awareness is formed by memory. Nothing speaks more clearly to man than the creations of his ancestors, be it the caryatids of the Erechtheum, a Viking vessel or sword, a Greek amphora, a Nigerian head, Gothic statues or stained glass, a Renais-

sance altar-piece, pre-Columbian pottery or a Goya painting. A work of art speaks to the descendants of those who created them and prolongs that feeling of brotherly solidarity which, as an invisible thread, weaves the warp of developing history.

107. These cultural works of art are the outline of our feelings and beliefs. They constitute the identity of our being as nations. They are moreover a means of awakening our anthropomorphic conscience. They give shape to a feeling of pride and stir our people to greater achievements.

108. Those countries which, legally or illegally, deprive others of their cultural property, to keep it hidden in private collections or to lock it up in official museums, are showing neither respect nor appreciation for those lofty ideals. Colombia, like many other nations, throughout its history has been the victim of the spoliation of its cultural property. Its pre-Columbian treasures and religious items have been plundered systematically and unashamedly, first in the name of colonialism and now in the name of artistic trade and sweeping tourism. Experts have estimated that in the last 10 years—the 10 years that have elapsed since the adoption of the Convention which is the basis for our discussion—the illegal traffic in cultural property at the world level easily exceeds \$1,200 million.

109. That is why Colombia is convinced that the principles of international morality in the field of the protection of the cultural heritage should prevail over purely economic or allegedly political interests. That is why we note with satisfaction, and welcome, the attention the Assembly is giving to this vital question, in order to reassess the concepts of human development, justice and equity. We are convinced that recognition of the right of all peoples to recover their lost heritage is both an ethical duty for those who have kept it and a moral obligation for the United Nations.

110. Those who said that the political emancipation of our peoples would never achieve full fruition without the recovery of those treasures, the faithful witnesses of our origins, of our future and of our civilization were not wrong. It is in this connection that the active work carried out during this decade by UNESCO is most laudable. The results of the meetings in Nairobi, Dakar and Venice, and of the sessions held in Paris by the Intergovernmental Committee set up to promote the implementation of the Convention, encourage us to be optimistic.

111. However, it is equally clear that the development of positive international law concerning this cultural safeguard has encountered serious obstacles. We believe that the main problem lies in the interpretation some countries and individuals have sought to give to the concept of ownership of cultural property. It is obvious that if property rights are limited to actual possession the legitimate claims of countries will be conditioned by the hazardous laws of the art market. Thus, the moral principle becomes a mere utopian claim and the Convention is reduced to a mere decalogue of good intentions.

112. We should not allow situations to become irreversible, and that is why we believe that this is a more than propitious moment for making progress in the formulation of international policy to promote bilateral cultural agreements, as an ideal means of giving true content to the negotiations—on the assumption, of course, that the 1970 Convention will be used as a framework for such bilateral agreements or arrangements.

113. So much for the past. As for the future, we consider that the time is ripe for UNESCO, independently of other action, to consider the establishment of a select group of experts at every level to advise our countries in identifying, codifying, protecting and exhibiting our present treasures. That would be the best way to build a dam against plunder, more often than not protected by ignorance of such wealth in the country of origin.

114. Such inventories, established on a region-by-region and country-by-country basis, would lead to the consolidation of a large world register which would be easy to consult and control. In the second stage such a catalogue could be extended to national property in foreign hands, both public and private.

115. The full ratification of the Convention and the strengthening of national and international public opinion in favour of the countries concerned with and capable of motivating the countries holding those treasures are indispensable. In this context, it is worth while to emphasize the commendable work of the International Council of Museums in training its personnel to exercise greater control over artistic piracy.

116. With respect to Colombia, we have made significant progress. A bill has been presented to our Congress aimed at the preservation of our cultural heritage, at giving it proper identification and the attention it deserves. We are also trying out new forms of cultural co-operation which are imaginative and bold. The purpose is to create understanding and to work out arrangements between the private and public sectors so that in a joint effort we may preserve and promote our cultural heritage. That is the case of Procultura, a joint enterprise established under the auspices of UNESCO. Its field of action is very vast and its first programmes and achievements are more than encouraging.

117. We are also convinced that these national treasures should be shared with other countries. That is why we take this opportunity to offer the United Nations our most valuable jewel, as the cultural heritage of mankind—Cartagena de Indias, the most beautiful walled port of the new world. We hope that it will be included, after the necessary formalities, in the list of those priceless monuments which should be admired and loved by all the peoples of the world.

118. Lastly, we trust that the Assembly will adopt the draft resolution by consensus, in view of its realistic aims and recommendations and all that they represent as a demonstration of goodwill, understanding and sincere friendship among our peoples, in a debate which is not and should not be political, if it is not irreparably to destroy the high ideals that prompted it, for the benefit of peace, true peace without any limits in space or time.

119. Mr. ZAKI (Egypt) (*interpretation from Arabic*): The issue that the General Assembly is discussing today has been crystallized in many resolutions adopted by the Assembly since 1972, in which it has called upon Member States to take all the necessary measures in order to return or restitute cultural property to its original owners.

120. Egypt, because of its ancient cultural heritage, handed down through many millennia, is very concerned about this question because of its deep interest in protecting the heritage and its appreciation of the importance of preserving it for the benefit of all mankind.

121. Member States may share the view that the preservation of that property is the inalienable right of each State because it constitutes the connection between peoples and their history. It links the civilizations of the past with the evolution of the present. That right is based on fundamental and unquestionable principles. First, there is the full sovereignty of all States over their riches, including their cultural wealth. Secondly, cultural heritage is a fundamental element of the cultural entity of peoples, of which no one is entitled to deprive them. Thirdly, the restitution of cultural property is an act which implies solidarity among peoples, for the common good.

122. Egypt is particularly concerned about this question because of its direct bearing on the cultures, civilizations and interests of many peoples which have suffered great losses by being deprived of much of their cultural property. Egypt has vast experience in this respect, for it is one country which has suffered the most in terms of losses incurred. Egypt has expressed its concern about the continued losses incurred by the developing countries in particular, because of acts which have illegally depleted their cultural heritage.

123. It is regrettable that the majority of States have not yet ratified the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. This Convention was concluded within the framework of UNESCO in 1970 and came into effect on 24 April 1972. Egypt calls on those Governments that have not yet ratified that Convention to do so as quickly as possible. It also appeals to those States to respect and implement article 4 of The Hague Convention for the Protection of Cultural Property in the Event of Armed Conflicts.²

124. Egypt, which is rich in historical *objets d'art*, believes in the importance of cultural and intellectual exchange between States because of its importance in the promotion of co-operation among peoples and in developing the intellectual perceptions of future generations. Egypt was among the first States to take the initiative in showing the world its monuments and the treasures of its culture and civilization. In this connection it has organized many exhibitions in the capitals of the world. Thus Egypt is one of the first States to implement the recommendation adopted at the nineteenth session of the General Conference of UNESCO, held at Nairobi, which aimed at the promotion of the international exchange of cultural property.

125. The presence of many objects from Egypt's heritage and civilization in foreign museums makes it necessary to reconsider the conditions of their transfer from Egypt without Egypt's consent. It also means that negotiations must be undertaken with those States on the implementation of the Convention. Egypt welcomes the efforts of the Intergovernmental Committee in Promoting the Return of Cultural Property to the Countries of Origin. I must pay a tribute to that Committee for the positive recommendations in its report to the General Conference at its twenty-first session, held recently at Belgrade, and to UNESCO for its meritorious efforts in this respect. We hope that such efforts will continue so that a suitable settlement of the problems relating to the return or restitution of this property may be reached. The delegation of Egypt supports the appeal of the Director-General of UNESCO to the Governments of States that may be in a position to contribute to the solution of this problem.

126. Draft resolution A/36/L.22/Rev.1, which is now before the Assembly and which Egypt and more than 30 other States have sponsored, contains positive elements to which the Assembly should give its full support. In operative paragraph 4 the Assembly requests UNESCO to intensify its efforts to help the countries concerned to find suitable solutions to the problems relating to the return or restitution of cultural property and urges Member States to co-operate with UNESCO in this area. That would undoubtedly be in the general interest of States. In paragraph 5 the Assembly invites Member States to take adequate measures to prohibit and prevent the illicit import, export and transfer of ownership of cultural property. That is a legitimate request and should be supported by the international community. In paragraph 7 it appeals to museums and public and private collectors to return cultural property to the countries of origin. It is a request dictated by the rules of international law and strengthened by ethical principles. Paragraphs 8 and 9 deal with the strengthening of museum infrastructures. This is an issue that requires greater efforts by the international community to raise the standards of such museums, especially bearing in mind that many countries with a rich cultural heritage are unable to provide their museums with such infrastructures. Paragraph 13 renews the invitation to Member States to sign and ratify the 1970 Convention. Thus the draft resolution is in general aimed at meeting the interests of all States and the restoration of the rights of the legitimate owners. That is in keeping with the purposes and principles of the Charter and should enjoy the support of all delegations.

127. Finally I should like to quote a concise though comprehensive and expressive statement by the Director-General of UNESCO:

"The most unique indication of a people's genius is its cultural heritage built up over the centuries by the work of its architects, sculptors, painters, engravers, goldsmiths and all the creators of forms who have contrived to give tangible expression to the many-sided beauty and uniqueness of that genius. The vicissitudes of history have nevertheless robbed many peoples of a priceless ocean of this inheritance in which their enduring identity finds its embodiment."*

128. Mr. KAMARA (Senegal) (*interpretation from French*): On behalf of the delegation of Senegal I wish to express my full support for draft resolution A/36/L.22/Rev.1. My delegation is convinced that the subject-matter of this draft resolution cannot leave any of the countries particularly concerned, or indeed any country in the world unmoved. While for a long time now we have admitted the fortunate existence of different national cultures, which have produced specific cultural property, we have also generally accepted the need for the complementarity of these cultures and the duty to protect them, a duty that has become the responsibility of all countries.

129. We are all aware that well-known historical circumstances have led to much of the cultural property of certain countries and peoples being taken away from those peoples and that it is now regarded as the property of other countries and peoples. But fortunately also, today there exists a general consensus on the need for their owners to claim the return of their cultural property and also for a more vigilant protection of the cultural heritage of all peoples, and on the importance of the restitution of that cultural property. This would be in the interest of the

development of artistic values in general and of the strengthening of international co-operation.

130. We must determine peaceful ways and means of achieving that restitution, basing ourselves on the principles of international co-operation in the widest meaning of that term, which this draft resolution should serve. The draft resolution defines the tasks and action that must be undertaken and refers to individuals who have already done so much in this field. I am referring here to the Secretary-General, the Director-General of UNESCO, the Administrator of UNDP and others. They must pursue their efforts. The text also stresses the need for countries holding cultural property whose return is claimed by the country of origin to show a spirit of co-operation and understanding and also of broad-mindedness. It does not minimize the responsibility of the owners of cultural property and addresses an appeal to them to prepare the necessary cultural institutions and also to prepare inventories and catalogues in co-operation with the UNESCO Intergovernmental Committee. Finally, greater awareness concerning the need to return cultural property to the country of origin is strongly encouraged and all Member States are requested to do so.

131. The Senegalese delegation especially supports the draft resolution before us since it believes that the views it contains are naturally shared by the overwhelming majority of Member States and because we believe in the soundly based theory that, in the last analysis, in gradual development and extension of the cultures of the peoples and countries of the world, the international community will find the way to universal civilization. In calling for support for the draft resolution, we wish to encourage this very healthy trend.

132. The PRESIDENT: I shall now call on those delegations which have asked to explain their vote before the voting.

133. Mr. BALETA (Albania) (*interpretation from French*): The Albanian delegation will vote in favour of the adoption of draft resolution A/36/L.22/Rev.1.

134. We support the concept and the request it contains because we feel it is not only just but indispensable that works of art which have historical and cultural value be returned or restored to the peoples and countries to which they belong in accordance with all the principles and rules of law and morals. Any work of art which has historic or cultural value is part of the heritage of its nation and its country of origin, wherever it is to be found now and whatever the reasons and circumstances which led to its falling into the hands of others. In many cases, works of art of this kind have the value of irreplaceable historical symbols for their people and for their country of origin, but in other countries they lose their real value and just become museum pieces.

135. The return or restitution of works of art with historical value must be carried out within the framework of the efforts made to put an end to the injustices committed against many countries and peoples in the time of colonial domination, during various foreign wars or occupations, as a result of plunder during archaeological excavations, illicit trade and other illegal means. Even in the case where the possessor country cannot be held responsible for having used illegal means to appropriate the works of art involved, it is obliged to take into account and to satisfy the right and the request of the country of origin. We feel that it is necessary to make every effort to solve

*Quoted in English by the speaker.

the problem of the return and restitution of cultural property. All States must really undertake to find solutions to this problem and show understanding as regards requests from countries of origin of works of art about the return of such property. We feel there should not be any insurmountable difficulties in finding an appropriate solution for each case and each request for the return or restitution if goodwill prevails.

136. It is in those circumstances that we support the draft resolution.

137. Mr. LÓPEZ DEL AMO (Cuba) (*interpretation from Spanish*): My delegation wishes to express its strongest objection to the fact that a draft resolution with such a clear, humanist and just content as the one before us should be tarnished by the undesirable presence among its sponsors of that phantom entity called Democratic Kampuchea, which my country does not recognize and which it repudiates. It is the essence of cynicism that the representatives of the Pol Pot genocide gangs, who systematically undertook the destruction not only of the tradition and cultural property of the Khmer nation, but also of the Kampuchean people itself, should now appear as promoters in words of what they denied with their barbarous deeds. However, because we share the legitimate aspirations of the non-aligned States and developing countries as expressed in this draft resolution, my delegation will vote in favour of it.

138. Mr. MUTHANA (Democratic Yemen) (*interpretation from Arabic*): My delegation will vote in favour of the draft resolution because we support its call for the restitution of cultural property to its country of origin. Democratic Yemen is one of the countries that was depleted of many of its documents and priceless monuments during the period of imperialist domination.

139. My delegation regrets the fact, however, that among the sponsors of the draft resolution there should appear Democratic Kampuchea, which does not represent the people of Kampuchea and is not its legitimate Government.

140. The PRESIDENT: The Assembly will now take a decision on that draft resolution. A separate vote has been requested on operative paragraph 7 of the draft resolution. As there is no objection, I put that operative paragraph to the vote.

Operative paragraph 7 was adopted by 105 votes to 1, with 14 abstentions.

141. The PRESIDENT: The Assembly will now take a decision on draft resolution A/36/L.22/Rev.1 as a whole.

The draft resolution as a whole was adopted by 109 votes to none, with 13 abstentions (resolution 36/64).

142. The PRESIDENT: I shall now call on those representatives who wish to speak in explanation of vote.

143. Mr. SORZANO (United States of America): The United States voted against paragraph 7 of this resolution because its language far exceeds the provisions of the 1970 UNESCO Convention on the Means of Prohibiting

and Preventing the Illicit Import, Export and Transfer of Cultural Property, to which the United States is a signatory.

144. My delegation abstained in the vote on the resolution as a whole. Our vote, however, in no way affects our support for the principle of restitution. In fact, we would like to take this opportunity to reaffirm that strong support. We are, however, opposed to any governmental obligation on restitution that goes beyond the 1970 UNESCO Convention. For example, that Convention does not require the restitution of works of art that came into a country prior to the effective date of the Convention for that country. In addition, our judicial system provides ample redress for those who allege that their property has been stolen and is located within the United States. We will continue our co-operation with individual nations in this regard.

145. Finally, I would like to point out that paragraph 11 of the resolution implies State direction of the information media for specific purposes, which we must in principle reject. The principles embodied in the first amendment to the United States Constitution, including that of governmental non-interference with the media, are among the freedoms most cherished by the Government and people of the United States.

146. Mr. MATSUI (Japan): My delegation voted in favour of the draft resolution as a whole. However, I should like to state for the record that, with regard to paragraph 6, my Government understands "inventories of cultural property" to mean "protective inventories of national cultural property."

147. Mr. SREENIVASAN (India): My delegation has just voted in favour of the draft resolution. I would like to state, however, that our positive vote is without prejudice to India's well-known position on the representation of Kampuchea in the United Nations by so-called Democratic Kampuchea, which happens to be a sponsor of the draft resolution.

148. Mr. MATHEWSON (United Kingdom): The member States of the European Community, on whose behalf I am speaking, believe that UNESCO should remain the forum for discussion of this topic. In 1978 UNESCO set up a consultative Intergovernmental Committee to study the problem and to facilitate bilateral negotiations for the return of cultural property. The member States of the European Community fully support the work of that Committee.

149. Mr. YIMER (Ethiopia): My delegation voted in favour of the draft resolution because of the useful call it makes for the restitution of cultural heritage, but I wish to state that my delegation strongly rejects the presence among the sponsors of so-called Democratic Kampuchea.

The meeting rose at 1.30 p.m.

NOTES

¹ A/32/399.

² United Nations, *Treaty Series*, vol. 249, No. 3571, p. 240.