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RETURN OR RESTITUTION OF CULTURAL PROPERTY TO THE
COUNTRIES OF ORIGIN

Report of the Secretary-General

1. 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 Zaire. ^{1/} Its consideration thereafter in the Assembly is summarized in the report of the Secretary-General submitted to the Assembly at its thirty-eighth session (A/38/456). By its resolution 38/34 of 25 November 1983, the Assembly, inter alia, requested the Secretary-General, in collaboration with the Director-General of the United Nations Educational, Scientific and Cultural Organization (UNESCO) to submit to the Assembly at its fortieth session a report on the implementation of the resolution.
2. The annexed report, sent to the Secretary-General by the Director-General of UNESCO, is submitted pursuant to that request. The preparation of the report was completed on 1 May 1985. Statistics presented in the report are therefore valid as at that date.

Notes

^{1/} Official Records of the General Assembly, Twenty-eighth Session, Annexes, agenda item 110, document A/9199.

* A/40/50/Rev.1.

ANNEX

Report of the Director-General of the United Nations
Educational, Scientific and Cultural Organization on
the return or restitution of cultural property

1. Since the previous report of the Director-General, submitted to the General Assembly at its thirty-eighth session (A/38/456, annex) UNESCO has continued its efforts to promote the return or restitution of cultural property to the countries of origin. These activities have been devoted, in particular, to implementing the recommendations of the third session of the Intergovernmental Committee for Promoting Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation, which was held at Istanbul from 9 to 12 May 1984. It should be understood, however, that these recommendations were themselves based on the ongoing progress achieved since the Committee's first session in 1980.

2. The Intergovernmental Committee held its fourth session at Athens and Delphi, Greece, from 2 to 5 April 1985. The present report will therefore describe the follow-up given to the third session of the Intergovernmental Committee and the work of its fourth session.

I. MEASURES TAKEN BY MEMBER STATES AND THE UNESCO SECRETARIAT
TO IMPLEMENT THE RECOMMENDATIONS OF THE INTERGOVERNMENTAL
COMMITTEE AT ITS THIRD SESSION

A. Promotion of bilateral negotiations for return or
restitution of cultural property

3. After the Committee's third session, two requests for the return of cultural property were received by the secretariat and communicated to the authorities of the countries in which this property was held. Copies of the two requests were also communicated to all the States members of the Committee and to the International Council of Museums (ICOM).

4. On 11 October 1983, the Minister of Education of Jordan submitted to the Intergovernmental Committee a request for the return of the "Sandstone Panel of Tyche with the Zodiac" held by the Cincinnati Art Museum, Cincinnati, Ohio, United States of America. The object requested was in fact the upper part of a Nabatean sandstone relief, of which the lower part is in the Archaeological Museum of Amman. This request was forwarded on 28 November 1983 to the Permanent Delegate of the United States of America. No official response to the request was received by the secretariat within the stipulated period of one year from the date of receipt. In the meantime, however, in accordance with the professional role that ICOM has always played with respect to this issue, the Secretary-General of ICOM wrote to the Director of the Cincinnati Art Museum so as to ascertain informally the museum's position on this request. He recalled the scientific and museological principle of reuniting dismembered works of art, cited several examples of

successful co-operation to this effect between American museums and institutions in France and Syria, and offered the good offices of ICOM for this purpose. In a reply to the Secretary-General of ICOM dated 7 November 1984, the Director of the Cincinnati Art Museum stated that the request had been discussed "thoroughly some years ago" and quoted the following terms of a letter he sent to Dr. Adnan Hadidi, Director-General of Antiquities of Jordan, on 2 May 1980: "The Museum's Board of Trustees met on 23 October 1979, and did not consent to your request, declining to reuniting these sculptures; our Museum feels that the Zodiac Tyche is an important part of our Nabatean Collection and an essential element in its display."

5. On 24 September 1984, the secretariat received a request submitted by the Minister of Culture of Greece for the return of the collection of marble sculptures, reliefs and architectural pieces from the Acropolis of Athens known as the "Elgin Marbles" and held by the British Museum, London. This request was forwarded on 19 October 1984 to the Secretary of the United Kingdom National Commission for UNESCO. In accordance with the procedure laid down by the Committee, copies of the request were also sent to the States members of the Committee and to ICOM. The period of one year within which the holding country is expected to respond officially to this request elapses in October 1985.

6. The secretariat prepared a revised draft of a set of guidelines concerning the formulation of requests for the return or restitution of cultural property. At its second session, in 1981, the Intergovernmental Committee devised a standard form as the basic instrument for the formulation and processing of such requests. The Committee, noting that museum curators and concerned officials in the member States of UNESCO might not all be familiar with the principles and procedures which it had defined, recommended that a handbook be prepared by UNESCO, with the help of ICOM, so as to assist member States. A first draft of such a handbook was prepared by ICOM, under contract with UNESCO, and submitted to the Intergovernmental Committee at its third session (1983). Discussion of the booklet showed that although the document went a fair way towards serving the purpose set out for it, considerable further refinement would be necessary. With limited time at its disposal, the Committee was unable to do full justice to the task but nevertheless gave a number of precise indications to the secretariat. It also requested, however, that the National Committees of ICOM, the States members of the Intergovernmental Committee as well as States participating as observers all be given more time for a more detailed consideration of the draft.

7. Comments were made by the following member States: Australia, Federal Republic of Germany, Netherlands, Switzerland, Syrian Arab Republic and United Kingdom of Great Britain and Northern Ireland. The secretariat of ICOM received comments from the National Committees of ICOM in Denmark and the United Kingdom. Bearing in mind the objective of establishing optimum conditions for the advancement of the Intergovernmental Committee's essential function, that of facilitating bilateral negotiations for the return or restitution of cultural property to the countries of origin, a revised version of the guidelines was submitted in draft form to the Intergovernmental Committee at its fourth session.

17. At its third session, in 1983, the Intergovernmental Committee addressed a number of recommendations to the Director-General for action that could be taken by the organization to help stem illicit traffic in cultural property. Among these was a recommendation to prepare "an information note on the solutions actually adopted or technically feasible so as to overcome various problems encountered concerning the implementation of the Convention". The problems relating to certain provisions of the Convention that make it difficult for some member States to ratify it were discussed at the consultation of experts. The report on the meeting provides information on certain Government's interpretation and implementation of these provisions. The relevant part of the report is reproduced in document 22 C/93 entitled "Proposals for the implementation of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property" and is preceded by a summary of the difficulties to which member States have referred. If there are other member States that experience difficulties with provisions of the Convention not covered in document 22 C/93, the Director-General will endeavour to provide information on the ways in which States parties have surmounted these difficulties.

18. As regards the recommendation of the Intergovernmental Committee concerning the preparation of "an internationally acceptable statement of ethical principles in regard to acquisitions both by public institutions and private persons dealing in or collecting cultural property", the Director-General is proposing that the General Conference include a provision in the regular programme for 1986-1987 for the collection of national laws and regulations and codes of practice relating to trade in cultural property. On the basis of an analysis of these texts, the Director-General will be able to explore the feasibility of drawing up a generally acceptable set of ethical principles.

D. Public information

19. The secretariat has continued to inform journalists and facilitate their contacts with museum professionals and authorities concerned with questions of return and restitution of cultural property. This has contributed to the publication of feature articles in major newspapers and periodicals in Europe and North America, as well as in other regions.

20. The professional quarterly of UNESCO, Museum, has continued its regular rubric on the subject of return or restitution of cultural property, presenting to its specialists readership both reflection by concerned colleagues and reports on cases of return or restitution. Collaboration was also initiated in 1984 with "Stolen Art Alert", a bulletin on stolen art published by the International Foundation for Art Research, New York. Selected articles and digests of lists of stolen objects published by "Stolen Art Alert" are being reproduced in Museum. This initiative responds to the observations made by the Executive Director of the International Foundation for Art Research:

"We have had relatively little success in establishing contact with official cultural property agencies and ministries. I believe that these official bodies would respond much more regularly and positively to our efforts if they were directed through an official international agency, such as UNESCO. Not only is there a need for official liaison on the level of

psychological acceptance or approval, but from a physical point of view it is very difficult for us to stay in contact with foreign museums and ministries. Most Third World countries, and even many European museums, lack the funds to subscribe to our periodical; we, on the other hand, find mailing costs to be prohibitive, and cannot sustain many exchanges or complimentary subscriptions. Therefore, the direct international communication that is of paramount importance to us is difficult to maintain, and many of the people who could make the best use of our periodical abroad are unable to receive it."

21. The subject of illicit traffic was discussed at a conference for journalists organized at Washington, D.C., in April 1984, by UNESCO, the Smithsonian Institution, the United States National Committee for ICOMOS (International Council on Monuments and Sites) and the United States National Trust for Historic Preservation. Devoted to the theme "The Challenge to our Cultural Heritage: Why Preserve the Past", the conference dealt mainly with immovable cultural heritage. The final panel of the conference was more particularly devoted to "A Threat to National Art Treasures: The Illicit Traffic in Stolen Art". Moderated by Mr. Ian Christie Clark, Permanent Delegate of Canada to UNESCO, member of the Executive Board and former Secretary-General of the National Museums of Canada, the panel included presentations by Mr. Ekpo Eyo, Director of the Department of Antiquities, Nigeria, Mr. Luis Monreal, Secretary-General of ICOM, and Ms. Julia Cave, BBC producer, who showed a film called The Hot Pot extracted from her television series entitled "The Plunderers". One of the liveliest panels in the conference, this discussion figured prominently in several newspaper reports on the event.

II. FOURTH SESSION OF THE INTERGOVERNMENTAL COMMITTEE

22. On the invitation of the Government of Greece, the fourth session of the Intergovernmental Committee was held at Athens and Delphi from 2 to 5 April 1985. Sixteen States members of the Committee were represented, together with observers from 23 other member States of UNESCO, as well as the Holy See. The International Criminal Police Organization (INTERPOL) was represented by an observer. ICOM and the International Confederation of Art Dealers were similarly represented.

23. Its composition having changed at the twenty-second session of the General Conference of UNESCO, the Committee, a/ in accordance with article 7 of its Statutes, elected a new bureau. His Excellency Mr. Luis Villoro Toranzo, Ambassador, Permanent Delegate of Mexico to UNESCO, was elected Chairman. The representatives of the following member States were elected Vice-Chairmen: Nigeria, Pakistan, Union of Soviet Socialist Republics and Yemen. Mrs. Else-Marie Boyhus (Denmark), who had been elected Rapporteur at the second and third sessions of the Committee, was re-elected to this post.

a/ The present composition of the Intergovernmental Committee is as follows: Angola, Canada, Denmark, Dominican Republic, Ecuador, Ghana, Greece, Honduras, Iran (Islamic Republic of), Iraq, Italy, Malawi, Mexico, Nigeria, Pakistan, Romania, Union of Soviet Socialist Republics, Viet Nam, Yemen and Zaire.

24. The Committee devoted most of its attention to ways and means of more effectively promoting bilateral negotiations for the return or restitution of cultural property. The discussion focused on the outcome of the Jordanian request mentioned in paragraph 4 above and on the draft guidelines for the use of the "Standard form concerning requests for return or restitution" mentioned in paragraphs 6 and 7. Apart from this, it reiterated recommendations made at previous sessions with respect to measures against illicit traffic in cultural property and once again stressed the fundamental importance of inventories of movable cultural property.

25. The recommendations adopted by the Committee at its fourth session are as follows:

"1. PROMOTION OF BILATERAL NEGOTIATIONS FOR THE RETURN OR RESTITUTION OF CULTURAL PROPERTY

"1. Recognizing the progress it has achieved towards meeting its objectives since its creation in 1978 by the General Conference of UNESCO, the Intergovernmental Committee at its fourth session stresses, however, that considerable further efforts need to be made.

"2. The Committee approves the substance of the draft Guidelines for the use of the standard form concerning requests for return or restitution (document CLT-85/CONF.202/3) as amended by it during the session and requests the secretariat to prepare the final version in a simplified layout. It also requests the secretariat to review the presentation and sequencing of the standard form itself in order to group related subjects more harmoniously together.

"3. Having examined the request for the return of the "Sandstone Panel of Tyche with the Zodiac" submitted by the Minister of Education of Jordan, the Committee observes that additional facts and documentation concerning the case are necessary. It therefore requests the Director-General of UNESCO to organize a professional fact-finding mission, as soon as possible, in co-operation with ICOM, and to place the information obtained, to write to the holding museum and authorises him to take any other steps necessary to facilitate bilateral professional negotiations.

"4. Having heard the presentation by the representative of Greece of the request for the return of the Parthenon Marbles now under consideration by the Government of the United Kingdom, the Committee expresses its appreciation of the manner in which this request was presented and expresses the hope that the negotiations will proceed to a satisfactory conclusion. The Committee urges the Chairman to promote further the progress of negotiations on this matter prior to its fifth session in 1987.

"5. Having taken note of the statement of the representative of the Islamic Republic of Iran concerning the illicit export from his country of a collection of objects from the archaeological site of Khurvin and of his Government's intention to submit a request to the Committee in accordance with the procedure laid down by it, the Committee requests the Director-General to expedite the examination and processing of the request.

"6. The Committee expresses its appreciation to member States, to the Director-General of UNESCO, to the International Council of Museums and to INTERPOL for the efforts already undertaken to promote effective international co-operation in this domain and requests that these efforts be renewed and strengthened in a spirit of pragmatism and international solidarity.

"7. Recognizing the merits of long-term deposits and loans the Committee suggests that in the case of free-standing works of art or cultural objects and wherever appropriate, such methods be negotiated in order to effect the return of cultural property to its countries of origin.

"II. INTERNATIONAL TECHNICAL CO-OPERATION

"2.1 Preparation of inventories

"8. Having been informed of the progress of various inventory projects concerning the dispersed cultural heritages of Oceania and Africa the Committee commends the Director-General and the specialists concerned for the excellent practical and methodological work carried out and recommends that these projects be pursued and consolidated.

"9. The Committee reiterates the fact that all inventories of cultural property contribute to the advancement and exchange of knowledge and to the promotion of cultural identity and intercultural communication quite independently of any possible requests for return or restitution of cultural property. It also stresses the increasingly urgent need, as a basic measure of protection, to carry out inventories of cultural property (cf. III - Steps to curb illicit traffic in cultural property). It recommends therefore that member States and museum authorities devote greater attention to the preparation of inventories at the national and international level and recommends that they make fuller use of the expertise and resources available to UNESCO, ICOM and other specialized bodies. It also recommends that, at its fifth session in 1987, the Committee give consideration to methods of preparing inventories of cultural property in occupied and disputed territories.

"10. The Committee welcomes the intention expressed by the observer from Gabon to undertake inventories of both national collections and Gabonese objects held abroad and recommends to the Director-General of UNESCO that he support these efforts.

"2.2 Training of specialized personnel and development of infrastructures for protection of movable cultural property

"11. The Committee unanimously recognizes the need for more and better training of specialized personnel, especially at the regional and national levels, and recommends to the Director-General that locally relevant training programmes be systematically developed.

"12. The Committee reiterates the fundamental importance for the successful attainment of its objectives of developing museums and conservation facilities for the protection of movable cultural property and urges the Director-General to provide all possible assistance to this effect.

"III. STEPS TO CURB ILLICIT TRAFFIC IN CULTURAL PROPERTY

"3.1 Action at the national level

"13. The Committee once again reiterates its previous recommendations to member States that they adopt or strengthen the necessary protective legislation concerning their own heritage as well as that of other peoples and calls upon them to implement such legislation more vigorously and as a matter of urgency by creating the necessary administrative regulations and infrastructure.

"14. The Committee calls upon the museum profession and the authorities concerned with the protection of movable cultural property to provide all necessary information to INTERPOL and other organizations concerned regarding stolen or missing cultural property in order to facilitate its recovery.

"15. The Committee welcomes the initiative taken by a group of fine art and antique dealers in the United Kingdom to adopt a "Code of Practice for the Control of International Trading in Works of Art" and expresses the hope that similar initiatives will be taken elsewhere.

"3.2 Action at the international level

"16. The Committee welcomes the measures taken by the Director-General to pursue and step up the action against illicit traffic in cultural property, particularly the efforts undertaken since its third session, and welcomes the attention he has given to the possible preparation of international ethical principles in regard to acquisitions both by public institutions and private persons dealing in or collecting cultural property (cf. para. 31 of the recommendations of the third session).

"17. The Committee expresses its great satisfaction at the steady increase in the number of States parties to the Convention of 1970 on the means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property. It is glad to note that the process with a view to ratification is under way in a number of member States and once again stresses the urgent need for even wider ratification and implementation of this international protective instrument.

"18. With respect to the wide range of measures which may be taken to combat illicit traffic the Committee reiterates the recommendations made at its third session.

"19. The Committee expresses its appreciation to INTERPOL for its report entitled "Theft of Cultural Property and Illicit Traffic In It" (document CLT-85/CONF.202/4) and expresses the wish that a similar report be prepared for its fifth session.

"20. The Committee recommends that the Director-General convene a meeting with INTERPOL and ICOM to discuss the possibility of joint action to combat illicit traffic, particularly a mechanism for the dissemination of information concerning stolen or smuggled cultural property. It also recommends that liaison with customs organizations and other relevant bodies be strengthened so as to prevent illicit traffic more systematically.

"IV. PUBLIC INFORMATION

"21. The Committee recognizes the considerable impact public information activities have had in clarifying the real nature and scope of the international community's objectives concerning return and restitution of cultural property, as a result of which there has been wider public and professional understanding of the principles and problems involved. It recommends that these activities be continued, using all possible means available to UNESCO, ICOM and other agencies concerned.

"V. DATE AND PLACE OF THE FIFTH SESSION OF THE COMMITTEE

22. The Committee recommends that its fifth session be organized at UNESCO Headquarters, Paris, in the spring of 1987.

"VI. INVITATIONS TO THE FIFTH SESSION OF THE COMMITTEE

"23. The Committee recommends that invitations to its fifth session be extended to the same international organizations as were invited to its third and fourth sessions."

Motion of thanks to the host country

"The Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation,

"Deeply thanks the Government of Greece for its generous invitation to hold the Committee's fourth session from 2 to 5 April in the timeless city of Athens and the hallowed site of Delphi,

"Expresses in particular its gratitude to Mrs. Melina Mercouri, Minister of Culture and Sciences, and her colleagues for having provided all the conditions necessary for the full success of the Committee's work,

"Thanks the Greek officials and scholars, representatives of a great intellectual tradition which is at the roots of universal civilization, who by their contribution enriched the deliberations of the Committee."

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