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MEMORANDUM

ON

THE ACCESSION TO THE


1970 UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND

CULTURAL ORGANIZATION (UNESCO) CONVENTION ON THE

MEANS OF PROHIBITING AND PREVENTING THE ILLICIT

IMPORT, EXPORT AND TRANSFER OF OWNERSHIP OF

CULTURAL PROPERTY

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|  THE NATIONAL ASSEMBLY | |
| DATE: 11 MAY 2022 | DAY: Wed |
| TABLED BY: LOM | |
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MEMORANDUM ON KENYA'S ACCESSION TO THE 1970 UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION (UNESCO) CONVENTION ON THE MEANS OF PROHIBITING AND PREVENTING THE ILLICIT IMPORT, EXPORT AND TRANSFER OF OWNERSHIP OF CULTURAL PROPERTY.

1.0 OBJECTIVE OF THE MEMORANDUM

- 1.1 The objective of this Memorandum is to seek approval for Kenya's accession to the 1970 United Nations Educational, Scientific and Cultural Organization **(UNESCO)** Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.
- 1.2 The accession process was approved by the National Security Council during its **Second (Special) Meeting**, held on **1st April, 2022**.

2.0 BACKGROUND

- 2.1 In 1960 the United Nations General Assembly adopted the Declaration on the Granting of Independence to Colonial Countries and Peoples (UNGA 1514 (XV)). During the following decades, the newly independent States were anxious to recover important items from their cultural heritage, many of which were to be found in the museums of the former colonizing States. They were also concerned at the continuing loss of cultural heritage due to looting and illicit trade at a time when they had little resources to control it.
- 2.2 The collecting States and major markets were reluctant to return the cultural heritage objects, which they kept in their museums and private collections. They were, however, prepared to do something to stop the contemporary losses complained of by mainly developing States.

- 2.3 These issues were reflected within UNESCO. Resolution 4.412 of the UNESCO General Conference at its 11th Session in 1960 authorized the Director-General to prepare, in consultation with appropriate international organizations, and to submit to the General Conference, a report on appropriate means of prohibiting the illicit export, import and sale of cultural property, including the possibility of preparing an international instrument on this subject.
- 2.4 In April 1964, UNESCO appointed a committee of Experts to draft recommendations for a convention on illicit traffic. In November that year, the General Conference adopted the Recommendation on the Means of Prohibiting and Preventing the Illicit Export, Import and Transfer of Ownership of Cultural Property. This Recommendation specified measures that would enable States to better protect their movable cultural heritage.
- 2.5 In 1968, the General Conference of UNESCO adopted a Resolution authorizing the convening of a committee to draft a Convention. The text to be submitted for adoption was then approved by a Special Committee of Governmental Experts in April 1970 and the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property was adopted in Paris on **14 November 1970**. It came into force on **24 April 1972**.
- 2.6 There are 141 States Parties to the Convention.

3.0 OBJECT AND SUBJECT MATTER OF THE CONVENTION

- 3.1 The 1970 UNESCO Convention places an emphasis on prevention and international co-operation. It marks an important milestone in awareness of the need to protect cultural objects and of the cross-border traffic in objects.

3.2 The Convention recommends the enforcement of the protection of cultural property in "**three main pillars**".

- i. The **first pillar, preventive measures**, States signatory to the treaty are to enforce the security and safety of cultural property, such as taking inventory, exportation certifications, monitoring of trade, and imposition of penal sanctions.
- ii. The **second pillar, restitution provisions**, provides that each sovereign State is to assist one another in the retrieval of stolen cultural property.
- iii. The **third pillar, international cooperation**, is an attempt by the Convention to strengthen international ties between signatories, and to provide assistance and cooperation with one another. Any party may seek the recovery and assistance of another State for the recovery of stolen or illegally exported cultural property imported into another State party, albeit, only after the enforcement of the Convention in both States.

3.3 The key to the success of the Convention and to the fight against the deliberate destruction and illegal trafficking of cultural heritage lies in international co-operation, the application of effective minimum standards, enabling the exchange of information, the harmonization of laws (co-operation on gathering evidence, convicting perpetrators and recovering objects) and the standardization of procedures (import-export requirements, documentation and expectations of due diligence at all links in the marketing chain).

4.0 OBLIGATIONS IMPOSED BY THE PROTOCOL

4.1 The obligations of the UNESCO Convention are forward looking and apply only to cultural property illegally exported or imported after the date of entry into force of the convention in both the State-of-origin and the State of an object's present location. Objects stolen or illegally exported prior to that time are not subject to claims for return. States,

rather than individuals exercise the obligations and rights of the convention.

4.2 States parties are obligated to-

- i. ensure the protection of their cultural property against illicit import, export and transfer of ownership;
- ii. set up within their territories one or more national services, (where such services do not already exist), for the protection of the cultural heritage, with a qualified staff sufficient in number for the effective carrying out of their mandates;
- iii. introduce an appropriate certificate in which the exporting State would specify that the export of the cultural property in question is authorized;
- iv. prohibit the exportation of cultural property from their territory unless accompanied by the export certificate;
- v. publicize prohibitions by appropriate means, particularly among persons likely to export or import cultural property;
- vi. take the necessary measures, consistent with national legislation, to prevent museums and similar institutions within their territories from acquiring cultural property originating in another State Party which has been illegally exported after entry into force of the Convention, in the States concerned. Whenever possible, to inform a State of origin Party to the Convention of an offer of such cultural property illegally removed from that State after the entry into force of the Convention in both States
- vii. prohibit the import of cultural property stolen from a museum or a religious or secular public monument or similar institution in another State Party to the Convention after the entry into force of the Convention for the States concerned, provided that such property is documented as appearing in the inventory of that institution;

- viii. impose penalties or administrative sanctions on any person responsible for infringing the prohibitions;
- ix. at the request of the State Party of origin, take appropriate steps to recover and return any such cultural property imported after the entry into force of the Convention in both States concerned, provided, however, that the requesting State shall pay just compensation to an innocent purchaser or to a person who has valid title to that property; and
- x. ~~respect the cultural heritage within the territories for the international relations of which they are responsible, and take all appropriate measures to prohibit and prevent the illicit import, export and transfer of ownership of cultural property in such territories.~~

5.0 PROBLEM ANALYSIS

- 5.1 Cultural property in all its forms constitutes a unique and important testimony of the history and identity of different peoples and are common heritage assets that should be preserved in all circumstances. Cultural property has social and political value, as well as intrinsic worth. It is a basic element of local and national cultures. It stands for the ideas and achievements which have shaped human development.
- 5.2 Throughout recorded history, cultural property has not only been celebrated as a manifestation of creativity but also targeted in times of conflict as a symbol of identity to be attacked in order to demoralize, defeat and eradicate populations. Because of its intrinsic worth it has been legitimately commissioned, displayed, bought and sold as well as being stolen, looted, trafficked and forged for illicit financial gain. The illegal excavation of important archaeological sites, and the massive

looting of ancient cultural and religious sites, including artifacts from churches and museums, has taken place all over the world¹.

- 5.3 Notably, this is an international trade which transcends borders, generates huge profits and carries few risks. It is a trade which is very difficult to monitor or control since places of origin may not be clear and imports and exports thereafter may go through several countries and jurisdictions. It thus provides an incentive for the pillage of archaeological sites, historic complexes and religious monuments, and the theft of important objects from public and private sources. This initially led to the black-market trade in antiquities, art and artefacts. Nowadays, the black market is also moving away from the traditional means of trading towards social media and other digital platforms.
- 5.4 Moreover, illegal trafficking has been closely linked with terrorism and transnational organized crime. After drugs and weapons, it has been suggested that cultural property is the third most lucrative source of funding for illegal activities.
- 5.5 Problems that were experienced prior to the Convention entering force included:
 - i. While the export of a cultural object was illegal under some laws of the State-of-origin, those laws were not enforceable in some States that received the object. Recovery was thus problematic if

¹ The English Civil War in the 17th century saw the iconoclastic destruction of religious monuments. In the 20th Century, historic cities were systematically bombarded during the Second World War. The destruction of the Bamiyan Buddhas by the Taliban in Afghanistan in 2001 represented the eradication of a cultural manifestation whose message was not shared by the perpetrators. The destruction and pillaging, and illegal excavation of antiquities in Iraq following the invasion in 2003, demonstrated the profound failures in planning for the aftermath of military intervention. In recent years there has been consistent and well publicised destruction of cultural property by ISIL in Iraq, Syria and Libya, targeting places of worship and ancient and medieval sites.

the import of the object was not illegal under the receiving State's law.

- ii. The domestic laws of some States protected the title of a good faith (bona fide) purchaser of goods, thus extinguishing a claim of return of the illegally exported or stolen cultural object.
 - iii. There were sensitive political and legal circumstances surrounding the acquisition of objects that precluded action for recovery, especially those acquired in the distant past or during periods of war or occupation.
 - iv. Proving the origin of an object was difficult given the ease with which an object's origin was hidden or falsified to acquire the appearance of legitimacy.
- 5.6 The only solution to such problems was the establishment of specific structures for international cooperation between States and the cross-border recovery of objects. The UNESCO Convention was developed in response to world-wide concern at the unregulated trade in significant cultural objects.
- 5.7 Kenya is a habitat for abundant and various natural and cultural heritage property including archaeological sites, wildlife, landscapes and folklores. With the opening up of the world market in antiquities and the realization that Africa, and particularly Kenya, has a rich but an inadequately protected heritage, looters have taken advantage of the continent. They operate through middle persons who come from within local communities but who do not feel tied to the customary or traditional beliefs which have in the past protected sites.
- 5.8 Kenya's cultural objects attract international interest and are potentially liable to illicit export. Kenya's *kiondo*, for instance, was

patented by the Japanese without any benefits accruing to Kenya. Thus, there is need to recover illegally acquired cultural property that belongs to Kenya and to protect its cultural heritage from further illegal trade. This can be achieved by acceding to the Convention.

6.0 JUSTIFICATION FOR RATIFICATION

6.1 Acceding to the Convention will:

- i. Attract different kinds and degrees of support (including support from development partners, civil society and private sector) for return of Kenya's cultural objects discovered in the territory of other State Parties.
- ii. Reduce the likelihood of theft and illegal excavation of objects in Kenya for sale into the export market.
- iii. Help reduce international demand for illicitly obtained cultural objects from Kenya because the possibility of government action lessens buyers' incentive to acquire objects with uncertain origin.
- iv. Encourage the return of stolen cultural property from inventoried collections of museums, religious or secular public monuments or similar institutions in Kenya.
- v. Offer solutions to issues undermining heritage conservation in Kenya like illicit trade of cultural properties.
- vi. Prove Kenya's commitment to and participation in the legitimate international trade in cultural objects, that is, cultural objects not designated as "cultural property" under the convention by increasing market certainty.
- vii. Demonstrate Kenya's commitment to the international community's collective action against the illicit trade.

7.0 CONSTITUTIONAL AND LEGISLATIVE IMPLICATIONS

- 7.1 The Convention is consistent with the Constitution and promotes constitutional values and objectives, it does not allude to an amendment of the Constitution.

7.2 Kenya will have to enact a domestic legislation; or amend existing relevant legislation to enable implementation of the Convention. Some of which may include, **the National Museums and Heritage Act; Environmental Management and Co-ordination Act; the Land Act; the Copyright Act; the Local Government Act; and the Mining Act.**

7.3 Some of the changes that will need to be effected by the revised legislation or the new Act would be on the following areas:

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- i. Import restrictions on certain classes of archaeological or ethnographic material.
 - ii. Compensation of good faith purchasers.
 - iii. The process of recovery and return of illegally imported cultural objects.
 - iv. Prohibiting the import of objects stolen from museums and similar institutions and creating appropriate penalties to the same.
 - v. Extending to foreign individuals and State Parties the right to access Kenya Courts to seek the return of stolen and illegally exported cultural objects.
 - vi. Establishing a central national authority which would also be a focal point for international co-operation between relevant ministries, involving also public agencies, the police, customs and representatives of the trade in art and antiquities.

7.4 Kenya may also need to draft guidelines for the protection and reconstruction of damaged or destroyed cultural heritage as part of a broader strategy for preserving cultural identity and diversity in crisis and post-crisis situations, to be used by national and local authorities as well as international donor organizations.

7.5 Other non-legislative, yet practical measures that Kenya may need to undertake include:

- i. Establish regularly maintained digital inventories for the safeguarding of cultural property with regulated, differential levels of access and common standards in denomination and description of objects and sites to facilitate international co-operation.
- ii. Introduce mandatory “passports” for cultural objects in order to facilitate object identification and data exchange, by using the Object Identification standard.
- iii. Harmonize mandatory import and export procedures (including the photographic requirement) to combat widespread falsification of documentation.
- iv. Develop accredited training programs for all those professionally concerned with the protection of cultural property like, inter alia, museum curators, archaeologists and anthropologists.
- v. Create incentives for digital marketing platforms to regulate internet transactions and use the procedures which are required for the legitimate art market, namely to publicize and prevent potential illegality in transactions and insist on the presentation of documentation on provenance alongside the object.

8.0 IMPLICATIONS RELATING TO COUNTIES

- 8.1 The obligations imposed under the Protocols are under the purview of the National Government.

9.0 FINANCIAL IMPLICATIONS

- 9.1 There would be no subscription costs for the Kenyan Government associated with acceding to the Convention. The financial requirements during implementation will be catered for during the normal budgetary estimates of the relevant Ministries, Departments and Agencies.

9.2 All expenses associated with the return and delivery of the objects are borne by the requesting State. Costs will therefore arise only where Kenya seeks to have a particular object returned. These will vary according to the circumstances of each occasion when the convention is invoked. For example, costs may involve locating expertise to authenticate an object—possibly including scientific testing, State-to-State liaison, interpretation and translation, the storage, packaging, temporary conservation, accompaniment and shipping of objects, and compensation of a good faith purchaser.

9.3 Also, enforcement of the controls on goods that have been illegally exported from their country of origin (other than stolen) into Kenya will be a new task that will impose additional enforcement costs on those occasions when State Parties to the conventions request the return of an object. These costs are however recoverable from the requesting State. The convention provides that State Parties must not impose customs duties or other charges on returned cultural objects.

10. MINISTERIAL RESPONSIBILITY

10.1 The Ministry that will be responsible for the implementation and any activity in regard to the Convention is the Ministry of Sports, Culture and Heritage.

10.2 The Office of the Attorney General and Department of Justice and the Ministry of Foreign Affairs will coordinate the reporting process on State obligations pursuant to the Treaty Making and Ratification Act No 45 of 2012.

11. RESERVATIONS

11.1 The Convention does not expressly provide for reservation; however, some States have reserved a number of articles to the convention.

12. PUBLIC PARTICIPATION

12.1 Public participation has been undertaken via various fora including and virtual meetings.

13. RECOMMENDATION TO THE NATIONAL ASSEMBLY

13.1 In consideration of the aforementioned facts, the National Assembly is invited to:

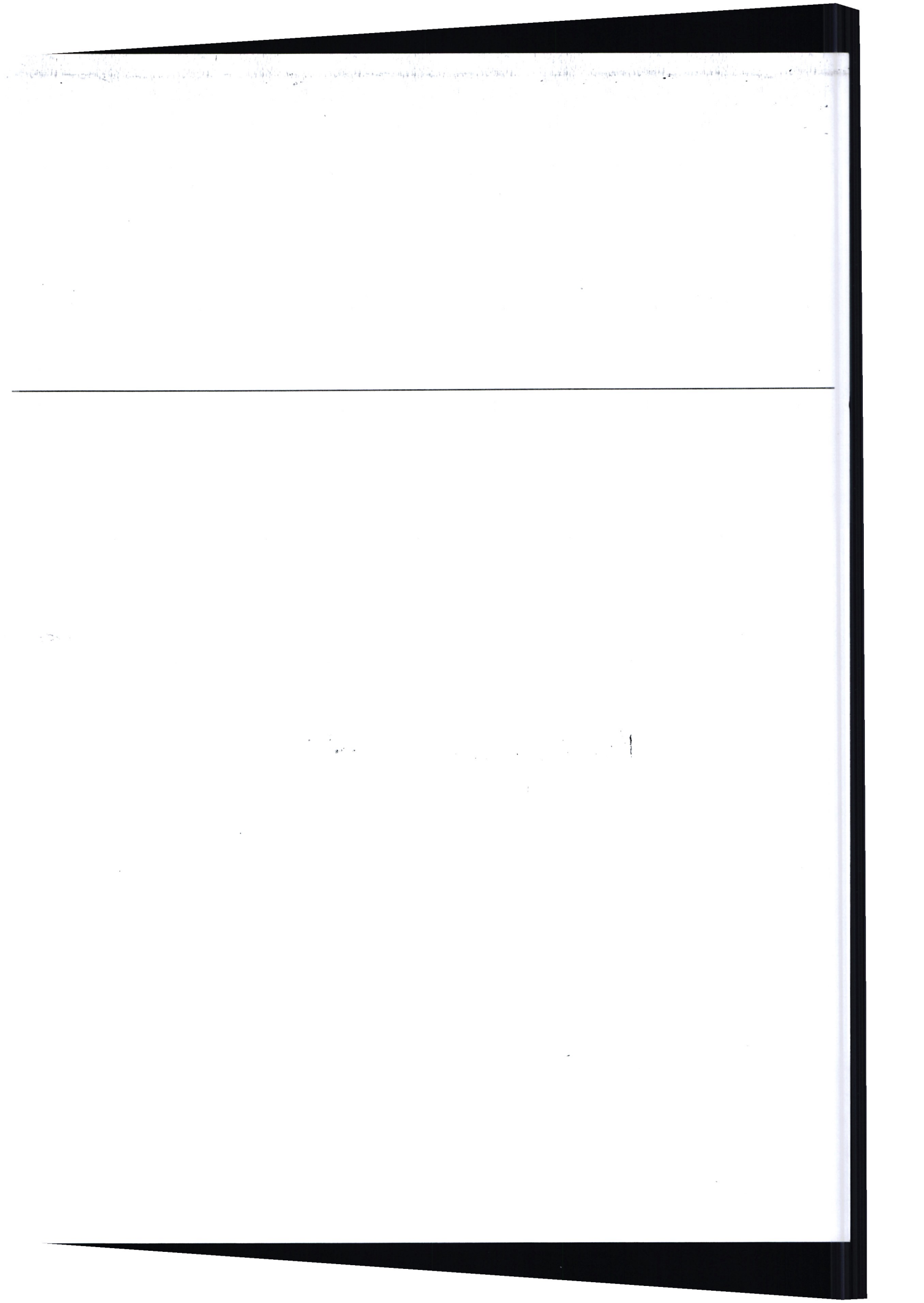
1. Note the contents of the Memorandum;

2. Consider and approve Kenya's accession to the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

3. Direct the Cabinet Secretary of Foreign Affairs to prepare and deposit the instruments of accession to the relevant depository.

SIGNED.......... DATED.....^{24th}..... APRIL, 2022

**AMB. RAYCHELLE OMAMO, SC, EGH
CABINET SECRETARY
MINISTRY OF FOREIGN AFFAIRS**



No. 11806

MULTILATERAL

Convention on the means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property. Adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization at its sixteenth session, Paris, 14 November 1970

Authentic texts : English, Spanish, French and Russian.

Registered by the United Nations Educational, Scientific and Cultural Organization on 9 May 1972.

MULTILATÉRAL

Convention concernant les mesures à prendre pour interdire et empêcher l'importation, l'exportation et le transfert de propriété illicites des biens culturels. Adoptée par la Conférence générale de l'Organisation des Nations Unies pour l'éducation, la science et la culture lors de sa seizième session, à Paris, le 14 novembre 1970

Textes authentiques : anglais, espagnol, français et russe.

Enregistrée par l'Organisation des Nations Unies pour l'éducation, la science et la culture le 9 mai 1972.

CONVENTION¹ ON THE MEANS OF PROHIBITING AND PREVENTING THE ILLICIT IMPORT, EXPORT AND TRANSFER OF OWNERSHIP OF CULTURAL PROPERTY

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The General Conference of the United Nations Educational, Scientific and Cultural Organization, meeting in Paris from 12 October to 14 November 1970, at its sixteenth session,

Recalling the importance of the provisions contained in the Declaration of the Principles of International Cultural Co-operation, adopted by the General Conference at its fourteenth session,

Considering that the interchange of cultural property among nations for scientific, cultural and educational purposes increases the knowledge of the civilization of Man, enriches the cultural life of all peoples and inspires mutual respect and appreciation among nations,

Considering that cultural property constitutes one of the basic elements of civilization and national culture, and that its true value can be appreciated only in relation to the fullest possible information regarding its origin, history and traditional setting,

Considering that it is incumbent upon every State to protect the cultural property existing within its territory against the dangers of theft, clandestine excavation, and illicit export,

Considering that, to avert these dangers, it is essential for every State to become increasingly alive to the moral obligations to respect its own cultural heritage and that of all nations,

Considering that, as cultural institutions, museums, libraries and archives should ensure that their collections are built up in accordance with universally recognized moral principles,

¹ Came into force on 24 April 1972 with respect to the following States, i.e. three months after the deposit of the third instrument of ratification or acceptance with the Director-General of the United Nations Educational, Scientific and Cultural Organization, in accordance with article 21 :

| <i>State</i> | <i>Date of deposit of the Instrument of ratification or acceptance (a)</i> |
|--------------------|--|
| Ecuador | 24 March 1971 ^a |
| Bulgaria | 15 September 1971 |
| Nigeria | 24 January 1972 |

Subsequently, the Convention came into force with respect to the following State three months after the deposit of its instrument of ratification, in accordance with article 21 :

| | |
|------------------------------------|-----------------|
| Central African Republic | 1 February 1972 |
|------------------------------------|-----------------|

(To take effect on 1 May 1972).

Considering that the illicit import, export and transfer of ownership of cultural property is an obstacle to that understanding between nations which it is part of Unesco's mission to promote by recommending to interested States, international conventions to this end,

Considering that the protection of cultural heritage can be effective only if organized both nationally and internationally among States working in close co-operation,

Considering that the Unesco General Conference adopted a Recommendation to this effect in 1964,

Having before it further proposals on the means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property, a question which is on the agenda for the session as item 19,

Having decided, at its fifteenth session, that this question should be made the subject of an international convention,

Adopts this Convention on the fourteenth day of November 1970.

Article 1

For the purposes of this Convention, the term "cultural property" means property which, on religious or secular grounds, is specifically designated by each State as being of importance for archaeology, prehistory, history, literature, art or science and which belongs to the following categories :

- (a) Rare collections and specimens of fauna, flora, minerals and anatomy, and objects of palaeontological interest;
- (b) property relating to history, including the history of science and technology and military and social history, to the life of national leaders, thinkers, scientists and artists and to events of national importance;
- (c) products of archaeological excavations (including regular and clandestine) or of archaeological discoveries;
- (d) elements of artistic or historical monuments or archaeological sites which have been dismembered;
- (e) antiquities more than one hundred years old, such as inscriptions, coins and engraved seals;
- (f) objects of ethnological interest;
- (g) property of artistic interest, such as :
 - (i) pictures, paintings and drawings produced entirely by hand on any support and in any material (excluding industrial designs and manufactured articles decorated by hand);

- (ii) original works of statuary art and sculpture in any material;
- (iii) original engravings, prints and lithographs;
- (iv) original artistic assemblages and montages in any material;
- (h) rare manuscripts and incunabula, old books, documents and publications of special interest (historical, artistic, scientific, literary, etc.) singly or in collections;
- (i) postage, revenue and similar stamps, singly or in collections;
- (j) archives, including sound, photographic and cinematographic archives;
- (k) articles of furniture more than one hundred years old and old musical instruments.

Article 2

1. The States Parties to this Convention recognize that the illicit import, export and transfer of ownership of cultural property is one of the main causes of the impoverishment of the cultural heritage of the countries of origin of such property and that international co-operation constitutes one of the most efficient means of protecting each country's cultural property against all the dangers resulting therefrom.

2. To this end, the States Parties undertake to oppose such practices with the means at their disposal, and particularly by removing their causes, putting a stop to current practices, and by helping to make the necessary reparations.

Article 3

The import, export or transfer of ownership of cultural property effected contrary to the provisions adopted under this Convention by the States Parties thereto, shall be illicit.

Article 4

The States Parties to this Convention recognize that for the purpose of the Convention property which belongs to the following categories forms part of the cultural heritage of each State :

- (a) Cultural property created by the individual or collective genius of nationals of the State concerned, and cultural property of importance to the State concerned created within the territory of that State by foreign nationals or stateless persons resident within such territory;
- (b) cultural property found within the national territory;
- (c) cultural property acquired by archaeological, ethnological or natural

- science missions, with the consent of the competent authorities of the country of origin of such property;
- (d) cultural property which has been the subject of a freely agreed exchange;
 - (e) cultural property received as a gift or purchased legally with the consent of the competent authorities of the country of origin of such property.

Article 5

To ensure the protection of their cultural property against illicit import, export and transfer of ownership, the States Parties to this Convention undertake, as appropriate for each country, to set up within their territories one or more national services, where such services do not already exist, for the protection of the cultural heritage, with a qualified staff sufficient in number for the effective carrying out of the following functions :

- (a) Contributing to the formation of draft laws and regulations designed to secure the protection of the cultural heritage and particularly prevention of the illicit import, export and transfer of ownership of important cultural property;
- (b) establishing and keeping up to date, on the basis of a national inventory of protected property, a list of important public and private cultural property whose export would constitute an appreciable impoverishment of the national cultural heritage;
- (c) promoting the development or the establishment of scientific and technical institutions (museums, libraries, archives, laboratories, workshops. . .) required to ensure the preservation and presentation of cultural property;
- (d) organizing the supervision of archaeological excavations, ensuring the preservation *in situ* of certain cultural property, and protecting certain areas reserved for future archaeological research;
- (e) establishing, for the benefit of those concerned (curators, collectors, antique dealers, etc.) rules in conformity with the ethnical principles set forth in this Convention; and taking steps to ensure the observance of those rules;
- (f) taking educational measures to stimulate and develop respect for the cultural heritage of all States, and spreading knowledge of the provisions of this Convention;
- (g) seeing that appropriate publicity is given to the disappearance of any items of cultural property.

Article 6

The States Parties to this Convention undertakes :

- (a) To introduce an appropriate certificate in which the exporting State would specify that the export of the cultural property in question is authorized. The certificate should accompany all items of cultural property exported in accordance with the regulations;
 - (b) to prohibit the exportation of cultural property from their territory unless accompanied by the above-mentioned export certificate;
 - (c) to publicize this prohibition by appropriate means, particularly among persons likely to export or import cultural property.
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Article 7

The States Parties to this Convention undertake :

- (a) To take the necessary measures, consistent with national legislation, to prevent museums and similar institutions within their territories from acquiring cultural property originating in another State Party which has been illegally exported after entry into force of this Convention, in the States concerned. Whenever possible, to inform a State of origin Party to this Convention of an offer of such cultural property illegally removed from that State after the entry into force of this Convention in both States;
- (b) (i) to prohibit the import of cultural property stolen from a museum or a religious or secular public monument or similar institution in another State Party to this Convention after the entry into force of this Convention for the States concerned, provided that such property is documented as appertaining to the inventory of that institution;
- (ii) at the request of the State Party of origin, to take appropriate steps to recover and return any such cultural property imported after the entry into force of this Convention in both States concerned, provided, however, that the resulting State shall pay just compensation to an innocent purchaser or to a person who has valid title to that property. Requests for recovery and return shall be made through diplomatic offices. The resulting Party shall furnish, at its expense, the documentation and other evidence necessary to establish its claim for recovery and return. The Parties shall impose no customs duties or other charges upon cultural property returned pursuant to this Article. All expenses incident to the return and delivery of the cultural property shall be borne by the requesting Party.

Article 8

The States Parties to this Convention undertake to impose penalties or administrative sanctions on any person responsible for infringing the prohibitions referred to under articles 6 (b) and 7 (b) above.

Article 9

Any State Party to this Convention whose cultural patrimony is in jeopardy from pillage of archaeological or ethnological materials may call upon other States Parties who are affected. The States Parties to this Convention undertake, in these circumstances, to participate in a concerted international effort to determine and to carry out the necessary concrete measures, including the control of exports and imports and international commerce in the specific materials concerned. Pending agreement each State concerned shall take provisional measures to the extent feasible to prevent irremediable injury to the cultural heritage of the requesting State.

Article 10

The States Parties to this Convention undertake :

- (a) To restrict by education, information and vigilance, movement of cultural property illegally removed from any State Party to this Convention and, as appropriate for each country, oblige antique dealers, subject to penal or administrative sanctions, to maintain a register recording the origin of each item of cultural property, names and addresses of the supplier, description and price of each item sold and to inform the purchaser of the cultural property of the export prohibition to which such property may be subject;
- (b) to endeavour by educational means to create and develop in the public mind a realization of the value of cultural property and the threat to the cultural heritage created by theft, clandestine excavations and illicit exports.

Article 11

The export and transfer of ownership of cultural property under compulsion arising directly or indirectly from the occupation of a country by a foreign power shall be regarded as illicit.

Article 12

The States Parties to this Convention shall respect the cultural heritage within the territories for the international relations of which they are responsible and shall take all appropriate measures to prohibit and prevent the illicit import, export and transfer of ownership of cultural property in such territories.

Article 13

The States Parties to this Convention also undertake, consistent with the laws of each State :

- (a) To prevent by all appropriate means transfers of ownership of cultural property likely to promote the illicit import or export of such property;
- (b) to ensure that their competent services co-operate in facilitating the earliest possible restitution of illicitly exported cultural property to its rightful owner;
- (c) to admit actions for recovery of lost or stolen items of cultural property brought by or on behalf of the rightful owners;
- (d) to recognize the indefeasible right of each State Party to this Convention to classify and declare certain cultural property as inalienable which should therefore *ipso facto* not be exported, and to facilitate recovery of such property by the State concerned in cases where it has been exported.

Article 14

In order to prevent illicit export and to meet the obligations arising from the implementation of this Convention, each State Party to the Convention should, as far as it is able, provide the national services responsible for the protection of its cultural heritage with an adequate budget and, if necessary, should set up a fund for this purpose.

Article 15

Nothing in this Convention shall prevent States Parties thereto from concluding special agreements among themselves or from continuing to implement agreements already concluded regarding the restitution of cultural property removed, whatever the reason, from its territory of origin, before the entry into force of this Convention for the States concerned.

Article 16

The States Parties to this Convention shall in their periodic reports submitted to the General Conference of the United Nations Educational, Scientific

and Cultural Organization on dates and in a manner to be determined by it, give information on the legislative and administrative provisions which they have adopted and other action which they have taken for the application of this Convention, together with details of the experience acquired in this field.

Article 17

1. The States Parties to this Convention may call on the technical assistance of the United Nations Educational, Scientific and Cultural Organization, particularly as regards :

- (a) Information and education;
- (b) consultation and expert advice;
- (c) co-ordination and good offices.

2. The United Nations Educational, Scientific and Cultural Organization may, on its own initiative conduct research and publish studies on matters relevant to the illicit movement of cultural property.

3. To this end, the United Nations Educational, Scientific and Cultural Organization may also call on the co-operation of any competent non-governmental organization.

4. The United Nations Educational, Scientific and Cultural Organization may, on its own initiative, make proposals to States Parties to this Convention for its implementation.

5. At the request of at least two States Parties to this Convention which are engaged in a dispute over its implementation, Unesco may extend its good offices to reach a settlement between them.

Article 18

This Convention is drawn up in English, French, Russian and Spanish, the four texts being equally authoritative.

Article 19

1. This Convention shall be subject to ratification or acceptance by States members of the United Nations Educational, Scientific and Cultural Organization in accordance with their respective constitutional procedures.

2. The instruments of ratification or acceptance shall be deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Article 20

1. This Convention shall be open to accession by all States not members of the United Nations Educational, Scientific and Cultural Organization which are invited to accede to it by the Executive Board of the Organization.

2. Accession shall be effected by the deposit of an instrument of accession with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Article 21

This Convention shall enter into force three months after the date of the deposit of the third instrument of ratification, acceptance or accession, but only with respect to those States which have deposited their respective instruments on or before that date. It shall enter into force with respect to any other State three months after the deposit of its instrument of ratification, acceptance or accession.

Article 22

The States Parties to this Convention recognize that the Convention is applicable not only to their metropolitan territories but also to all territories for the international relations of which they are responsible; they undertake to consult, if necessary, the governments or other competent authorities of these territories on or before ratification, acceptance or accession with a view to securing the application of the Convention to those territories, and to notify the Director-General of the United Nations Educational, Scientific and Cultural Organization of the territories to which it is applied, the notification to take effect three months after the date of its receipt.

Article 23

1. Each State Party to this Convention may denounce the Convention on its own behalf or on behalf of any territory for whose international relations it is responsible.

2. The denunciation shall be notified by an instrument in writing, deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

3. The denunciation shall take effect twelve months after the receipt of the instrument of denunciation.

Article 24

The Director-General of the United Nations Educational, Scientific and Cultural Organization shall inform the States members of the Organization, the States not members of the Organization which are referred to in article 20, as well as the United Nations, of the deposit of all the instruments of ratification, acceptance and accession provided for in articles 19 and 20, and of the notifications and denunciations provided for in articles 22 and 23 respectively.

Article 25

1. This Convention may be revised by the General Conference of the United Nations Educational, Scientific and Cultural Organization. Any such revision shall, however, bind only the States which shall become Parties to the revising convention.

2. If the General Conference should adopt a new convention revising this Convention in whole or in part, then, unless the new convention otherwise provides, this Convention shall cease to be open to ratification, acceptance or accession, as from the date on which the new revising convention enters into force.

Article 26

In conformity with Article 102 of the Charter of the United Nations, this Convention shall be registered with the Secretariat of the United Nations at the request of the Director-General of the United Nations Educational, Scientific and Cultural Organization.

DONE in Paris this seventeenth day of November 1970, in two authentic copies bearing the signature of the President of the sixteenth session of the General Conference and of the Director-General of the United Nations Educational, Scientific and Cultural Organization, which shall be deposited in the archives of the United Nations Educational, Scientific and Cultural Organization, and certified true copies of which shall be delivered to all the States referred to in articles 19 and 20 as well as to the United Nations.

The foregoing is the authentic text of the Convention duly adopted by the General Conference of the United Nations Educational, Scientific and Cultural

Organization during its sixteenth session, which was held in Paris and declared closed the fourteenth day of November 1970.

IN FAITH WHEREOF we have appended our signatures this seventeenth day of November 1970.

The President of the General Conference :
ATILIO DELL'ORO MAINI

The Director-General :
RENÉ MAHEU
