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INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW

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COMMITTEE OF GOVERNMENTAL EXPERTS  
ON THE INTERNATIONAL PROTECTION OF CULTURAL PROPERTY

Preliminary draft Unidroit Convention on stolen  
or illegally exported cultural objects

(revised text prepared by the Unidroit Secretariat  
following the third session of the committee)

Rome, June 1993

## INTRODUCTION

1. This document contains the text of the preliminary draft Unidroit Convention on stolen or illegally exported cultural objects as it stands following the third session of the committee of governmental experts held in Rome from 22 to 26 February 1993.

2. Articles 1 to 8 *bis* reflect the text submitted by the drafting committee to the committee of governmental experts during that third session (Study LXX - Doc. 38, Misc. 21 rev.) as amended by the committee on second reading. Since Articles 9 to 13 of the draft were not discussed in detail by the committee at its third session, the text of those articles as reproduced hereafter is that to be found in Study LXX - Doc. 31 following its second session.

3. This revised text should be read in conjunction with other documents issued since the second session of the committee of governmental experts (Study LXX - Docs. 30-39) and in particular documents 31 (revised text prepared by the Unidroit Secretariat following the second session of the committee), 38 (working papers submitted during the third session of the committee) and 39 (report on the third session of the committee).

CORRIGENDUM  
English version only

Article 4, paragraph 2, fourth line

The last word of the fourth line should be "objects" and not "property" so that the line would read:

"consulted any reasonably accessible register of stolen cultural objects,"

Article 9 bis, paragraph 1 (c)

This sub-paragraph should read as follows:

(c) if it is enforceable in the State of origin.

PRELIMINARY DRAFT UNIDROIT CONVENTION ON [THE INTERNATIONAL RETURN OF]<sup>(1)</sup>  
STOLEN OR ILLEGALLY EXPORTED CULTURAL OBJECTS

CHAPTER I - SCOPE OF APPLICATION AND DEFINITION

ARTICLE 1

This Convention applies to claims of an international character for:

- (a) the restitution of stolen cultural objects removed from the territory of a State;
- (b) the return of cultural objects removed from the territory of a Contracting State contrary to its law [applicable to the protection of cultural objects].<sup>(2)</sup>

ARTICLE 2<sup>(3)</sup>

ALTERNATIVE I

For the purposes of this Convention, cultural objects are those objects of [, in particular,] [outstanding] anthropological, prehistoric, ethnological, archaeological, artistic, historical, literary, cultural, ritual or scientific significance [or of significance for the natural heritage] [, including those designated as such by each Contracting State].

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- (1) At its second session, the committee of governmental experts decided by 25 votes to none that the principle that the future Convention should deal only with international situations should be reflected both in the title and in Article 1 (Study LXX - Doc. 30, para. 23). The proposed title of the draft Convention, which was suggested by the drafting committee at the committee's second session (Study LXX - Doc. 29, p. 48), may need to be revised once the precise international connecting factors for the application of the future Convention have been defined.
  - (2) The committee has yet to take a final decision on the retention of the square-bracketed language.
  - (3) The two alternatives for Article 2, proposed by the drafting committee at the third session of the committee of governmental experts, reflect the views of those delegations which preferred a general definition (Alternative I) and those which favoured a more detailed definition which would in part track the language of Article 1 (a) to (k) of the 1970 Unesco Convention (Alternative II). The use of square brackets in each alternative indicates differences of opinion within the committee which have yet to be resolved. For the discussions of the committee on this article at its third session, see Study LXX - Doc. 39, paras. 25 to 38.

ALTERNATIVE II

For the purposes of this Convention, "cultural object" means any material object of an artistic, historical, spiritual, ritual [,archaeological, ethnological, literary, scientific] nature which [is of importance, is more than [100] years old and] 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 bis

Any Contracting State may make provision in its legal system for an export certificate in respect of its own cultural objects, the model of which is annexed to this Convention.]<sup>(4)</sup>

CHAPTER II - RESTITUTION OF STOLEN CULTURAL OBJECTS

ARTICLE 3

(1) The possessor of a cultural object which has been stolen shall return it.

(2) For the purposes of this Convention, an object which has been unlawfully excavated shall be deemed to have been stolen.

(3) Any claim for restitution shall be brought within a period of [three] [five]<sup>(5)</sup> years from the time when the claimant knew [or ought reasonably to have known]<sup>(6)</sup> the location [or,] [and]<sup>(7)</sup> the identity of the possessor [,] of the object, and in any case within a period of [six], [ten] [thirty] [fifty] years from the time of the theft.

(4) However, a claim for restitution of an object belonging to a public collection of a Contracting State [shall not be subject to prescription] [shall be brought within a time limit of [75] years].<sup>(8)</sup>

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- (4) This provision was prepared at the third session of the committee by a working group which was set up with a view to considering a proposal for the establishment of a certificate to accompany cultural objects, in the absence of which the sale, purchase, import and/or export of a cultural object would be prohibited by Contracting States (Study LXX - Doc. 38, Misc. 7 and Study LXX - Doc. 39, para. 39). For lack of time the committee deferred until its next session discussion on the substance of the proposals of the working group.
- (5) The committee agreed at its second session that the precise limitation periods should be determined by the diplomatic Conference (Study LXX - Doc. 30, para. 57).
- (6) At the third session of the committee, 15 delegations supported the retention of this language, 14 its deletion and eleven abstained (Study LXX - Doc. 39, paras. 53 - 55).
- (7) A vote at the third session of the committee indicated that 24 delegations favoured the retention of the word "and" and 13 the word "or", while six delegations abstained (Study LXX - Doc. 39, para. 65).
- (8) At the third session of the committee, 27 delegations voted in favour of the principle expressed in the new paragraph 4, 14 against and nine abstained, any decision on the language in square brackets being deferred until the fourth session (Study LXX - Doc. 39, para. 58).

ARTICLE 4

(1) The possessor of a stolen cultural object who is required to return it shall be entitled at the time of restitution to payment by the claimant of fair and reasonable compensation provided that the possessor [did not know] [neither knew nor ought reasonably to have known]<sup>(9)</sup> that the object was stolen and can prove that it exercised due diligence when acquiring the object.

(2) In determining whether the possessor exercised due diligence, regard shall be had to the circumstances of the acquisition, including the character of the parties and the price paid, to whether the possessor consulted any reasonably accessible register of stolen cultural property, and to other relevant information and documentation which it could reasonably have obtained.

(3) The possessor shall not be in a more favourable position than the person from whom it acquired the object by inheritance or otherwise gratuitously [provided that the latter person acquired the object after the entry into force of this Convention in respect of the Contracting State where such person acquired the object or had its habitual residence at the time of the acquisition].<sup>(10)</sup>

[(4) In the absence of the export certificate referred to in Article 2bis duly issued by the requesting State, the bad faith of the possessor of the cultural object is conclusively presumed.]<sup>(11)</sup>

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(9) A final decision has yet to be taken by the committee on the retention of the language in square brackets.

(10) The language in square brackets is based on a proposal submitted by the United States delegation at the second session of the committee (Study LXX - Doc. 29, p. 19).

(11) See note (4) above.

CHAPTER III - RETURN OF ILLEGALLY [EXPORTED]<sup>(12)</sup> CULTURAL OBJECTS

ARTICLE 5<sup>(13)</sup>

ALTERNATIVE I

(1) Where a cultural object has been removed from the territory of a Contracting State (the requesting State) contrary to its law [applicable to the protection of cultural objects],<sup>(14)</sup> that State may request the court or other competent authority of a State acting under Article 9 (the State addressed) to order the return of the object.

(2) Any request made under the preceding paragraph shall contain [the particulars necessary to] [or be accompanied by such information of a factual or legal nature as may] assist the court or other competent authority of the State addressed [to determine whether the requirements of paragraphs 1 to 3 have been met].<sup>(15)</sup>

(3) The court or other competent authority of the State addressed shall order the return of the cultural object if the requesting State [establishes] [proves] that the removal of the object from its territory [significantly]<sup>(16)</sup> impairs one or more of the following interests:

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- (12) At the third session of the committee, the drafting committee placed the word "exported" in the title of Chapter III between square brackets in view of the decision taken at the second session of the committee of experts to replace the word "exported" by "removed" in the English version throughout the whole of Chapter III (Study LXX - Doc. 39, para. 84).
- (13) The principal difference between Alternatives I and II is to be found in the inclusion in the latter of a paragraph 2 which does not appear in Alternative I. On an indicative vote at the third session of the committee, 18 delegations supported the idea reflected in paragraph 2 of Alternative II while 16 voted against and seven abstained (Study LXX - Doc. 39, para. 125).
- (14) See note (2) above and Study LXX - Doc. 39, paras. 86 - 88 and 118 - 120.
- (15) The committee decided at its third session to maintain this paragraph for the time being but to defer further discussion on it until its fourth session without this being understood as a formal approval of the text proposed by the working group which had drawn up a first version of the provision that had then been amended by the drafting committee (Study LXX - Doc. 38, Misc. 8 Corr. and Study LXX - Doc. 39, para. 121).
- (16) Although the committee at its third session rejected on an indicative vote the principle of the automatic return of illegally exported cultural objects by 20 votes to 14 with eight abstentions, decisions on the square-bracketed language were deferred until its fourth session (Study LXX - Doc. 39, paras. 111, 122 and 123).



- (a) the physical preservation of the object or of its context,
- (b) the integrity of a complex object,
- (c) the preservation of information of, for example, a scientific or historical character,
- (d) the use of the object by a living culture,
- (e) the outstanding cultural importance of the object for the requesting State.

[(4) The request may also be made, in conformity with paragraphs (2) and (3) of this article, by a Contracting State from whose territory a cultural object was initially legally exported (but was subject to temporal limitations and/or to limitations as to the territory of destination) when, following one or more successive exports not contemplated by the law of the State of origin, or by the export authorisation issued by that State or by an international agreement, whether multilateral or bilateral, to which both States concerned are Parties, the same effect is produced as would have been by the illegal export of the object to another Contracting State or by an infringement of cultural interests protected by the conditions which would have attached to the initial permission to export the object.]<sup>(17)</sup>

#### ALTERNATIVE II

(1) Where a cultural object has been removed from the territory of a Contracting State (the requesting State) contrary to its law [applicable to the protection of cultural objects], that State may request the court or other competent authority of a State acting under Article 9 (the State addressed) to order the return of the object.

(2) Contracting States shall prohibit the import of cultural objects in the absence of an authorisation issued by the State of origin of such objects.

(3) Any request made in accordance with paragraph (1) of this article shall be accompanied by the particulars necessary to enable the competent authority of the State addressed to determine whether the object falls within one of the categories of objects referred to in Article 2 and whether there has been a breach of the export legislation of the requesting State.

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(17) The committee agreed at its third session to maintain in square brackets this provision which had been submitted by the Italian delegation (Study LXX - Doc. 38, Misc. 16), and to resume consideration of it at its fourth session (Study LXX - Doc. 39, para. 124 and paras. 113 to 116).

(4) The court or other competent authority of the State addressed shall order the return of the cultural object if the requesting State [establishes] [proves] that the removal of the object from its territory [significantly] impairs one or more of the following interests:

- (a) the physical preservation of the object or of its context,
- (b) the integrity of a complex object,
- (c) the preservation of information of, for example, a scientific or historical character,
- (d) the use of the object by a living culture,
- (e) the outstanding cultural importance of the object for the requesting State.

[ ARTICLE 5 bis

In the absence of the export certificate referred to in Article 2 bis duly issued by the requesting State, the cultural object is conclusively presumed to have been illegally exported and must automatically be returned. ]<sup>(18)</sup>

ARTICLE 6

The return of the cultural object may be refused [only] where [:

- (a) the return would significantly impair the physical preservation of the object; or
- (b) the cultural object, prior to the unlawful removal from the territory of the requesting State, was unlawfully removed from the State addressed, or
- (c)] the cultural object is of outstanding cultural importance for the State addressed and the return would be manifestly contrary to the fundamental principles on the protection of the cultural heritage of that State.<sup>(19)</sup>

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(18) See note (4) above.

(19) At its third session the committee decided to retain Article 6 by 22 votes to 15, with five abstentions (Study LXX - Doc. 39, para. 142). In the absence however of any real discussion on sub-paragraphs (a) and (b), these were retained in the text in square brackets (Study LXX - Doc. 39, para. 143).

ARTICLE 7

(1) The provisions of Article 5 shall not apply where:

(a) the cultural object was exported during the lifetime of the person who created it or when the object is less than 50 years old; or

(b) the export of the object in question is no longer illegal at the time at which the return is requested.

(2) Any request for the return of the object shall be made within a period of [three] [five] years from the time when the requesting State knew [or ought reasonably to have known] the location [, or] [and] the identity of the possessor, of the object and in any case within a period of [six] [ten] [twenty] [thirty] years from the date of the export of the object. (20)

ARTICLE 8

(1) The possessor of a cultural object exported from the territory of a Contracting State (the requesting State) contrary to the law [applicable to the protection of cultural objects] of the requesting State shall be entitled at the time of the return of the object, to payment by the requesting State of fair and reasonable compensation, provided that the possessor [did not know] [neither knew nor ought to have known] at the time of acquisition that the object [would be, or] had been [,] unlawfully exported. (21)

[ (1bis) In the absence of the export certificate referred to in Article 2bis duly issued by the requesting State, the bad faith of the possessor of the cultural object is conclusively presumed.] (22)

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(20) For the square-bracketed language, see notes (5), (6) and (7) above in relation to Article 3, paragraph 3. It should also be recalled that, at the third session of the committee of governmental experts, the drafting committee suggested that paragraph 2 of Article 7 might be better placed elsewhere, one possibility being the introduction of a new Article 7bis so as to track the structure of Chapter II, that is to say to place it before the provision concerning compensation (Study LXX - Doc. 39, para. 157).

(21) For the first square-bracketed language, see note (2) while as regards the words "[would be, or] had been [,]" it was agreed by the committee that further consideration needed to be given to the temporal factor.

(22) See note (4).

(2) Instead of requiring compensation, and in agreement with the requesting State, the possessor may, when returning the cultural object to that State, decide:

(a) to retain ownership of the object; or

(b) to transfer ownership against payment or gratuitously to a person of its choice residing in the requesting State and who provides the necessary guarantees.

(3) The cost of returning the cultural object in accordance with this article shall be borne by the requesting State, without prejudice to the right of that State to recover costs from any other person.

[(4) A third State, or a third party of a public or private character furthering cultural aims may, with the consent of the requesting State, and in its place, provide for the payment of the compensation established under paragraph (1) of this article, on condition that the object be rendered accessible to the public in that same requesting State and that payment of the cost of insurance and of conservation of the object be met.]<sup>(23)</sup>

(5) The possessor shall not be in a more favourable position than the person from whom it acquired the object by inheritance or otherwise gratuitously [provided that the latter person acquired the object after the entry into force of this Convention in respect of the Contracting State where such person acquired the object or had its habitual residence at the time of the acquisition].<sup>(24)</sup>

[ ARTICLE 8 bis

The court or other competent authority of the State addressed, in ascertaining whether there has been an illicit removal of a cultural object in the meaning of Article 5, may request that the requesting State obtain from the court or other competent authority of the requesting State a decision or other determination that the removal of the object was illicit under Article 5. ]<sup>(25)</sup>

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(23) This proposal of the Italian delegation, submitted in Study LXX - Doc. 29, p. 81, was maintained in square brackets pending further discussion, although an analogous proposal made in connection with Article 4 was rejected (Study LXX - Doc. 39, paras. 82 and 178).

(24) For the analogous wording in Article 3, paragraph 3, see note (10) above.

(25) This text was submitted to the committee at its second session by the Finnish delegation (Study LXX - Doc. 29, p. 72). Lack of time did not permit its consideration by the committee at its third session.

CHAPTER IV - CLAIMS AND ACTIONS

ARTICLE 9<sup>(26)</sup>

ALTERNATIVE I<sup>(27)</sup>

(1) The claimant may bring an action under this Convention before the courts or other competent authorities of the State where the possessor of the cultural object has its habitual residence or those of the State where that object is located at the time a claim is made.

(2) However the parties may agree to submit the dispute to another jurisdiction or to arbitration.

ALTERNATIVE II<sup>(28)</sup>

(1) Without prejudice to the normal rules, or rules established by Conventions, concerning jurisdiction in force in the Contracting States, the claimant may in all cases bring a claim under this Convention before the courts or competent authorities of the Contracting State where the cultural object is located.

(2) Resort may be had to the provisional, including protective, measures available under the law of the Contracting State where the object is located even when the claim for restitution or return of the object is brought before the courts or competent authorities of another Contracting State.

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(26) Although the committee proceeded at its second session to discussion of Article 9, no votes were taken on the various proposals made which indicate widely differing approaches (cf. Study LXX - Doc. 30, paras. 178-191). For these reasons the Secretariat has reproduced the text of Article 9 as proposed by the study group as well as three other alternatives submitted in writing to the committee.

(27) Alternative I is the text proposed by the study group.

(28) Alternative II was submitted by the Secretary-General of the Hague Conference on Private International Law and the delegation of the Netherlands (Study LXX - Doc. 29, p. 68). Paragraph 2 of the proposal also seeks to meet a concern expressed by the Chinese delegation in Study LXX - Doc. 24, p. 5 and the Egyptian delegation in Study LXX - Doc. 29, p. 71.

ALTERNATIVE III<sup>(29)</sup>

(1) A claim may be brought under this Convention by a claimant who is a habitual resident of a Contracting State against the possessor before the courts of another Contracting State where the stolen cultural object is located.

(2) A claim may be brought under this Convention by a claimant who is a habitual resident of a Contracting State against a possessor who is a habitual resident of another Contracting State in the courts of that State, in a case where the stolen object is located outside any Contracting State.

(3) Neither paragraph 1 nor 2 shall apply to a case involving a claimant who is a habitual resident of a Contracting State bringing suit against a habitual resident of the same Contracting State in the courts of that State.

(4) Paragraph 1 shall not apply to a claim by a habitual resident of one Contracting State brought against the possessor who is a habitual resident of another Contracting State where the stolen cultural object is located in that State and has never moved out of that State.

ALTERNATIVE IV<sup>(30)</sup>

(1) The claimant may bring an action under this Convention before the court or other competent authorities

- (a) of the State where the possessor of the cultural object has its habitual residence, or
- (b) of the State where the object is located, or
- (c) of the State where the illegal act (theft, illegal excavations, illicit export) was committed.

(2) (Unchanged).

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(29) Alternative III reflects a proposal by the delegation of the United States already submitted to the committee at its first session and reproduced in Study LXX - Doc. 29, p. 79.

(30) Alternative IV contains a proposal by the Greek delegation which deals not only with the question of jurisdiction but also with enforcement of judgments (cf. Study LXX - Doc. 29, pp. 64-65).

[ARTICLE 9 bis

(1) A decision rendered in a Contracting State shall be enforced in another Contracting State

- (a) if it was rendered by an authority considered to have jurisdiction under Article 9;
- (b) if it is no longer subject to ordinary forms of review in the State of origin; and
- (c) if it is unenforceable in the State of origin.

(2) Provisionally enforceable decisions and provisional measures shall be enforced in the State addressed even if they are subject to ordinary forms of review.

ARTICLE 9 ter

Enforcement of a decision may, however, be refused in the following cases:

- (a) if the decision was obtained by fraud in connection with a matter of procedure; or
- (b) if it is established that the restitution of the cultural object would significantly impair the interests mentioned in Article 5(3), (a) and (c).

ARTICLE 9 quater

Enforcement may not be refused for the sole reason that the court of the State of origin has applied a law other than that which would have been applicable according to the rules of private international law of the State addressed.

ARTICLE 9 quinquies

There shall be no review of the merits of the decision rendered by the court of origin.]

CHAPTER V - FINAL PROVISIONS

ARTICLE 10<sup>(31)</sup>

(1) This Convention shall apply only when a cultural object has been stolen or removed from the territory of a Contracting State contrary to its law [applicable to the protection of cultural objects], after the entry into force of the Convention in respect of the Contracting State before the courts or other competent authorities of which a claim is brought for the restitution or return of such an object.<sup>(32)</sup>

[(2) The provisions contained in the preceding paragraph are without prejudice to the right of a State to address a claim to another State outside the framework of this Convention, in respect of an object stolen or illegally exported before the entry into force of this Convention.]<sup>(33)</sup>

[(3) This does not in any way preclude any future extension of the Convention so as to apply to objects stolen or illegally removed from the territory of a Contracting State by excavation or contrary to its legislation, before the entry of the Convention into force.]<sup>(34)</sup>

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(31) As had been the case with Article 9, no text of Article 10 was submitted by the drafting committee to the committee's second session (for discussion on Article 10, cf. Study LXX - Doc. 30, paras. 192-199). The Secretariat has in consequence retained paragraph 1 of the study group text, amended to take account of the replacement of the words "export legislation" throughout the draft.

(32) In accordance with a United States proposal (cf. Study LXX - Doc. 22, p. 19) the Convention would only apply to claims in respect of a cultural object stolen or illegally exported after both Contracting States concerned had become Parties to the Convention.

(33) Nigerian proposal contained in Study LXX - Doc. 29, p. 70.

(34) Greek proposal contained in Study LXX - Doc. 29, p. 69.



ARTICLE 11<sup>(35)</sup>

Each Contracting State shall remain free in respect of claims brought before its courts or competent authorities:

- (a) for the restitution of a stolen cultural object:
  - (i) to extend the provisions of Chapter II to acts other than theft whereby the claimant has wrongfully been deprived of possession of the object;
  - (ii) to apply its national law when this would permit an extension of the period within which a claim for restitution of the object may be brought under Article 3(2);
  - (iii) to apply its national law when this would disallow the possessor's right to compensation even when the possessor has exercised the necessary diligence contemplated by Article 4(1) [;

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(35) The language of Article 11 reflects the text approved by the study group together with a number of additional clauses proposed by various delegations which have been included in square brackets as they were not the subject of detailed discussion by the committee at its second session (cf. Study LXX - Doc. 30, paras. 200-207). There was however general agreement within the committee that provision should be made in the final clauses for a system of notification at the time of ratification, or subsequent thereto, so as to indicate the options chosen by a State in application of Article 11 (Study LXX - Doc. 30, para. 200).

A complete redraft of Article 11 was proposed by the Hungarian delegation (Study LXX - Doc. 29, p. 39) whereby paragraph 1 would be retained, subject to the deletion of sub-paragraphs (a)(ii) and (b)(ii), which would be included in a new paragraph 2 worded as follows:

(2) Each Contracting State shall, in respect of claims brought before its courts or competent authorities:

- (a) for the restitution of a stolen cultural object, apply its national law when this would permit an extension of the period within which a claim for restitution of the object may be brought under Article 3(2);
- (b) for the return of a cultural object removed from the territory of another Contracting State contrary to the [export] legislation of that State, apply its national law when this would permit the application of Article 5 in cases otherwise excluded by Article 7.

(iv) to apply its national law when this would require just compensation in the case where the possessor has title to the cultural object].<sup>(36)</sup>

(b) for the return of a cultural object removed from the territory of another Contracting State contrary to the export legislation of that State:

(i) to have regard to interests other than those material under Article 5(3);

(ii) to apply its national law when this would permit the application of Article 5 in cases otherwise excluded by Article 7 [;

(iii) to apply its national law when this would disallow the possessor's right to compensation contemplated by Article 8;

(iv) to apply its national law when this would deny the possessor the options provided for in Article 8(2);<sup>(37)</sup>

(v) to require that the costs referred to in Article 8(3) be borne by other than the requesting State].<sup>(38)</sup>

(c) to apply the Convention notwithstanding the fact that the theft or illegal export of the cultural object occurred before the entry into force of the Convention for that State.

[ARTICLE 12 (new)]

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 objects removed, whatever the reason, from the territory of each State, before the entry into force of this Convention for the States concerned.

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(36) Proposal by the United States delegation contained in Study LXX - Doc. 29, p. 62.

(37) Clauses (iii) and (iv) were proposed by the Australian delegation in Study LXX - Doc. 29, p. 26.

(38) Proposal by the delegations of Australia, Canada and the Netherlands in Study LXX - Doc. 29, p. 25, Article 11 (b)(iii).

ARTICLE 13 (new)

States Parties shall impose no customs duties or other charges upon

- (a) claims pursuant to this Convention;
- (b) cultural objects returned pursuant to this Convention.]<sup>(39)</sup>

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(39) These articles were proposed by the Israeli delegation at the second session of the committee (Study LXX - Doc. 29, p. 76). For want of time the committee deferred consideration of them until its third session (Study LXX - Doc. 30, paras. 208-209).