

REPORT BY MEMBER STATE CHILE ON THE APPLICATION OF THE 1970 CONVENTION ON THE MEANS OF PROHIBITING AND PREVENTING THE ILLICIT IMPORT, EXPORT AND TRANSFER OF OWNERSHIP OF CULTURAL PROPERTY¹

I. INFORMATION ON THE IMPLEMENTATION OF THE UNESCO CONVENTION OF 1970

1. Ratification of the UNESCO Convention of 1970:

The UNESCO Convention of 1970 was ratified by the State of Chile on September 2014, after a long process of deliberation and the reactivation of its processing in our legislative system.

2. Implementation in the national legal system and in organization of services:

Principal regulations adopted

Even though in the short period following the ratification of the UNESCO Convention of 1970 there has not been any law passed to further implement the Convention, the main law that regulates matters regarding this Convention is the “National Monuments Law” (Law N° 17.288, further referred to as the Monuments Law). Such legislation underwent some significant changes in the year 2005 with the Law N° 20.021 that modified the Monuments Law in order to amend certain shortfalls regarding sanctions and penalties for crimes or infractions related to the destruction of monumental heritage. Thus, articles 38° and 38° bis were introduced with the purpose of creating a new criminal definition and substitute the unit in which its fines are expressed.

Definition of cultural property

The main legislation that addresses a definition of cultural objects subjected to protection, or which exit of our national territory is regulated, can be found in the Monuments Law. The basic definition of such objects can be found in Article 1°:

“They are national monuments and are under the custody and protection of the State, places, ruins, constructions or objects of a historic or artistic nature; burials o cemeteries or other aborigines remains, anthropo-archaeological pieces/items or objects, paleontological or of natural formation, that exist under or over the surface of national territory, or in the submarine platform of its jurisdictional waters whose conservation is of interest to history, art or science; nature sanctuaries; monuments, statues, columns, pyramids, fountains, plaques, crowns, inscriptions and, in general, objects that are destined to remain in a public site, of commemorative nature. Their custody and protection will be exerted through the National Monuments Council, in the manner prescribed by this Law”.

¹ This document contains unofficial translations of national laws, regulations, decrees, bilateral agreements and other legislative or normative references, for informative purposes only. This translation is for the purposes designated in this report and may differ from the original text. For further consultation please refer to the mentioned texts in their original language.

The protection of cultural objects is under the protection of property, public and private, hence the ownership and custody of such goods by the State though the Monuments Law is its main judicial form of protection. Our legislation has not yet defined what it considers “cultural property” nor is there a disposition that indicates what goods are considered cultural; therefore the category of National Monuments, enumerated in the Article 1° of such law, is used for these purposes. The declaratory of these objects as National Monuments (and as such, subject to protection) is issued exclusively and by decree by previous request and approval of the National Monuments Council.

An exception to this condition is the particular nature before the law that archaeological and paleontological possess. These are two categories of cultural goods that are automatically protected without having to be declared National Monuments by decree. The Article 21° of the Monuments Law defines them in the following way:

“By sole virtue of the law, are Archaeological Monuments and property of the State the places, ruins, deposits and anthropo-archaeological pieces that exist on or under the surface of national territory. For the purposes of this Law, paleontological pieces and the sites where they are located are also encompassed”.

Therefore, archaeological and paleontological goods discovered or to be discovered are protected as they are exclusive property of the State of Chile and their excavation, ownership, custody and exportation are widely regulated and require authorization.

Another form of protection, other than the cultural goods that have official protection (declared as National Monuments) is that of cultural goods which exportation from our national territory is regulated. In the case of the exit of cultural goods from our country, the protection is extended to remains that may not be National Monuments, but require particular protection to avoid their illicit trafficking. The Easter Law N° 16.441 of 1966, in its Article 43° declares the following:

“Only the President of the Republic², by founded decree, may authorize the extraction, outside the national territory, of parts of buildings or historic or artistic ruins or burials or aborigines cemeteries, anthropo-archaeological objects or pieces or of natural formation that exist on or under the surface and which conservation interests science, history or art, and of goods, objects, pieces, paintings, books or documents public or private that, for their historic or artistic nature, must be conserved in museums or archives or remain in a public site for commemorative or expositional purposes”.

There are other laws which also regulate the exportation of specific cultural good. The Law N° 17.236 in its Article 2° indicates in broad manner that all works of art by Chilean or foreign artists require authorization by the Directorate of Libraries, Archives and Museums to exit the country. Goods belonging to the cultural heritage of indigenous communities, in general, that will be

² Supreme Decree N°329/1997 of the Ministry of Education published in the Official Paper on June 19th of 1997, establishes in its only article the following: “Delegate to the Ministry of Education the faculty to give the authorization contained in the Article 43° of the Law N° 16.441. The following decree will be subscribed by the Minister under the formula ‘By order of the President of the Republic’.

alienated or exhibited abroad require a previous report by the National Corporation of Indigenous Development (Article 29, Law N° 19.253).

Specialized units in the prevention and combat of illicit trafficking of cultural goods, and inter-institutional cooperation for the protection of cultural heritage:

In Chile there are two units that specialized in the investigation and sanction of crimes related to cultural heritage and its illicit trafficking. On one hand, there is a specialized investigative police unit within the Investigative Police of Chile: the Investigative Brigade of Crimes against the Environment and Cultural Heritage (also known as BIDEA, in Spanish). The BIDEA was created in 2002, and it has 6 offices across the country and has 35 officials specialized in these type of crimes.

On the other hand, in the judicial system, within the Public Ministry there is also a public prosecutor's office specialized in the prosecution of this kind of crimes: the Specialized Unit of Money Laundering, Environmental Crimes and Organized Crime. This unit judicially supports the investigations undergone regarding these crimes and of crimes against cultural heritage and communicates with local prosecutor's offices across the country. Currently it has 48 public prosecutors specialized in these crimes.

Inter-institutional cooperation

The largest form of inter-institutional cooperation on matters of prevention and combat of illicit trafficking of cultural goods is the Fight against Illicit Trafficking of Cultural Heritage Goods Workgroup (further known as Mesa TIBP, for its acronym in Spanish). Created in the year 2011 and consolidated by decree in the year 2013, the Mesa TIBP is an instance of work and inter-institutional coordination of the different governmental units related to the illicit trafficking of cultural goods, and it operates in three main areas: legislative and normative, technical-operative, and education, training and communication. The Mesa TIBP gathers periodically and its current main task is that of coordinating actions that allow the implementation of the UNESCO 1970 Convention. It also has specialized workgroups in the three work areas of the Convention. These groups propose the production of diagnostics and concrete actions in these areas for a better implementation of the Convention (analysis of current legislation, creation of alert protocols in case of theft, implementation of registry systems, improvements in exits authorization certificates, etc.).

The Mesa TIBP incorporates representatives of the following institutions: Directorate of Libraries, Archives and Museums (further known as Dibam), National Archive, National Library, National Historic Museum, National Museum of Fine Arts, National Museum of Natural History, National Sub directorate of Museums, National Center of Conservation and Restoration, and the National Monuments Council (further known as CMN).

Also, the Mesa TIBP has Permanent Advisors that support said work which meet each semester in an Extended Meeting of the Mesa TIBP. This advisory capacity is exerted in a three year period, subjected to renewal. The Permanent Advisors are representatives of the following institutions: Ministry of Foreign Affairs, Public Ministry, the State Defense Council, Police of Investigations of Chile, National Customs Service, Carabineros of Chile (police), National Council of Culture and Arts, Chilean Committee of the International Council of Museums, Interior and Public Safety Ministry, National Tourism Service and General Directorate of Civilian Aeronautics.

The Mesa TIBP through its education workgroup does training sessions for the different units responsible for the combat and auditing of illicit trafficking of cultural goods (mainly the Police of Investigations and the National Customs Service), which addresses mostly matters regarding current cultural legislation (goods subjected to protection and associated norms) and the identification of potentially trafficked goods (archaeological, paleontological goods and works of art).

3. Inventories and identification:

Inventories and identification

The registration of objects of collections belonging to public museums of the Dibam is promoted under the SURDOC program. This is a normalized tool for the managing of information regarding the collections of museums, created, developed and applied in the museums of the Dibam. This program allowed for the normalized entry of information of the Dibam museums, characterized by having a wide typology of collections. The museums not always manage inventories with reliable information and sometimes it is not up to date or needs completing.

The Dibam through its Center for Documentation of Heritage Goods (further known as CDBP) and the creation of the Database and Unique Registry System (SURDOC) has promoted the registry of all collections of the 26 museums belonged by the State in this system. SURDOC seeks to create a registry for textual and reliable visual information of all objects in public museums. Up to May 2014, there was a total of 110.770 entries, 77.194 of which contained images of the registered object³. Private museums and institutions have also voluntarily incorporated themselves in this initiative. It must be noted that SURDOC does not register collections of biological specimens.

The SURDOC program presents itself as a significant tool for the protection of objects at risk: the scope of the inventories must have reliable textual and visual information, and the combination of both is essential for the protection of objects at risk as they facilitate their search in case of theft. This registry system also includes a public website⁴, created for the general public that seeks

³ According to the document “Mesa de Trabajo de Lucha contra el Tráfico Ilícito de Bienes Patrimoniales. Minuta sobre la implementación de la Convención UNESCO de 1970”. Mayo, 2014

⁴ View site: <http://www.surdoc.cl>

information of the heritage collections kept in museums, although there are also institutions that have only subscribed to the internal use only platform for their collections registry.

Outside of the scope of museums, since the year 2002, through various projects and initiatives, heritage registry and inventory has been undergone in different dioceses of the Catholic Church, such as those located in the cities of Arica, La Serena, San Felipe and Rancagua; which have used normalized fields for the registry of their collections elaborated by the CDBP. The Registry of Cultural Goods Manual of 2008 has been an important contribution to this work, besides a series of protocols for the description of divers typologies of objects published by the CDBP, that are available on their website⁵.

Currently, the CDBP is undergoing a survey of the state of the Registry Situation in Chile, which will provide updated information regarding inventories in museums, institutions and churches.

National treasures registry

The attributions of the CMN only allow it to work on the registry of Monumental heritage (National Monuments) legally protected, which means cultural goods declared by decree as Historic Monuments, Public Monuments, Typical or Quaint Zones, Nature Sanctuaries and Public Monuments, or Archaeological Monuments declared as such by the sole virtue of the law (this encompasses paleontological objects and the sites where these are found).

These goods are available on a public registry list that provides the following information: unique registry number, declaration state, current situation, location, type of good (movable – objects- or unmovable – buildings), etc.

Use of Object ID Standards

The “Registry of Cultural Goods Manual” of the CDBP has introduced the Object ID and the fields that it requires in museums and institutions belonging to the Dibam. All training sessions that the CDBP and the Mesa TIBP provide for other institutions include the use and application of this tool.

The survey project on the state of Registry Situation in Chile, amongst other variables, seeks to detect the use of Object ID within Dibam institutions and will recommend its use. It will be suggested that even though institutions use different registry systems, all these systems uses as a minimum standards the information required by the Object ID form. The forms of the Object ID will be the converging point between these registries.

4. Archaeological excavations:

⁵ According to: “Mesa de Trabajo de Lucha contra el Tráfico Ilícito de Bienes Patrimoniales. Minuta sobre la implementación de la Convención UNESCO de 1970”. Mayo, 2014.

Regulation of archaeological excavations

The regulation of archaeological and paleontological excavations is regulated by the Monuments Law (Articles 21 through 28) and by the “Bylaw regarding Archaeological, Anthropological and Paleontological Excavations and or Prospections” (Supreme Decree N° 484/1990 of the Ministry of Education).

The Monuments Law declares that no Chilean natural or judicial persona can perform in the national territory excavations of archaeological, anthropological or paleontological nature without previous authorization of the National Monuments Council (further referred to as CMN). It also determines that all objects found by persons or by institutions of the State or that receive grants from the State must be given in their entirety to the CMN. The CMN is responsible of distributing these objects according to the Bylaw. When a finding is realized by a private, it must hand them over to the CMN which shall give a representative collection of the findings to the National Natural History Museums. In the particular case of foreigners, the Council may yield up to 25% of the found objects. However, its exportation is subjected to the authorization of the Ministry of Education.

It also established the obligation of denouncing the finding or “ruins, deposits, pieces or objects of historic, anthropological, archaeological or paleontological nature” to the Provincial Governor. The Governor shall order the custody of the site by Carabineros (police) until the CMN can be left in its charge. The law also establishes that the National Natural History Museum is the official center of the collections regarding the science of man in Chile.

“Bylaw regarding Archaeological, Anthropological and Paleontological Excavations and or Prospections” establishes the regulation of excavations in public as well as private grounds and the norms that regulate grant of authorizations by the CMN. The CMN receives requests to undergo excavations and or prospections; it grants permissions for a maximum period of 5 years (revocable) and determines the fate of the objects or items found.

The requests must be accompanied by a project of investigation with the background information regarding the lead investigator and his team. Also, foreigners must fulfill requirements such as credit their belonging to a credible foreign scientific institution and the commitment of participation of a Chilean advisor, besides an agreement with a state university or scientific institution that will sponsor the investigation and can be held accountable before the CMN.

Two years after the excavations have begun; the CMN will require that the lead investigator presents a report that accounts for the works that have been done. El Council safeguards, consults, and monitors the state of the activities and their completion under the established norms. In case of infraction of said norms, the according sanctions can be fines, seizure of the extracted objects and expulsion of the country in the case for foreigners.

Currently there aren't implemented measures that allow for the guarantee of the conservation *in situ* of all archaeological sites in the country, due to the fact that there is not a registry for all of them. However, the country is in conditions to guarantee the *in situ* conservation of *determined goods*, define archaeological reserve zones and control excavations.

Illegal excavations in Chile

Illegal excavations in Chile were quite recurrent in the period previous to the professionalization of the career of archaeology in Chile, due to the fact that many amateur investigators would undergo excavation campaigns where they would incorporate people from different communities as work labor. This generated the wrongful idea that anybody could dig up the remains of the past. However, this changed by the beginning of the '70's with the creation of the archaeological degree at the University of Chile, that started to create professionals in this discipline, and with the dictation of the Monuments Law (in 1970) which reinforced ostensibly the protection of archaeological heritage. Both events gave way to a new period in which archaeological heritage protected as National Monuments started to be perceived as such by the collective consciousness, which diminished the illegal excavations of archaeological goods.

Even though there has been a strong diminishing of these practices, recently there has been observed a larger recurrence of unauthorized excavations in the northern part of the country, where besides archaeological sites there are paleontological remains, attractive for the illicit trafficking of cultural goods.

The Monuments Law also defines paleontological goods as National Monuments, and gives them the same protection as archaeological goods, establishing the requirement of previous authorization for excavations of this nature. Unlike archaeology, paleontology is not developed in the country as a professional career (such as with an undergraduate degree) but as a post graduate specialization. This means that there is a smaller percentage of professionals with this expertise and, therefore, a scarce communication of national paleontology in the communities.

Even though this pattern has been changing in recent years, the lesser development of paleontology – that contrasts with the paleontological richness of the country, has meant that people do not know or cannot recognize the heritage relevance of these goods and a greater inclination to perform illegal excavations, including those resulting because of ignorance of the law. The existence of a clandestine trafficking has also been detected, motivated by collectors, touristic motives, or as an option of economic sustenance associated with social vulnerability contexts.

To deal with this situation in Chile, there have been educational campaigns in the main paleontological and archaeological interest areas to reeducate the community regarding the protection of heritage and try to change the rooted notion that anybody can extract and sell archaeological and paleontological goods, revealing their value as a communal good and the

nefarious effects that their lack of context produces and the infliction of irreparable damage to the sites or deposits of origins. On the other hand, and even though more efforts are required in this matter, there has been a strengthening of the response capacity of public services entrusted with the protection and conservation of heritage; strategic alliances with police and other enforcement organisms has been coordinated and, more recently, the collaborative work with neighboring countries.

5. Monitoring of import and export of cultural goods:

Statistics regarding the situation of illicit import and export of cultural goods

The Mesa TIBP currently is working on an Annual Statistics Report regarding the authorized entrance and exit of cultural goods, the seizures, administrative infractions and crimes committed of wrongful appropriation, theft, robbery and reception, and the illegal import and export of cultural goods.

Administrative and legal rules for the monitoring of import and export of cultural goods

Excluding certain exceptions, the administrative and legal rules that currently regulate the import and export of cultural goods treat them as any other good that is subjected to custom's and tax's rules. In the particular case of the import of cultural goods in the national territory, it's subjected to the regulations of the National Customs Services, Agriculture and Farming Service and the country's tax norms.

Besides these regulations, the illegal import of cultural goods into our country is regulated as illicit is fought, in other words there is collaboration with other countries that alert the State of Chile of a particular situation so that goods that have crossed the borders of other countries trespassing their legislations in this matter, can be stopped from entering or return to their countries of origin.

Regarding exportation, there are certain cultural goods which exportation is regulated and that require explicit authorization to leave the country:

- 1) All archaeological and paleontological good are protected and their exit can only be authored by decree by the Ministry of Education, dictated per request of the National Monuments Council.
- 2) All goods that are a part of collections belonging to museums of the State may they be natural or cultural goods require an authorization by decree by the Ministry of Education, dictated per request of National Monuments Council to leave the country.
- 3) All cultural goods that are considered part of the historic heritage of indigenous communities, in general, that will be alienated or exhibited abroad require a report by the National Corporation of Indigenous Development (Conadi).

- 4) All works of art by Chilean and foreign artist to be able to leave the country require an authorization by the Directorate of Libraries, Archives and Museums through the National Museum of Fine Arts. However, those which are qualified as National Monuments must be authorized by the National Monuments Council.
- 5) The exit of bibliographical objects and material that are National Monuments can only be authored by decree by the Ministry of Education, dictated per request of the National Monuments Council.
- 6) Objects that are part or belong to a Historic Monument cannot be removed without the authorization of the National Monuments Council.

Thus so, for objects that have official protection in our country (meaning that their exportation is regulated) the national legislation establishes, in general, that authorization is required by the competent organisms or by the President of the Republic for their removal from national territory. For these cultural goods, official authorization documents are demanded, which range from reports by the competent organisms (Conadi, Dibam), to the decree by the Ministry of Education established in the Monuments Law and Easter Law, previously mentioned. Currently there is no unified exportation certificate for all institutions involved, according to their attributions the authorizations are expressed in certificates, decrees, etc.

However, the Ministry of State Treasury is currently implementing the Exterior Commerce Integrated System (SICEX), and the CMN and National Museum of Fine Arts are a part of this process. This system will allow for online access and processing of these authorizations, and they will be available for permanent consults by the organisms involved in controlling the export of cultural goods⁶.

Restitution of illegally imported goods

It is noticed that the Decree N° 141/2014 that “Promulgates the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property” is accompanied by the following statement: “The Republic of Chile understands that the dispositions of the Convention are not of retroactive nature and, regarding its Article 13 letter d), this shall be applied to cultural goods extracted from the State of Origin after the effective date of the referred Convention for the States concerned”.

6. System for the permutacion, acquisition, ownership and transference of property of cultural goods:

Cultural goods market

⁶ According to: “Mesa de Trabajo de Lucha contra el Tráfico Ilícito de Bienes Patrimoniales. Minuta sobre la implementación de la Convención UNESCO de 1970”. Mayo, 2014.

Currently Chile is in process of collecting data regarding this matter, therefore in the future we may be able to have a general perspective of this reality in our country. Even though there is information available regarding the authorization of exit of works of art and importation and exportation of cultural goods, a more defined framework is required to obtain more specific information concerning this matter.

Control mechanisms of purchase of cultural goods in museums

The Collection Management Protocol (2008) for Dibam institutions regulates, amongst other aspects, the incorporation of new objects in collections, declares the following: “when a regional or specialized museum requires to purchase collections it must have the advisory of a specialist delegated by the Center of Documentation of Heritage Goods of the Sub directorate of Museums and shall proceed as disposed in the Public Purchases Law”. The person or entity selling must be registered in the public supplier’s portal Mercado Público as a provider in order to sell.

There is also a Committee of Collections that determines the entry or rejection of said object to any of the collections of institutions belonging to Dibam. The committee emits an Act of each meeting and forwards all documentation to the Legal Department of the Dibam.

Principle of inalienability applied to cultural objects in national collections and objects found in heritage sites

In Chile this principle operates only in case of Archaeological Monuments, according to Article 21 of the Monuments Law that declares: “By sole virtue of the law, are Archaeological Monuments and property of the State the places, ruins, deposits and anthropo-archaeological pieces that exist on or under the surface of national territory. For the purposes of this Law, paleontological pieces and the sites where they are located are also encompassed”.

These good are property of the State, and the CMN has their tuition, therefore their sale and possession by people or institutions that are not those which the CMN has granted tuition, is prohibited.

The Article 9 of the same law indicates the following: “The objects that form part or belong to a Historic Monument cannot be removed without the authorization of the Council, who will indicate how to proceed in each case. Loans of collections or museum items between museums or entities of the State dependent of the Directorate of Libraries, Archives and Museums of the Ministry of Public Education, are exempt from this authorization. This indicates that objects declared Historic Monuments, by general rule, cannot be moved o removed from their current location, and thus is a control barrier to prevent the transference of said objects to third parties. This besides having the regulations established in the Monuments Law and Easter Law, previously mentioned.

Status of unfound cultural objects and archaeological goods found during legal or illegal excavations

The Article 21 of the Monuments Law defines the status of archaeological objects in the following manner: “By sole virtue of the law, are Archaeological Monuments and property of the State the places, ruins, deposits and anthropo-archaeological pieces that exist on or under the surface of national territory. For the purposes of this Law, paleontological pieces and the sites where they are located are also encompassed”.

Said law also determines that objects found by people or institutions of the State or that receive grants from the State must be given in their entirety to the CMN. The CMN is responsible of distributing these objects according to the Bylaw. When a finding is realized by a private, it must hand them over to the CMN which shall give a representative collection of the findings to the National Natural History Museums. In the particular case of foreigners, the Council may yield up to 25% of the found objects. However, its exportation is subjected to the authorization of the Ministry of Education.

7. **Bilateral agreements regarding matters of illicit import, export and return of cultural goods:**

Agreement of cultural exchange between the Government of the Republic of Chile and the Government of the Republic of Perú (1982), Article 20°.

This agreement in its Article 20° establishes the following: “Each of the High Parties Subscribing commit to enforce the respect in their respective territories, as long as it does not oppose to its internal legislation, de legal dispositions of the other Party related to the protection of their national artistic, archaeological and historic heritage, in the means that it refers to the prohibition of exporting heritage goods of the affected Party, unless its temporary export has been explicitly authorized by the Government of the country of origin.

In the cases in which the indicated archaeological, historic and artistic goods are illegally exported and interned in the territory of one of the Parties, the High Parties Subscribing commit to grant, within the frame of their respective legislations, all necessary facilities for the reexportation of said goods to their country of origin”.

Agreement on the protection and restitution of cultural goods with the United States of Mexico (2014).

This agreement indicates in its Article 1° that seeks to “prohibit the entrance in national territories of the parties of all paleontological, archeological, artistic and historic cultural good subjected to protection (further known as cultural good) originated from the other Party, that has been robbed, illicitly obtained or trafficked, and to establish the necessary procedures for their restitution”.

In this agreement, each Party indicates the categories and typologies of cultural goods subject to protection, according to their current national legislations. The enumeration made is not exhaustive.

It also established procedures to follow in case of an explicit request of restitution by one of the Parties. The Parties commit to maintain a close cooperation in matters of protection and restitution of cultural good according to the modalities of exchange of information regarding people allegedly involved in the theft, exchange of information regarding practices and experiences in matters of prevention, the development of capacity building activities, stolen cultural goods registry, etc.

Agreement in matters of prevention of theft, clandestine excavations and illicit importation and exportation of cultural goods between the government of the Republic of Chile and the government of the People’s Republic of China (2008).

This agreement signed with the People’s Republic of China established the collaboration between both countries on the “adoption of preventive measures, obligatory and corrective, with the objective of combating illegal and criminal practices related to the theft, clandestine excavation and illicit importation and exportation of cultural goods, in conformity to their respective national legislations” (Article 1: 1.).

This encompasses, among other things, the strengthening of cooperation between both countries in this matter, the exchange and training of personnel in the aspects of prevention of theft, clandestine excavations and the illicit importation and exportation of cultural goods. It also promotes the improvement of license and registry of exported cultural goods, the divulgation of information regarding stolen cultural goods and the supervision of cultural imports.

II. Codes of ethics, awareness raising and education:

1. Ethical standards

The UNESCO International Code of Ethics for Dealers in Cultural Property and the ICOM International Code of Ethics for Museums are made available at the website www.traficoilicito.cl for all interested parties and for the general public. The ICOM International Code of Ethics for Museums is included and or mentioned in several educational and capacity building activities with museums belonging to the Dibam, although their observance per se is not checked.

2. Awareness building and education

In Chile since the ‘90’s there has undergone a systematic and increasing work of combat against illicit trafficking through the training of personnel, formation of professionals and support of the incorporation of these issues in different institutions.

Part of this work is the development of capacity building workshops since 2004, which have acquired a renewed vane since the formation in 2011 of the Mesa TIBP, which has the mission to unite efforts to combat these crimes, systematizing and projecting the labor done for decades by the CMN and the Dibam, in collaboration with the different institutions involved in this matter, in which inter-institutional cooperation has been the foundation of the prevention and combat of illicit trafficking of cultural goods.

The workshops are mainly orientated to personnel of the Police of Investigations of Chile, Carabineros de Chile (police), National Customs Service, General Directorate of Civil Aeronautics, and the Agriculture and Farming Service, who are the frontline of prevention and combat of these crimes, besides the Public Ministry. The goal is to support institutions in the development of the necessary tools to avoid the concretion of crimes related to the trafficking of cultural goods and to sanction them. Representatives of other organizations also participate in these activities, depending on the matter or particular case.

The workshops are theoretical and practical sessions, which help to a better identification of movable cultural goods from Chile. In these sessions three great type of cultural goods that have official protection are discussed: paleontological, archaeological and historic and artistic heritage and different experts teach the keys to identifying this type of heritage and its variations. It also includes lectures regarding the national legal framework of heritage protection and the UNESCO Convention of 1970, to prevent and combat crimes against cultural heritage. These lectures are followed by practical workshops in which the participants can manipulate items and therefore enhance their ability to detect and handle them. The work of the Mesa TIBP is also presented, for the acquaintanceship with this organization and to hear the vision of the participants on what are the priority issues to address. There are also discussion groups which generally refer to matters regarding different procedures.

III. **Cooperation with other international and regional agencies:**

1. **Police**

Cooperation with Interpol

The Investigative Police of Chile since the year 1946 represents Chile before the International Organization of Criminal Police Interpol, through the National Central Office (OCN) Interpol Santiago. This unit maintains contact with all countries members of this organization, through their respective OCN, with the Sub regional Office of Interpol for South America and also with the General Secretary. Currently there are four detectives of the Investigative Police at the disposition of the organization, fulfilling tasks of cooperation with international police, two of them with the General Secretary and two in the Sub regional Office in Buenos Aires.

The Investigative Police has Investigative Brigades of Crimes against the Environment and Cultural Heritage (BIDEMA), specialized in these crimes. The BIDEMA exchanges information in a regular fashion with OCN Interpol Santiago, according to the area of work.

Regarding objects stolen in Chile, an alert is given at a national level to all unites. Depending on the photographs and files of the objects that can be accessed (due to specifications and requisites that Interpol requires) an alert communicated to Interpol. In the case that these items have been subject to theft abroad, if the Investigative Police finds an item that is not national, besides consulting experts to identify it they can check the Interpol database in the I-24/7 system.

About the exchange of information if people involved in the theft of cultural goods, this practice has not been observed. Nonetheless, the Investigative Police is present in 85% of border controls in the country, therefore if a subject of interest is detected personnel is quickly alerted of this situation so that he can retained whilst he is checked.

Training

Officers of the BIDEMA have, most of them, specialization courses in environmental and cultural heritage issues, in which they address regulations, protocols and related procedures.

Punishment and sanctions regarding illicit trafficking of cultural goods

The Monuments Law through its articles 38° and 38° bis establishes the criminal figure and subsequent sanctions and penalties for crimes or infractions related to the destruction of monumental heritage. Regarding the theft of cultural goods, it established the figure of the following crimes: “The appropriation of a national monument, which constitutes crimes of usurpation, theft, burglary in things, or robbery with violence or intimidation against persons, as well as its reception (...)” (Article 38° bis).

Even though there are no judges specialized in these kinds of crimes, within the Public Ministry there is a specialized prosecutor’s office for the criminal prosecution of these crimes: the Specialized Unit of Money Laundering, Environmental Crimes and Organized Crime. This unit judicially supports the investigations undergone regarding these crimes and of crimes against cultural heritage and communicates with local prosecutor’s offices across the country.

2. National Customs Service

Cooperation with the World Customs Organization

The National Customs Services has a permanent cooperation with the World Customs Organization (OMA). Regarding the protection of cultural heritage, the OMA promotes the

effective cooperation and collaboration with other international organizations and law enforcement agencies, such as the International Museums Council (ICOM) and UNESCO. To fulfill this mission, the OMA depends on the competences and daily efforts of the Members of Customs Administrations, and the Regional Intelligence Link Offices (RILO) of the World RILO Network.

An example of these cooperation efforts is the electronic platform of exchange of information CEN Comm of the OMA, where the ARCHEO initiative takes place developed by the RILO OMA Office for the Region of Europe. This network is dedicated to the prevention of Cultural Heritage Fraud and it gathers professionals and experts committed to the protection of cultural heritage through facilitating the identification of suspicious items, with the purpose of maximizing effective and efficient control and auditing.

Chile is home to the RILO headquarters of the OMA for South America, through which it maintains cooperation and assistance with the OMA in matters regarding cultural heritage. The South American RILO Office is part of the ARCHEO Program and has permanent contact with countries subscribed to it, and with the OMA in case of eventual alerts or detentions associated with the infringement of World Cultural Heritage, as with the dissemination of important information regarding theft and looting of heritage. The National Custom Service also has access to the CEN Comm communication platform, where ARCHEO has its information exchange portal. It is important to note that the OMA has 11 Regional Offices for RILO that represent the different regions of the world of the OMA, with approximately 150 countries members that are part of these 11 offices.

Custom services in the prevention of illicit trafficking of cultural goods

The National Customs Service in compliance of its supervisory and auditing functions regarding products passing through airports, ports and frontiers, has defined the protection of cultural goods as a risk area. Through its Regional Directions and Customs Administration and according to the legal framework, Customs will comply with the control of the frontline (i.e.: outposts, border controls). The Sub directorates of Supervisory, its Departments and or Units at a National level are in charge of this issue.

Training of personnel of the National Customs Service in matters of Prevention and Combat against the Illicit Trafficking of Cultural Goods

Within the Integrated Supervisory Plan, there is an area defined at a national level as the Integrated Supervisory Cites and Heritage Plan (PIF) which also supplies the Service Management Improvement Plan (PMG). Said plans are relevant to the personnel's training as they have capacity building activities related to these issues. Cites and Cultural Heritage are also present as topics in the study plan of the Regular Customs Personnel Improvement Plan.

Use of the UNESCO-WCO Model Export Certificate for Cultural Objects

Currently the National Customs Services does not yet use this model for Export Certificate for Cultural Objects.

IV. **Emergency situations and cultural heritage at risk:**

Strategies for the protection of cultural heritage in case of natural disasters or armed conflict

Chile is a State Party to the Hague Convention of 1954 and as such, has a Blue Shield Committee that oversees this matter. Also, the Dibam (amongst other institutions) collaborates actively with the International and Human Safety Department of the Ministry of Foreign Affairs on this issue.

One of the initiatives that is currently being worked on from the National Conservation and Restoration Center and the National Monument Council is a geo-referencing system of all of the national monuments within our territory which, among other functions, will be a tool to elaborate response protocol in the case of natural disasters or armed conflicts. Finally, the incorporation of the Defense Department as an advisory member of the Mesa TIBP is a great support to continue advancing in the protection of our patrimony in risky situations.

Adoption of the UNSC Resolution N° 2199

Regarding actions carried out to implement the UNSC Resolution 2199 (paragraph 17 from February 12, 2015) a an official petition was sent to all relevant Permanent Advisors of the Mesa TIBP communicating the UNSC Resolution and requesting the distribution of the “Red List of Cultural Objects at Risk” of Iraq and Syria within their respective institutions. The purpose of these actions is to prevent any illicit trade cultural objects from those countries in our territory and by our citizens abroad. Amongst the institutions that received this request, is the Ministry of Foreign Affairs, the State Defense Council, the Police of Investigations, National Customs Service, Carabineros de Chile (police) and the National Tourism Service.

V. **Other legislative, legal, and administrative measures adopted by the State:**

1. Ratification of the UNIDROIT Convention of 1995 over Stolen and Illegally Exported Cultural Objects

Chile has not yet ratified the UNIDROIT Convention of 1995. Due to the fact that the UNESCO Convention of 1970 was only ratified in 2014, up to this point all education and communication efforts had been concentrated in its promotion and adoption. Currently, Chile is immersed in the process of implementing the Convention and of capacity strengthening, and is preparing a Capacity Building and Communication Plan for the year 2016.

Considering that the Operational Guidelines of the UNESCO 1970 Convention aim at similar goals as the UNIDROIT 1995; we feel that it's necessary to prioritize the implementation of the 1970 Convention and its Operational Guidelines and them, in a further occasion, evaluate the possible adherence to UNIDROIT 1995. However, we find it important that each passing year more countries subscribe to this international judicial instrument.

Finally we would like to be able to count on the experience and technical support of UNESCO to continue developing stable communication channels and cooperative relationships with the different sectors and key players of the private world.

2. Intergovernmental Committee for the Promotion of the Return of Cultural Articles to their Countries of Origin or their Restitution in the Case of Illicit Appropriation

Due to having recently joined the Convention as a country, we have only participated as observers, and we follow the actions of this organism in its state as a State Party of the Convention with much interest.

3. UNESCO Data Base of National Cultural Heritage Laws

The UNESCO Data Base of National Cultural Heritage Laws includes the Chilean laws and regulations related with this topic since 1928 until 2005. It is desirable that Decree N° 141/2014 “Enactment of the Convention of Measures which should be Adopted to Prohibit and Prevent the Illicit Importation, Exportation and Transfer of Cultural Property” from 2014 be published.

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