

ANNEX 1

Guidelines for the preparation of reports by Member States on the application of the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property

As far as practicable, it is recommended that Member States follow all of the points contained in this draft. In its contribution, however, the State may disregard any aspects on which no information is available. Lastly, even though some points are framed as questions, the document must be regarded more as a guide than as a questionnaire.

I. Information on the implementation of the UNESCO Convention of 1970 (with reference to its provisions)

1. Ratification of the Convention

- (a) Has this Convention already been ratified?

Italy ratified the UNESCO Convention by Act N. 873 of 30 October 1975. In addition, the UNESCO Convention is mentioned in Legislative Decree No. 42 of 22 January 2004 (Art. 87 bis), that is the special law regarding the protection and enhancement of cultural heritage (“Code of the Cultural Heritage and Landscape”, hereafter “Code”),

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

- (a) Give the references of the principal national regulations adopted in order to implement the 1970 Convention?

The principal national regulation in order to implement the 1970 Convention are Act N. 875 of 30 October 1975 and “Code” Law 42/2004 and its amendments. In particular the “Code” has been amended by Legislative Decree N. 62 of 26 March 2008 that introduced the article 87bis specifically concerning the application of the UNESCO Convention.

- (b) A definition of “cultural property” agreeing with the definition proposed by the 1970 Convention is important in order to increase the effectiveness of international cooperation. State what definition is used by the national laws of the country concerned.

According to the “Code” and its amendments, cultural property consists of immovable and moveable things which, pursuant to Articles 10, 11, and 13, involve artistic, historical, archaeological, ethno-anthropological, archival and bibliographical interest, and of any other thing, identified by law or in accordance with the law as testifying to the values of civilization. The aforesaid “Code” provides a public and private responsibility to protect cultural heritage (see Article 1 prg. 2-5).

- (c) Have specialized units been established in order to prevent and combat trafficking and ensure international cooperation for the protection of cultural heritage? Within the Heritage Department? In other government departments (police, customs)?

A specialized enforcement unit, the “Carabinieri Headquarters for the Protection of Cultural Heritage” (hereafter Comando Carabinieri TPC), collaborating with the Ministry for Cultural Heritage and Activities and Tourism (MiBACT), was established in 1969. Specified tasks are mainly concerned with the protection of the national cultural property through the prevention and repression of criminal activities, the recovery of looted cultural objects, the cooperation with international organizations and other Police Force.

These activities are developed through traditional judiciary police procedures and particular attention is given to prevention through the surveillance of archaeological sites with helicopter patrols, control of fixed or itinerant trade in antiquities, verification of security measures in museums, libraries, and archives, check of auction house catalogues and monitoring of e-commerce, focused on cultural objects proposed for sale through Internet platforms.

- (c) Describe briefly the administrative coordination of the activities of these specialized units, especially with the police and customs authorities.

Carabinieri TPC provide support to the Italian Ministry of Culture in cases under their specific competences. Since the 1980s, the Comando Carabinieri TPC built a Stolen Works of Art Database. Currently the database includes information on more than 5.981.941 described objects and more than 583.503 images of stolen artworks. Related information on stolen artworks with photography is also disseminated to the general public through www.carabinieri.it.

Moreover, within the structure of MiBACT, a special Committee has been established, with the aim of conducting negotiations with the museums or collectors of cultural good illegally looted from the national territories. At the same time, it has strengthened synergies between the institutions (MiBACT, State Attorney General, Ministry of Foreign Affairs), which are all involved in the initiation of requests of works stolen from the Italian territory, either through diplomatic and administrative actions or by international legal requests.

- (d) Are working meetings held to enable police officers, customs officials and ministerial representatives to meet and coordinate their activities?

In addition to the Committee mentioned in the previous paragraph, many initiatives with representatives from other countries to improve cooperation in the fight against illegal trafficking of cultural goods are held by MiBACT.

The Comando Carabinieri TPC, in close liaison with MiBACT, took part in meetings, conferences, and workshops all over the world, and trained the managerial and organisational personnel of foreign countries. The “Directorate-General Archaeology” participates in these activities with the presence of experts to train foreigner officers and support international activities. Thanks to the positive contribution of the international organisations, country-specific seminars took place in 2011-2012 in relation to the following countries:

- Bosnia and Herzegovina (April 18-19, 2011): seminar on how to combat the trafficking of cultural patrimony in the Western Balkans;
- Antigua and San Salvador (May 9-13, 2011): regional workshop on the safekeeping and enhanced appreciation of cultural patrimony in Central America;
- Serbia (Belgrade) (May 13-14, 2011): seminar for police officials and ministry officials, on how to combat the trafficking of cultural patrimony in the Western Balkans;
- Algeria (Algiers, May 22-25, 2011): organised lectures, with specific items for units of the Algerian National Gendarmerie, on issues pertaining to their activities;
- Belgium, Bulgaria, Cyprus, Estonia, France, Greece, Hungary, the Netherlands, Spain, Poland, Slovakia, Slovenia, Sweden, United Kingdom, Switzerland, the Vatican (Rome, May 24-27, 2011): seminar for police officials on the fight against the illicit trafficking of cultural

patrimony, and on security in museums. The Course manager was a Carabinieri officer of the CCTPC;

- Syria, Algeria, Albania, Azerbaijan (Rome, June 16 and 17, 2011, in collaboration with Roma 3 University): seminar on the cultural patrimony of the Mediterranean;
 - Kosovo (June 30-July 1, 2011): seminar, delivered as part of the European Union TAIEX project (Technical Assistance and Information Exchange), on the fight against the illicit trafficking of cultural patrimony and environmental crime in the Western Balkans;
 - Argentina (Buenos Aires, August 23-26, 2011): seminar at the Argentina peacekeeping missions training centre;
 - Macedonia (Skopje, September 22-23, 2011): seminar on how to combat the trafficking of cultural patrimony and environmental crime;
 - Chile (Rome, November 2-11, 2011): internship for four Chilean magistrates specialised in the environment, health, and the safekeeping of cultural patrimony;
 - Austria, Bulgaria, Denmark, France, Macedonia, Malta, the Netherlands, Poland, Slovenia, Spain (Rome, November 28 - December 2, 2011): seminar for police and ministry officials on crimes against the cultural patrimony. The Course manager was a Carabinieri officer of the CCTPC;
 - Ecuador (Rome, November 28-December 9, 2011, in collaboration with IILA, the Italo-Latin American Institute: internship on the safekeeping of cultural patrimony, for a delegation of four magistrates and four police officials from the Cultural Patrimony Investigative Unit of Ecuador;
 - Iran (Teheran, May 20-22, 2012): seminar for police and Customs officials and operators active in the sector, on the “procedures for the investigation and recovery of stolen and illegally exported cultural patrimony”;
 - Algeria (Algiers, May 27-June 2, 2012): shared workshops for experts from the CCTPC and its Algerian equivalent in the GNA (the *Gendarmerie Nationale Algerienne*);
 - Turkey (Ankara, June 25-28, 2012, in collaboration with ICOM): professional in-depth seminar for museum personnel on the prevention of risks such as theft, robbery, and damage;
 - Italy (Rome, July 2-6, 2012): Third Euromed training seminar, organised by CEPOL, the European Police College, on the fight against illicit trafficking and smuggling;
 - The Philippines (Manila, October 3, 2012): workshop, coordinated by the General Secretariat of Interpol and the National Museum of The Philippines, supported by the Philippines National Police, on strategies to prevent and combat the illicit trafficking of cultural patrimony;
 - Cyprus (Larnaca, October 16-17, 2012): international seminar, organised by the Republic of Cyprus as holder of the Presidency of the EU, on the theft, pillage, destruction, and illicit trafficking of cultural patrimony, with particular reference to religious heritage;
 - France (Lyon, October 23-24, 2012): international conference, organised by the General Secretariat of Interpol, on the counterfeiting of works of art;
 - USA (Philadelphia, November 8-10, 2012): workshop, organised by the Penn Museum and the Penn Cultural Patrimony Center, on the international fight against the illicit trafficking of cultural patrimony;
 - Iran (Rome, November 19-21, 2012): seminar, organised by the Teheran office of UNODC (United Nations Office on Drugs and Crime) on investigative techniques for the recovery of cultural patrimony excavated from archaeological sites and illicitly exported.
- February 10 to 13, 2013, Amman (Jordan): a Training Course at the regional level for the protection of the cultural heritage of Syria, organized by UNESCO in Amman;
- April 8 to 11, 2013, Lyon (France): 10th Meeting of the INTERPOL Expert Group (IEG) on emerging issues of illicit trafficking of cultural property and the law enforcement strategies;

- April 9 to 12, 2013, Rome: training seminar for officials of the Republic of Mongolia, organized in collaboration with the UNESCO Office in Beijing, the contrast to the illicit trafficking of cultural goods in Mongolia;
- July 6 to 10, 2013, Tehran (Islamic Republic of Iran): Workshop "Registration and Recovery of Cultural Property" focused on the issues of protection, case studies and contributions recovery Command CC TPC, organized by the National Office of UNODC Islamic Republic of Iran;
- September 23 to November 29, 2013, Rome: 13 ° course for Cultural Heritage Protection of the Carabinieri military, carried out in collaboration with the University of Rome and the Ministry of Heritage and Culture and Tourism;
- October 7 to 11, 2013, Rome: the course for officials from Bulgaria, as part of a project for the creation of a database for cultural heritage unlawfully removed (strengthening the administrative capacity of the Ministry of Interior for the protection of heritage cultural;
- October 23 to 27, 2013, Olympia (Greece): "Third International Conference of Experts on the return of cultural", organized by the Ministry of Culture and Sports of Greece;
- October 29, 2013, Warsaw (Poland): Conference on Security of library collections in the era of digital technology, organized by the "Consortium of European Research Libraries" in London;
- November 4 to 10, 2013, Rome: training seminar for police officers and customs of the Federal Republic of Germany and the Swiss Confederation, on the themes of "Protection of cultural heritage and the fight against illicit trafficking."

TPC courses 2014

- 26 January to 2 February 2014, San Salvador (El Salvador): training seminar within the project realized by the Italo-Latin American Institute (IILA), on the theme "International routes on illicit trafficking of cultural property";
- 7 to 11 April 2014, Rome: CEPOL course, held at the School of Advanced Studies of the Police, 30 Police officers from the Member States of the European Union, on the theme "The theft of cultural property";
- April-May-June 2014, Jericho (Palestine): As part of the training mission "MIADIT", personnel of the Command CC TPC has conducted courses for the training of units of the Police of Tourism and Antiquities of the Palestinian Authority;
- 13 to 17 October 2014, Rome: training course in collaboration with UNESCO for 10 officers belonging to the police of the former Yugoslav Republic of Macedonia, specializing in combating illicit trafficking of cultural property;
- November 13 to 14 2014, Rome: meeting of the Working Group LEWP - CULTNET (Law Enforcement Working Party - CULTNET) organized under the Italian Presidency of the European Union, represented by 22 EU;
- 8- December 12, 2014, Quito (Ecuador): Course "Combating the illicit trafficking of cultural property" within the project sponsored by the Italo-Latin American Institute (IILA), to combat illicit trafficking and the risk management cultural heritage of Ecuador;
- April 24, 2014, Moscow (Russia): seminar "Museum operators", organized with the participation of ICOM Russia, Moscow museum and the Italian Cultural Institute in Moscow, which will feature topics related to the management, protection and security of museums;
- 4- 7 May 2014, Tirana (Albania): technical assistance project "PAMECA IV", built with the contributions of the European Union, aimed at producing a draft of specific law for the protection of the cultural heritage of Albania, in adherence to the Code of Cultural and Landscape Italian (Legislative Decree 22 January 2004 no. 42);
- 1- 4 December 2014, Seville (Spain): International seminar on operational on countering illicit trafficking of cultural goods, which was attended by officials of police of various countries, including the US, France, Romania, United Kingdom, Spain, Netherlands, Portugal, Germany.

Still in the field of training and the exchange of know-how, from April 4 - 9, 2011 the Directorate General for Antiquities, at the request of and in collaboration with the UNESCO Regional Bureau for Science and Culture in Europe (UNESCO-BRESCE) in Venice, organised a study tour dealing with the management of archaeological parks, for archaeologists (directors of archaeological sites, and ministerial archaeology officers) and officials dealing with their administrative aspects from Albania.

The study tour was articulated into two phases, of which the first took place at the main MiBACT offices and the second consisted of field trips to visit a number of particularly important and representative archaeological sites and parks, and including in-depth studies of the safekeeping and enhanced appreciation of each site.

Topics covered in the first phase:

- the legislation of reference; governmental activities and responsibilities within the administration of MiBACT; a first overview of the management formulas identified; discussion about the topics and the Italian case studies that were covered (Directorate General for Antiquities);
- problems of conservation, and methods for providing protective cover to archaeological sites (held at ISCR, *Istituto Superiore per la Conservazione ed il Restauro* - the Higher Institute for Conservation and Restoration);
- cataloguing archaeological sites (including a visit to ICCD, *Istituto Centrale per il Catalogo e la Documentazione* - the Central Institute for Cataloguing and Documentation).

Sites visited in the second phase:

the Appia Antica archaeological park (the Villa of The Quintilii, the Tomb of Cecilia Metella, the Cederna archive at Villa Capo di Bove, for which see www.archiviocederna.it);

- Ostia Antica;
- the Vulci archaeological park;
- the excavations of Pompeii.

The many issues addressed included: discussion about the topics and the Italian case studies with particular reference to communication and marketing tools; programmes for schools; and relations with the local Municipalities and community.

As an analogy of the study tour described above, and within the framework of the TEMPUS CHTMBAL Project, which had the aim of constituting a network of universities in Kosovo and Albania offering level 1 and 2 Masters degree courses in cultural tourism and the enhanced appreciation of cultural heritage, the Directorate General for Antiquities, at the request of the “G. D’Annunzio” University of Chieti and Pescara, contributed to the organisation of a training tour in Italy, to update and refresh the partner tutors. This took place from April 11-17, 2012, and at the end a special book in English was published.

Moreover, the “Direzione Generale Archeologia” (Directorate General Archaeology) organized workshops focused on protection of archaeological patrimony with international partners such as Canada (seminar with Queen’s University, 2014) and Korea (workshop with Korea Press Foundation affiliated with the Korean Ministry of Culture, 2014).

MiBACT also took part in running training programmes for new EU Member States on the protection of cultural heritage and the prevention and repression of crimes against cultural heritage (Twinning in Bulgaria and Georgia).

3. Inventories and identification

- (a) State briefly the extent to which inventories provide for the risks of misappropriation and theft.

MiBACT provides the cataloguing of properties and coordinates relevant activities in accordance with Art. 17 of the “Code”. The collections of public museums, galleries, institutes, as well as archives and libraries of the State, Regions, Provinces and Municipalities, are part of the Cultural National Domain and are inalienable.

These cultural goods, which are public property, are registered in the inventories of the Institute where they are preserved.

Private cultural property, when declared according to Article 13 of the “Code”, are catalogued in conformity with general standard rules fixed by the ICCD (Central Institute for Cataloguing and Documentation). ICCD is an autonomous institute inside MiBACT and coordinates activities to define cataloguing standards, with the objective of recording the data according to consistent, nationally shared criteria for various types of cultural heritage.

Its archive manages the allocation of the general catalogue number (NCTN) which identifies the catalogued heritage. It collects, keeps and makes available for consultation the print catalogue material produced by the Superintendencies and Institutes, Regions and other cataloguing Bodies or concessions charged with carrying out cataloguing projects by special laws.

Unfortunately, only properties stolen from public collections or published or catalogued private collections can be traced to their origin. Archaeological objects which have been illegally excavated or looted, or which come from unpublished private collections, cannot be traced back to their point of provenance. However, according to the Civil Code, archaeological objects are public property even before their excavation. Of course, even if they are not registered, they are fully recognised and protected *ab origine* as Cultural National Domain.

Cataloguing is implemented through photographic documentation, accompanying properties’ description records, useful to document the property in the event of theft.

The Comando Carabinieri TPC as well as having a database of unlawfully removed cultural goods, cooperate with the ICCD and all local MiBAC offices (Superintendencies) and Museums in charge of cataloguing the movable objects all over the territory. This allows the quick disposal of information on cultural goods in the area, when these have been subject to theft or embezzlement, for immediate inclusion into the database.

(b) Specify the degree of precision, at the national level, of the definition of “cultural property” covered by international conventions (see above I.2(b)). State whether “national treasures” are identified in an official, tentative or exhaustive list.

According to the “Code” Law 42/2004 and its amendments, cultural property consists of immovable and moveable things which, pursuant to Articles 10, 11, and 13, involve artistic, historical, archaeological, ethno-anthropological, archival and bibliographical interest, and of any other thing identified by law or in accordance with the law as testifying to the values of civilization. Regarding this subject, it is necessary to emphasize that the Italian legislation (article 10 of the “Code”) does not provide protection only for single objects but for categories of goods. The protection of cultural goods by category implies the possibility of including different goods in the broadest meaning, while defining single object of “national treasure” in a list maybe restrictive leaving out what it isn’t explicitly mentioned.

(b) To what extent is the Object ID standard used? Is the standard adapted to the State’s needs?

The Object ID standard is taken into consideration by the Italian authority in order to disseminate information in case of theft and it has been proposed to the European Commission for the Internal Market Information System (IMI) that, following the Directive 2014/60/EU of the European Parliament and of the Council of 15 May 2014 on the return of cultural objects unlawfully removed from the territory of a Member State and amending Regulation (EU) No

1024/2012, facilitate the exchange of information between public administrations across the EEA.

- (e) Are there systems to combat theft and to train museum staff and have specific measures been adopted for libraries, archival and manuscript repositories, and any specialized units established to monitor them?

The Comando Carabinieri TPC also provide support to the Italian Ministry of Culture in controlling the safety status in museums and galleries. However, the final and legal responsibility of the protection of archaeological items and related measures for safety are held by the directors of cultural institutions.

The checks carried out by the CC TPC at museums / libraries / archives:

2011 n. 805;

2012 n. 755;

2013 n. 688;

2014 n. 696.

4. Archaeological excavations

- (a) Summarize the basic principles of the regulations on archaeological excavations and on the monitoring of excavations in force in the country.

Cultural properties “by anyone and in any manner found in the subsoil or seabed belong to the State”, and “they are part of State property or of State unavailable heritage” (“Code”, article 91).

Article 88 of the “Code” define the basic principles on archaeological excavations. Archeological research and, consequently, the discovery of cultural goods, executed in the Italian territory, are exclusively reserved to the MiBACT. However, MiBACT may grant to public or private institutes an authorization for archaeological research, which, if necessary, may be revoked at any time. In case of an accidental find, the discoverer must make a complaint within 24 hours to the Superintendent or to the Comando Carabinieri TPC.

Also, underwater excavation are included in the articles cited and recovered properties are State-owned. Italy has ratified, with the Law, no. 157 of October 2009, the UNESCO Convention on the Protection of Underwater Cultural Heritage, which was already mentioned in the “Code”, art. 94.

MiBACT participates in the Scientific and Technical Advisory Body of the 2001 Convention on the Protection of Underwater Cultural Heritage and collaborated to the Guidelines on Underwater archaeology (in particular, related to the protection in place of shipwrecks, accessibility, scientific modes of intervention and educational projects for schools).

- (b) Is there a recurrent problem of illegal excavations? If so, what are the reasons and when did it begin? What steps have been taken to combat this scourge?

The archaeological illegal excavations have been 52 in 2011; 37 in 2012; 49 in 2013; 59 in 2014. Relating the last year the general trend has shown an increase by 20,4% of discovered illegal excavations and 127 people were reported to the Judicial Authority, demonstrating the CC TPC effectiveness in this specific field. The region accounting for the highest number of sightings is Sicily, which precedes Campania, both notoriously rich in archaeological sites. Info-investigative activities have highlighted the trend of criminal associations to favor the internal market, especially in the numismatic sector and the less valuable objects. The in-depth

investigation efforts conducted by the CC TPC, in close cooperation with the judicial authorities investigating and benefiting also from the forward-looking diplomacy of MiBACT, has reduced the illicit archaeological trade; such a traffic is also linked to foreign markets, preferred destination to sell more valuable items. A more in-depth analysis of this criminal phenomenon targeting archeology, shows that this is a highly specialized sector and is divided into different stages. The first link in the chain is represented by illegal researchers/grave robbers, who sometimes act in groups and also rely on the use of mechanical machinery to carry out earthworks and excavations, thus impoverishing and destroying important remnants of the past by grave robbers and purchasing them at very low prices, and then marketing them on the black circuit at a national and international level through a network of illegal sales which demands higher skills, and which represents the third level of this criminal activity. This is the stage where the receivers of higher level emerge, economically structured and often grouped in criminal organizations, able to perceive and exploit the more favorable economic situations to place the stolen objects in the illicit market circuit, and to organize international shipping resorting to various stratagems. Buyers, as shown by some recent successes, are not necessarily only private collectors, but often also museums. By a rough estimate, the type of objects that are most sought after and that constitute a source of easy and remunerative profits, are sculptures, architectural elements and fragments of wall decorations. In the last three years there was a gradual increase of clandestine excavations discovered by the CC TPC following controls; this does not indicate a resurgence of the phenomenon (it is not always possible to establish the date of the excavation), but is rather the result of preventive and repressive activities carried out for the security and protection of archaeological sites. The efficacy of preventive operations, which are developed through six-monthly control plans and monitoring of archaeological sites (a total, in 2014, of 1.686 operations), is reached through a joint intervention of CC TPC, local Carabinieri, Carabinieri aircraft unit, Regiment of horse-mounted Carabinieri, the Naval Service of the Carabinieri, the Superintendencies and the CNR (National Research Center).

Illegal excavations are strictly connected to the wealth of the State cultural heritage and to the massive diffusion of archaeological sites in the Italian territory. The inspections, which began decades ago, can not avoid the phenomenon due to the conformation of the aforesaid territory and to the extent of the areas presenting archaeological material.

According to the “Code”, to avoid research conducted inappropriately, archaeological research is, in principle, limited to the State. The intensification of investigations abroad has proven fruitful for:

- The mapping of sector delinquency (usually specialized and recurring in the people working in this field);
- The recovery of assets sometimes unique and important;
- A reduction of their market value and ultimately limit clandestine excavations making them less profitable.

The establishment in each UNESCO Member State of groups composed of lawyers and experts is of particular importance. These groups could reduce the time delay and allow for timely responses to combat trafficking in cultural property.

Following the Directive 2014/60/EU of the European Parliament and of the Council of 15 May 2014 on the return of cultural objects unlawfully removed from the territory of a Member State and amending Regulation (EU) No 1024/2012, another substantial factor in combatting illegal trafficking of cultural goods is the administrative cooperation among EU State Members through the application of the Internal Market Information System (IMI) that will facilitate the exchange of information between public administrations across the EEA.

5. Monitoring of the export and import of cultural property

- (a) Give an estimate of the scale of the illicit export or import of cultural property. Are up-to-date statistics compiled on the theft of cultural property?

It is necessary to underline that statistics regarding theft of cultural property caused by illicit excavations are partial and only minimally representative of the real picture. It is in fact not possible to evaluate the real extent of looting and pillage as they are mostly submerged activities and it is impossible to know the number and the exact typology of the objects found and illegally stolen and exported.

Year	Theft	Object stolen	People subjected to justice
2011	906	17.338	16
2012	891	33.806	96
2013	676	130.538	108
2014	609	10.168	117

- (b) Is the illicit export of cultural property a recurring problem? If so, for which reasons (lack of financial and human resources, shortcomings in the legal supervision framework, etc.)?

This is a recurring problem, as it is the easiest way to circumvent checks. The effect of the activities of constant monitoring and controls at the borders, the data acquired with the prosecution of criminals contribute to reduce the phenomenon. The Comando Carabinieri TPC are also involved in oppositional activities, and close cooperation with customs and police forces is ongoing. The collaboration between MiBACT and Comando Carabinieri TPC, but also with “Guardia di Finanza” and Customs (“Agenzia delle Dogane”) proved to be systematic and positive in undertaking actions of contrast to the illicit trafficking of cultural goods.

- (f) What are the main rules (administrative and legal) for monitoring the export and import of cultural property (existence of an export certificate, public information about the rules in force)? What categories of cultural property are covered by the rules?

Italian law requires the border check of all cultural properties as indicated by the “Code”, Articles 65-72. The control on cultural property in both export and import or shipped inside the EU, is exercised by the Export Offices, spread over Italy.

A certificate of free circulation must be obtained from an Export Office to output a cultural good from the national territory to an EU country; a licence for exporting is required to ship an object out of the EU borders (see Regulation No. 3911/92, later repealed by Regulation (EC) No. 116/2009 of 18.12.2008).

For modern cultural goods, dated less than 50 years ago or realized by a living artist, a self-certification is required by the Export Office.

Regarding exports practices, the identity of cultural goods, in particular, their origin and their market value, needs to be verified.

Temporary import licenses are issued by request of the owner/possessor.

- (g) Do the rules provide for the restitution of illicitly imported cultural property?

Article 75 of the “Code” and Directive 93/7, later amended by Directive 2014/60/UE provide for the restitution of illicitly imported cultural property.

- (h) What are the main obstacles encountered in securing the restitution of illicitly exported cultural property? What type of obstacles are they (administrative, legal or political) and why do they arise (legal loopholes, unwillingness by importing countries, lack of international cooperation, etc.)?

The main obstacles are:

- Mainly the differences among the relevant laws regarding cultural heritage;
- The length of the evaluation procedures required by the requested country, not always appropriate to the investigative needs of the requesting country (both in the case of request for judicial assistance in criminal matters, and in case of request for police cooperation via INTERPOL);
- Differences in the investigative powers of police forces in the requested and the requesting countries, resulting in the rejection of the application and repetition by the judiciary;
- Procedural constraints in the execution of both activities (rogatory letters and police action);
- The practical application of Directive 93/7 EC, now recast as Directive 2014/60/UE, highlighted other issues relating to restitution.

Moreover, in the case of illegal excavations, it is difficult to determine the exact provenance and the period in which the cultural object had been looted. Consequently the competent prosecutor in the requested State sometimes does not accept the request for restitution.

Regarding EU countries, recently Directive 2014/60/UE extended the deadline to carry out the verification of the cultural status of a good passing (6 months, instead of the two months timeline covered by the previous regime) and lengthened the timeframe of prescription for the restitution from 1 to 3 years.

In addition, to impose a uniform level of care in transactions involving cultural heritage and to deter reckless purchases of cultural goods of illicit origin, Directive 2014/60/UE established that “*Where return of the object is ordered, the competent court in the requested Member State shall award the possessor fair compensation according to the circumstances of the case, provided that the possessor demonstrates that he exercised due care and attention in acquiring the object*” (Article 10).

Another important innovation of the Directive 2014/60 is the elimination of the annex, so the scope of this Directive should be extended to any cultural object classified or defined by a Member State under national legislation or administrative procedures as a national treasure possessing artistic, historic or archaeological value within the meaning of Article 36 TFEU. This Directive should thus cover objects of historical, paleontological, ethnographic, numismatic interest or scientific value, whether or not they form part of public or other collections or are single items, and whether they originate from regular or clandestine excavations, provided that they are classified or defined as national treasures. Furthermore, cultural objects classified or defined as national treasures should no longer have to belong to categories or comply with thresholds related to their age and/or financial value in order to qualify for return under this Directive.

Regarding non EU-countries, the protocol depends on the law that ratified the UNESCO Convention.

- (f) If the country has succeeded in securing the restitution of a stolen cultural object, describe the circumstances and state whether that involved legal proceedings, arbitration or alternative dispute resolution.

MiBACT promotes a policy of bilateral agreements and negotiations, particularly with countries interested in trade and acquisitions of archaeological goods and with museums possessing illicit items.

Legal proceedings and arbitrations, often very expensive and of uncertain outcome, took place; however, the best and quickest results were obtained thanks to negotiations and collaborations (see pg. 7).

6. System for trade-in, acquisition, ownership and transfer of cultural property

- (a) Give a brief description of the cultural goods market in the country (financial volume of the market, number and turnover of auction houses including via the Internet).

In Italy, following article 91 of the “Code”, considering that the property of archaeological goods belongs to the State, a legal market of such material does not exist. The only exemption is given by archaeological goods recovered before 1939, when Law 1089/1939 was enacted.

- (b) What are the main rules governing trade in cultural goods? Are control measures in place for such trade (maintenance of a police register), in particular through the Internet (for example, reference to the basic measures proposed by UNESCO, INTERPOL and ICOM)?
- (b) Do measures exist to control the acquisition of cultural property (for example, mechanisms to prevent museums and similar institutions from acquiring cultural property exported illegally from another State)?

In case of suspected proceeds of crime, inspections aiming to verify the acquisition of cultural property are held, in collaboration with Comando Carabinieri TPC, by MiBACT.

- (e) Are there special rules on the transfer of title deeds in respect of cultural property? If so, please summarize their content.

The “Code” (Art. 63) establishes some obligations for art dealers. Anyone who wishes to trade in such goods must make a prior declaration to the Mayor, which is followed by an acknowledgement that is an authorization of administrative police. The local public security authorities (Mayor) entitled to receive a prior declaration to the exercise of trade in antiquities submit to the Regional Authority and Superintendent a copy of the declaration. Trade in antiquities cannot be done without valid identity cards and other state issued documents.

They are also requested to fill a register, in which is stated the complete names and addresses of the sellers and buyers, the date of the transaction, the description of the good and the price agreed upon. The register then must be stamped and signed by the local public authority.

The sale of antiques and other second hand objects is subject to trade regulations and police administrative rules included in the text of public security laws (Royal Decree 773/1931 Art. 126 and 128).

The Superintendent verifies the fulfillment of the register through periodic inspections, with the help of Comando Carabinieri TPC.

Those who sell or expose for commercial purposes or intermediation for the sale of cultural objects:

- must also submit to the purchaser the documentation stating the authentication of the good (attributes and origin).

- In absence of this documentation, a declaration must be consigned to the purchaser, containing all available information on authenticity, provenance and attribution that has to be signed under his own penal liability.

(d) Specify the existing legal system concerning ownership of cultural property:

- is the principle of inalienability applied to cultural items in national collections and objects originating in heritage sites?

Of course, public collections and items are inalienable.

Alienation of cultural goods in private ownership is subject to conditions for “declared” cultural goods owned by private entities. If a transmission is through succession due to death, the obligation to expose it is care of the heir or legatee.

Such a provision aims to let the State know the current location of the asset, and it can also exercise the “right of preemption” within a prescribed period (60 days) due to the social function ascribed cultural heritage in the Constitution.

- what is the status of yet unfound cultural objects, of cultural items found by chance and archaeological artefacts found during legal or illegal excavations ?

By law (“Code”, article 91), cultural objects found underground or underwater belong to the State.

The State awards fair compensation for the discovery, consisting of up to 1/4 of the value of the discovered objects, to the person who discovered such objects or to the possessor of the property where such objects have been recovered.

Furthermore the Italian Civil Code provides (Art.826) that goods of historical, archaeological, paleontological, paleontological and artistic value, by anyone and in any way found underground are part of the patrimony of the State.

- Are there any due diligence requirements in place?

In the Italian legal system (article 90 of the “Code”), due diligence requirements take place. The occasional discoverer of a cultural good must file a complaint to the Superintendencies, the Mayor or Police Forces within 24 hours of the discovery; if he doesn’t fulfill this obligation, he isn’t entitled to receive fair compensation from the State.

- What are the rules governing the search of provenance?

By law (“Code”, articles 88, 89 and 90), archaeological excavation are exclusively carried out by MiBACT or by a partner entrusted by MiBACT.

As mentioned previously, in case of occasional discoveries of cultural goods, the discoverer must communicate within 24 hours of the discovery to Officials what has been found and where. For these specific reasons, legal provenance of archaeological material should be always traced and known by MiBACT.

7. Bilateral agreements

- (a) List the bilateral agreements concluded with other countries on the import, export and return of cultural property and comment briefly on their results.

Some recent agreements are:

- Metropolitan Museum, New York, 2006;
- Princeton University Museum, 2007;
- The Getty Museum, Los Angeles, 2007;
- The Cleveland Museum of Art, 2008;
- University of Virginia Art Museum, 2008;
- Fordham University, 2010;
- Israel Museum in Jerusalem, 2013;
- Dallas Art Museum, 2013;
- Badisches Landesmuseum di Karlsruhe, 2014.

Agreements with American museums have resulted in the return of more than 100 outstanding works. These agreements were the outcome of negotiations with the American Government and Memoranda of Understanding, according to the 1970 Convention for a moratorium on imports of undocumented archaeological items from Italy.

As previously noted, within the organizational structure of MiBACT, a special Committee has been established with the aim of conducting negotiations with museums and collectors in the possession of illegally obtained cultural goods from the Italian territory.

Furthermore, “long term loans” have been agreed upon with museums that decide to withdraw support to illicit traffic and revise their acquisition strategies. In renewing the Memorandum of Understanding with USA, a request came from the American Department of State to lengthen the period of loan of cultural goods to foreign museums. Following this specific request, an amendment which enhances the loans of Italian cultural assets to foreign museums for long periods, came into force as part of Legal Decree no. 70 dated May 13, 2011, and was converted into law, with revisions, by Article 1 of Law no. 106 of July 12, 2011. Article 67 of the “Code” was amended in the manner contemplated by the agreements reached, and made it possible to loan works for a period of four years, “renewable once only”, as part of reciprocal exchange agreements with museums in other countries.

- (c) What conditions are set by the importing country with regard to the admissibility of requests for restitution from a country of origin?

It is necessary to provide evidence regarding provenance of cultural goods requested. It is necessary to point out that in case of archaeological goods originating from illegal excavation the only possibility to prove the origin of cultural goods is scientific.

- (c) Apart from these agreements, is there administrative aid or any other type of cooperation with neighbouring countries, particularly in respect of police and customs services?

The Comando Carabinieri TPC works closely with customs officials by providing its specialized support to the activities of border control, through the use of the Database of cultural heritage unlawfully removed and all monitoring activities.

In particular in April 2014 it was carried out operation "Odysseus" aimed at combating the illicit trafficking of cultural goods in the Mediterranean (in particular with provenance Libya, Syria and Egypt)..

II. Code of ethics, awareness raising and education

Ethical standards

- (a) Are the UNESCO International Code of Ethics for Dealers in Cultural Property and that of ICOM for museums known to the professionals concerned (in particular, curators, antique dealers, merchants and collectors)? How is their observance checked?

The ICOM and UNESCO Codes are applied on a national level. The Comando Carabinieri TPC have established cooperation with antique trade associations, promoting a culture of *due diligence* on the control of the origins of goods. Art dealers have furthermore been allowed to access the information on stolen artworks online through the Comando Carabinieri TPC website.

Awareness raising and education

- (b) Are the “One hundred missing objects” series and the ICOM Red Lists disseminated and read?

The “One hundred missing objects” are at the disposal of the Comando Carabinieri TPC, that also contributed to the realization of the volume dedicated to “Looting in Europe” focused on thefts in places of worship in France, Italy, Czech Republic, and Hungary. The objects in the volumes on Cambodia, Africa, and Latin America are included in the Carabinieri’s Stolen Works of Art Database. The Comando Carabinieri TPC have kept ICOM informed of the religious objects included in the “Looting in Europe” that have been recovered.

- (b) Briefly describe activities carried out to raise the awareness of the authorities and educate the public, children in particular, regarding the serious damage that can be caused by illegal excavations, theft of cultural property and illegal export. How far can UNESCO contribute to these activities?

On the occasion of restitutions of archaeological goods from foreign countries, exhibitions have been organized to raise awareness among general public such as “Nostoi. Capolavori ritrovati” held in Rome at Palazzo del Quirinale (2007-2008), “Archeologia in festa. Mostra itinerante delle opere rientrate dal Museum of Fine Arts di Boston” held in numerous Italian cities (2007), the exhibition of marbles from the Getty Museum, looted from Ascoli Satriano at Palazzo Massimo (2009) or the exhibition of silvers from the Getty Museum at Palazzo Massimo (2010).

The Directorate-General Archaeology is specifically focused in sharing experiences and having contacts with foreign authorities from Ministries of Culture, Universities, Museums.

The Comando Carabinieri TPC it promotes campaigns to raise public awareness, in particular were frequent interventions in schools of all levels to teach the value of cultural heritage and the importance of their protection. On www.carabinieri.it there is information for citizens about accidental discoveries etc.

In Additions, the Carabinieri TPC ITPC has created the application, unique in the world in its sector. Anyone can download "ITPC" application for mobile devices (smartphone / tablet), That by providing contents of great cultural interest, Allows everyone to contribute to the fight against art-related crime, supporting the CC TPC by reporting works of doubtful origin.

In Additions, the application offers the Following services:

- consultation of the bulletins, Which Allows you to search for information on the works of art Mentioned In These bulletins published by the CC TPC;

- visual search, Which Allows citizens to choose an image and Recognize, in real-time, valuable stolen works of art through the comparison of images with Those contained in a dedicated computer files;
- creation of the Document of the artwork (Object ID), or an "identity card" of the object, kept by the owner, That Allows a comprehensive description of the cultural asset and is useful in case of theft, since it Allows, to the operating staff, to have information to identify the piece;
- information on the possible ways to contact or reach the closer TPC using geo-localization.

III. Cooperation with other international and regional agencies

(a) What is the state of national cooperation with INTERPOL? What specialized police services can heritage officials call on for enquiries, legal proceedings and punitive measures?

(b) If a cultural object is stolen, is the INTERPOL database on stolen objects checked? Is information on the persons implicated in the theft of cultural property transmitted to INTERPOL?

The Comando Carabinieri TPC has been identified as a center for information and analysis for the benefit of all the police forces with the Decree of the Minister of Interior, 28.4.2006. It operates nationally and in close cooperation with Interpol at the international level for the exchange of information with all 188 member countries of the International Police in offenses related to crimes committed in the field of cultural heritage.

The Comando Carabinieri TPC operates with all specialized police officers who deal with cultural heritage protection (France, Belgium, Germany, Argentina, Spain, USA, etc.).

The CC TPC is committed to promoting studies, research and collaborations, also operational ones, so as to take the most appropriate action to fight crimes against cultural heritage, which has become increasingly globalized. All this through an update of the network of contacts, or by joining or creating initiatives such as project PSYCHE (Protection System for the Cultural Heritage): funded by the European Union (deadline: August 27, 2015) with the CC TPC as project leader will standardize and automate the exchange of information between the Police offices and the INTERPOL Database of stolen works of art.

Currently we have achieved the following objectives:

- realization of the messaging system in web format;
- completion of the applications that will allow the data transfer directly from the database of stolen works of art "Leonardo" to the Interpol database;
- testing of the system software for the automated comparison of the images;

(c) Do members of police services follow a specific training programme?

The Comando Carabinieri TPC regularly organizes training courses.

(d) Do criminal law provisions allow for the punishment of fraud and theft related to cultural property? Are judges specialized in this field?

Yes, there are criminal law provisions for the punishment of fraud and theft related to cultural property. No, there are no judges and courts specialized in this field.

(e) Does cooperation exist with the United Nations Office on Drugs and Crime (UNODC)?

Both the Mibact and the CC TPC collaborate with UNODC: together they developed the observations to the International Guidelines for Crime Prevention and Criminal Justice Responses with Respect to Trafficking in Cultural Property and Other Related Offences, adopted by the General Assembly with Resolution 69/196 of 18 December 2014.

Customs

- (f) What is the status of cooperation with the World Customs Organization and which specialized customs services can assist heritage officials in preventing the illicit export of cultural property?

The “Customs Agency and the monopolies” is a member of the World Customs Organization and participates in the activities and the development of initiatives of this international organization.

- (g) Do members of the customs administration follow a specific training programme?

The Agency, during the annual plan of training of customs officers, has done specific training sessions with other national authorities in the field of prevention of illicit exports of cultural goods. Moreover the Agency has provided assistance in the training of customs officials of third countries.

- (i) Is the UNESCO-WCO Model Export Certificate for Cultural Objects used?

No, the UNESCO-WCO Model Export Certificate for Cultural Objects isn't used. Following Regulation (EC) No. 116/2009 of 18.12.2008, a different model is utilized. However, it should be noted that the European model is very similar to UNESCO WCO Model Export Certificate.

European Union

Have particular measures been adopted to apply the Council of the European Communities Directive 93/7/EEC of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a Member State.

Council Directive 93/7/EEC on the return of cultural objects unlawfully removed from the territory of a Member State has been transposed into Italian legislation with the Law of 30 March 1998, n. 88, that was included within the “Code” in 2004 (articles 73-86).

Directive 2014/60/UE on the return of cultural objects unlawfully removed from the territory of a Member State, adopted by the Parliament and the Council on 15.05.2014, modified the Directive 93/7.

The Directive had not led to major changes to that national export procedures previously used but does introduce specific rules to facilitate administrative cooperation among Member States, particularly with the relevant Central Authorities. In accordance with article 3 of the Directive, a Central Authority has been established in the Secretariat General of MiBACT to “coordinate efforts for the recovery of cultural heritage illegally exported abroad”.

In the light of the new Directive 2014/60/UE, the Italian Ministry of Culture is actually working on amending the “Code”.

IV. Emergency situations and heritage at risk

- (a) What is the strategy in place in your country to face emergency situations for heritage in case of natural disaster or conflict?

The General Secretariat of the Ministry of Culture is the central authority in charge of emergency situations for cultural heritage in case of natural disaster. On 23 April 2015 the MiBACT adopted a Regulation (published in “Gazzetta Ufficiale n. 169 of 23 July 2015) regarding “Procedures to handle emergency situations to secure and protect cultural heritage in the case of natural disasters”. The structures to manage activities involved are the National Coordination Unit and the Regional Coordination Units.

Emergency management is a process that develops without interruption, from the first surveys on site to the final reconstruction and restoration of the cultural heritage, whether movable or immovable objects are involved.

This organisation makes it possible to optimise the use of the available resources, because as each phase is a consequence of the previous one, the effectiveness of the previous actions can be verified, allowing better planning of the next phase, avoiding excessive actions with their excessive costs.

Consequently, emergency management requires defining a strategy that, while being flexible enough to adapt to the various territorial situations, traces out a unitary procedure beginning from evaluating the extent of the disaster through to the reconstruction phase.

Specifically, the procedures envisage:

1. Coordinating the organisations that are to manage aid for the population.
2. Coordinating the central and branch units set up to manage the crisis.
3. Involving local institutions in managing the emergency, in order to handle the subsequent restoration and reconstruction phases with the maximum awareness and effectiveness, in parallel with the emergency organisations or after they have terminated their work.

Operating regulations and tools assist the organisation that is to manage the emergency; based on past experience, this can be further perfected to improve the emergency response.

It is important to state that, within the more general risks analysis, emergency management refers to the “management of the residual risk”, i.e. the part of risk that was not known about or could not be reduced.

In addition, the risks analysis foresees adequate and responsible prevention activities through all possible actions that serve to reduce exposure factors and vulnerability against all foreseeable events; these activities, combined with emergency management, constitute the second and indispensable procedure to take all possible actions to protect cultural heritage.

The Minister of MiBACT Franceschini, in a meeting that took place on July 31 and August 1 in Milan, presented to the ministers of culture of 83 countries gathered for Expo 2015, presented an “Organisation model to handle emergency situations to secure and protect cultural heritage in the case of natural disasters” (annex to this report) based on Italian experience.

Given that the natural disaster emergency responses is similar to that in the event of armed conflict, last October 17 Italy proposed at executive board of Unesco to create the "blue helmets of culture". The executive board of Unesco approved the Italian proposal that was co-signed by 53 countries. The resolution calls for urgent intervention on conflict zones and the commitment to continue efforts toward inclusion of the cultural component within the context of UN peacekeeping missions. The position taken by the executive board of Unesco represents further a breakthrough towards a full awareness of the fact that today we can no longer think only in terms of the protection of national cultural heritage, but it must be recognised that the artistic and cultural heritage of the whole world are the responsibility of each nation.

(b) More particularly, what are the measures undertaken to implement UNSC Resolution 2199 (paragraph 17, 12 February 2015) for the protection of Syrian and Iraqi cultural heritage?

In the protection of Syrian and Iraqi cultural patrimony, the procedures utilized by the Italian Ministry for Cultural Goods and Activities and Tourism consists of prompt informing Customs Agency, Export Offices, and Italian Police specialized in protecting cultural heritage (Comando Carabinieri TPC) and all our peripheral offices (in such case, “Soprintendenze Archaeologia” and Museums). Any report of protected cultural goods of possible Syrian and Iraqi origin is forwarded to the aforesaid Comando Carabinieri TPC that coordinate investigative activities, including dedicated research tools such as the database of stolen items (“Banca Dati TPC”). Moreover, they work closely with Interpol.

V. Other legislative, legal and administrative measures taken by the State

1. Accession to the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects

(a) Has this Convention been ratified, in addition to that of 1970?

Italy has ratified the UNIDROIT Convention by Act n.213 of 7 June 1999. In addition, the rules provided by the UNIDROIT Convention are mentioned in the “Code”, Art. 87.

2. Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation

Describe the extent to which the State concerned is following the work of the UNESCO Intergovernmental Committee (observer, member, State concerned by a case under discussion etc.).

In the time, Italian representatives of MiBACT and Comando Carabinieri TPC have participated as members in meetings of the Intergovernmental Committee, reporting about the activities and the initiatives regarding all the aforesaid topics.

On the 1st October 2014, during the Nineteenth session of the Intergovernmental Committee, an important agreement with the Badisches Karlsruhe Landesmuseum has been presented by Italy and Germany; it provides for the restitution to Italy of a fragment of a Mitraic relief illicitly acquired and for the loan of a statue of philosopher to the Museum and for the joint organization of a major exhibition on the Etruscans to be presented in Karlsruhe.

Moreover, the Italian delegation has contributed in the progress to reach an agreement on the procedures of mediation and conciliation on the restitution of cultural property. and to the works of the Subsidiary Committee of the Meeting of States Parties.

3. UNESCO Database of National Cultural Heritage Laws

Indicate action taken to organize the contribution to the UNESCO Database of National Cultural Heritage Laws and to check whether it contains all historical and existing laws and regulations, including successive amendments.

According to UNESCO recommendations to Member States, Italy has collaborated in submitting its own national legislation related to cultural heritage in order to include it in the UNESCO database.