

July 2015

MEXICO

REPORT ON THE IMPLEMENTATION ON THE 1970 CONVENTION ON THE MEANS OF PROHIBITIING AND PREVENTING THE ILLICIT IMPORT, EXPORT AND TRANSFER OF OWNERSHIP OF CULTURAL PROPERTY

I. INFORMATION ON THE IMPLEMENTATION OF THE UNESCO CONVENTION OF 1970 (WITH REFERENCE TO ITS PROVISIONS)

1. Ratification of the Convention

Mexico ratified the 1970 Convention on October 4, 1972.

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

a) National Regulations

- *Ley Orgánica del Instituto Nacional de Antropología e Historia, publicada en el Diario Oficial de la Federación el 3 de febrero de 1939*
- *Ley que crea el Instituto Nacional de Bellas Artes y Literatura, publicada en el Diario Oficial de la Federación el 31 de diciembre de 1946*
- *Ley Federal sobre Monumentos y Zonas Arqueológicas, Artísticas e Históricas, publicada en el Diario Oficial de la Federación el 06 de mayo de 1972*
- *Reglamento de la Ley Federal Sobre Monumentos y Zonas Arqueológicas, Artísticas e Históricas.*
- *Disposiciones Reglamentarias para la investigación Arqueológica en México*
- *Ley de Asociaciones Religiosas y Culto Público, publicada en el Diario Oficial de la Federación el 15 de julio de 1992*
- *Ley General de Bienes Nacionales, publicada en el Diario Oficial de la Federación el 20 de mayo de 2004*

It is important to highlight the recent addition of Article 53 Bis in the Federal Law on Monuments and Archaeological, Artistic, and Historic Sites, which establish penalties for the illicit traffic of cultural property without the authorization of the country of origin.

b) Definition of “cultural property”

The Federal Law on Monuments and Archaeological, Artistic, and Historic Sites defines “cultural property” as the country’s heritage, including Pre-Columbian, Colonial, and objects from the nineteenth and twentieth centuries. This conception of cultural property includes works from every period of the country’s history, every ethnic group that has inhabited the country, and the natural objects that promote scientific interest in or contribute to a comprehensive understanding of Mexico’s history. More and more, the notion of cultural heritage is broadening to include ideas, traditions, customs, languages, beliefs, values, and other intangible expressions of the nation’s identity and its diverse communities

c) Specialized units to prevent and combat trafficking and ensure international cooperation

In November of 2009, the National Institute for Anthropology and History (NIAH), with the Directorate for Security and Intelligence in Defense of Cultural Heritage, gave the responsibility to the National Council of Material Resources and Services in securing the protection of the nation’s cultural and historical heritage. In addition to the Museum Security Committees, specialized groups are responsible for prevention of illicit traffic include the National Councils on Legal Affairs, Archaeology, Cultural Heritage Protection, Museums and Expositions, and NIAH centers.

By the Agreement A/068/2003, in 2003, the Attorney General established a Special Unit for Investigation of Crimes against the Environment and those of Special Laws (UEIDAPLE), among which is the Federal Law on Monuments and Archaeological, Artistic, and Historic Sites.

d) Administrative coordination of specialized units, especially with the police and customs authorities

The NIAH coordinates activities with the Mexican Ministry of Foreign Affairs (through the Legal Counsel), the Attorney General (through the Direction General of International Affairs and INTERPOL) and the General Customs Bureau.

e) Working meetings to enable police officers, customs official and ministerial representatives to meet and coordinate their activities

The Special Unit for the Investigation of Crimes against the Environment and those of Special Laws (UEIDAPLE) of the Attorney General has organized meetings to coordinate its activities with the Secretariat of Foreign Affairs and NIAH, following the Coordination and Collaboration

Agreement to investigate and prosecute Crimes against National Cultural Heritage between NIAH and the Attorney General.

3. Inventories and identification

The NIAH creates inventories with the National Identification Program of the Register and Catalog of Movable Historic Monuments, a part of the Prevention of Illicit Traffic in Cultural Objects program. Each catalog is registered in a national database that includes a technical, historical, and photographic file of each object. An example is the recently new network of twelve inventories related to the temples of indigenous communities. The register of movable objects from each site preserves the respective legends of saints, traditions, and stories linked to each religious sect.

The NIAH Register of Monuments, Archeological and Historic Sites has designed a national program that standardizes all the public inscriptions. The System is regularly updated and could be consulted in www.registropublico.inah.gob.mx

4. Archeological excavations

All excavations are conducted by the NIAH or scientific and morally-upstanding institutions with its prior authorization. The Archaeology Council of the NIAH sets the terms and conditions of the project, supervises the site, and may revoke authorization or impose sanctions for violations of the law.

Illegal excavations are a recurrent problem in Mexico, given the country's vast cultural richness. The problem is perpetuated by auction houses aware of what objects can fetch on the black market. At present, only 176 of the 42,991 national archaeological sites are open to the public. The NIAH has encourage greater amounts of community participation for the protection of unsupervised sites. National legislation imposes fines and imprisonment for up to 10 years for violations of the law.

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?

(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.)?

The illicit export of cultural property is persistent, and there is always information of sales of auctions houses in France, Italy, Germany and the United States, among others, due to excavations and looting of sites.

(c) 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?

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

The Legal Framework provides the restitution through diplomatic channels, based on international reciprocity with the requiring State.

(e) 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.)?

Among the obstacles to secure the restitution of illicit exported property are the administrative requirements of some importing countries. There are also legal obstacles due to the lack of compatible laws, as some countries do not have national legislation or require the accreditation of the circumstances of the removal of cultural property to take action.

(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.

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

7. Bilateral agreements

Mexico has concluded bilateral agreements with the U.S.A. (1971), Guatemala (1977), El Salvador (1992), Belize (1996), Peru (2003), Uruguay (2012) Chile (2013) and China (2014).

Through the implementation of these agreements, thousands of archeological and historic objects had returned to Mexico.

II. CODE OF ETHICS, AWARENESS RAISING AND EDUCATION

Ethical standards

Awareness raising and education

III. COOPERATION WITH OTHER INTERNATIONAL AND REGIONAL AGENCIES

The INTERPOL National Office receives the requests of collaboration for search and trace subtracted cultural objects. When an alert is issued, the information is transmitted to the pertinent authorities in order to make a request through Secretariat of Foreign Affairs or the Direction of International Proceedings of the General Attorney for the restitution of the subtracted objects.

IV. EMERGENCY SITUATIONS AND HERITAGE AT RISK

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

Mexico is not Party to the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects.

Mexico advocate the relevance of the Operational Guidelines of the UNESCO 1970 Convention adopted at the Third Meeting of States Parties (May 2015), with the aim to strengthen and facilitate its implementation, minimize risks related to disputes over its interpretation, and thus contribute towards increased international understanding.

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

3. UNESCO Database of National Cultural Heritage Laws