

Report 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

REPUBLIC OF KOREA

I. Information on the implementation of the UNESCO Convention of 1970

1. Ratification of the Convention

The Republic of Korea ratified the Convention on 14 February, 1983.

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

(a) References of the principal national regulations adopted in order to implement the 1970 Convention.

To ensure the effective implementation of the Convention, the Republic of Korea has created the Ministry of Culture, Sports, and Tourism to preserve and prevent the illegal trade in cultural property through the establishment of museums and art galleries. The Republic of Korea has also created the Cultural Heritage Administration (CHA) to administer legal systems, regulate professionals who handle cultural property, operate educational systems to raise awareness, investigate and document cultural property in need of protection, and supervise archaeological excavations.

(b) Definition of “cultural property” used by the national laws

The Cultural Heritage Protection Act of the Republic of Korea uses the term “cultural property” to refer to movable, immovable, intangible, and natural cultural heritage. “Cultural heritage” refers to national, ethnic, or global legacies of great historical, artistic, academic, or scenic value, formed either artificially or naturally.

(c) Specialized units

A special task force is responsible for preventing not only theft, illegal excavations, and illicit trafficking; it also promotes discourse with regional initiatives and international organizations.

(d) Administrative coordination

The CHA and the National Police Agency coordinate activities and share information concerning stolen cultural properties.

(e) Working meetings

The police, customs, the CHA, and other relevant authorities cooperate to stop illicit trafficking by taking ex-post, punitive measures and ex-ante, preventive ones.

3. Inventories and identification

(a) Inventories

The list of stolen cultural property is published on the CHA website (www.cha.go.kr).

(b) Definition of “cultural property” and “national treasures”

The CHA classifies cultural heritage by its value and categorizes it as: State-designated heritage, province-designated heritage, or cultural heritage materials. Each is assigned a number and listed on the national register.

(c) Reference to the Object ID standard

The Standardized Cultural Relic Management System (provided to museums gratis since 2002) establishes documentation guidelines that use the Object ID checklist. The Object ID standard has been translated to Korean and distributed to agencies that handle cultural property since 1999.

(d) Systems to combat theft and to train staff

All curators must legally abide by the ICOM Code of Ethics. They are offered regular training programs for preventing the illegal trade of cultural property. National museums and local government agencies monitor the CHA list of stolen properties and the inventories of the Museum Registration System, respectively, to see whether property has been stolen or illicitly acquired.

4. Archaeological excavations

(a) Basic principles of the regulations on archaeological excavations and on the monitoring of excavations in force

The Protection and Investigation of Buried Cultural Heritage Act protects buried cultural property and prevents harm caused by reckless excavation. It prohibits all excavations, save those permitted by the Administrator of the CHA. Excavation agencies must document, photograph, maintain possession of, and report to the CHA all excavated artifacts within 30 days.

(b) Illegal excavations

Illegal excavation occurs when individuals or businesses develop land on sites scattered with relics and when relics are stolen from sites of ancient ruins. Ten years of labor imprisonment or a fine up to 100 million won may be imposed for violations. Anyone convicted of knowingly acquiring, providing, transporting, or storing illegally excavated relics may be subject to seven years of labor imprisonment or a fine of up to 70 million won.

5. Monitoring of the export and import of cultural property

(a) Estimate of the scale of the illicit export or import of cultural property (statistics) (b) Problem of the illicit export of cultural property

Between 2006 and 2010, a total of 7,551 cultural objects were reported stolen, an average of 1,510 objects annually. Of that total figure, 1,599 were recovered, an average of 320 annually. Just over 21% of stolen objects were recovered.

(c) Main rules for monitoring the export and import of cultural property

Any individual intending to export properties must obtain government permission. The export certificate system is promoted among curators, dealers, and collectors and distributed to museums nationwide with the help of the Korean Museum Association and other organizations.

(d) Rules provided for the restitution of illicitly imported cultural property

Property suspected to have been illicitly imported is held in custody by the Korean government and will be returned to its country of origin when the State Party proves its illicit exportation and requests restitution in accordance with the relevant international agreements.

(e) Obstacles encountered in securing the restitution of illicitly exported cultural property

(f) Circumstances in securing the restitution of a stolen cultural object

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

(a) 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 the Republic of Korea, more than 900 licensed companies engage in business related to cultural heritage transactions.

(b) Rules governing trade in cultural goods, measures in place for such trade (maintenance of a police register), in particular through the Internet (reference to the basic measures proposed by UNESCO, INTERPOL and ICOM)

Any business involved in transactions of cultural property must file a report with the Administrator of the CHA. Dealers that have obtained permission shall file an annual report with the local government regarding the state of the preservation, transaction, or exchange of cultural properties. Dealers also promote the prevention of illicit trade of cultural objects by establishing their own code of ethics.

(c) Existing Measures to control the acquisition of cultural property

To control the acquisition of cultural property, the following items may not be acquired in good faith: Cultural property designated by the Administrator of the CHA, the mayor, or the provincial governor; property that has been publicly declared stolen or lost; and property whose important parts or records attesting to their source have been artificially damaged.

(d) Existing legal system concerning ownership of cultural property:

The principle of "heritage title" states that, until an individual is proven the owner of a certain cultural property by title, said property belongs to the government. The principle of inalienability applies to State-owned property. Excavated cultural objects become government property if ownership is not proven within 90 days. Found cultural objects must be reported to the government within seven days and become government property if ownership is not proven within the duration of notification. No legal status applies to yet unfound cultural objects.

(e) Special rules on the transfer of title deeds with respect to cultural property

7. Bilateral agreements

(a) Bilateral agreements concluded with other countries on the import, export and return of cultural property

The Republic of Korea relies on regional initiatives, bilateral agreements, and other measures to prevent illicit traffic. Recently concluded free trade agreements promote the exchange of information on illicitly traded objects.

(b) Conditions settled by the importing country with regard to the admissibility of requests for restitution from a country of origin

(c) Administrative aid or any other type of cooperation with neighbouring countries, particularly with respect to police and customs services?

II. Code of ethics, awareness raising and education

1. Ethical standards

(a) Application of the UNESCO International Code of Ethics for Dealers in Cultural Property and the ICOM for museums

Dealers observe their own established code of ethics and are encouraged to follow UNESCO's international code. Provisions in the Museum and Art Gallery Support Act ensure the observation of the ICOM Code of Ethics, which was translated to Korean in 2007. Museums like the National Museum of Korea have enforced their own code since 2003.

2. Awareness raising and education

(b) Dissemination of the "One hundred missing objects" series and the ICOM Red Lists

Both the "one hundred missing objects" series and the ICOM red lists are disseminated and read.

(c) Description of 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?

Government agencies like the CHA and the National Museum of Korea use these lists as training materials for specialists, museum professionals, and the public to raise awareness to the importance of preventing illicit trade in cultural property. They also publish booklets and brochures to introduce the efforts of international institutions (UNESCO, INTERPOL, ICOM, and the WCO) intended to combat illicit trade. Since 2009, civic and non-governmental organizations have participated in workshops for the same purpose.

III. Cooperation with other international and regional agencies

Police

(a) State of national cooperation with INTERPOL. Specialized police services to whom the heritage officials can call on for enquiries, legal proceedings and punitive measures

(b) Check on the INTERPOL database on stolen objects when a cultural object is stolen. Transmission of information on the persons implicated in the theft of cultural property

(c) Specific training program for members of police services

(d) Punishment of fraud and theft related to cultural property via criminal law provisions. Specialized judges in this field

(e) Cooperation with the United Nations Office on Drugs and Crime (UNODC)

Customs

(f) Status of cooperation with the World Customs Organization. Specialized customs services which could assist heritage officials in preventing the illicit export of cultural property

(g) Specific training program for members of the customs administration

(h) Reference to the UNESCO-WCO Model Export Certificate for Cultural Objects

European Union - Application of 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

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

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

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

The Republic of Korea has been a Member of the ICPRCP since 1987. The current term expires in 2013.

3. UNESCO Database of National Cultural Heritage Laws – contribution and update

To date, the Republic of Korea has added ten laws and regulations to the UNESCO database and updated them when necessary.