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### Commission on Crime Prevention and Criminal Justice

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#### Thematic discussion on protection against illicit trafficking in cultural property

#### Use and application of United Nations standards and norms in crime prevention and criminal justice

### Protection against trafficking in cultural property

#### Report of the Secretary-General

#### *Summary*

In its resolution 2008/23, entitled “Protection against trafficking in cultural property”, the Economic and Social Council, emphasizing the importance for States of protecting and preserving their cultural heritage in accordance with relevant international instruments and alarmed at the growing involvement of organized criminal groups in all aspects of trafficking in cultural property, urged Member States to adopt several measures to promote the protection of cultural property. The Council also requested the Secretary-General to report to the Commission on Crime Prevention and Criminal Justice on the implementation of the resolution. The present report provides an overview, based on information provided by Member States, of measures adopted by Member States pursuant to Council resolution 2008/23.

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\* E/CN.15/2010/1.



## **I. Introduction**

1. In its resolution 2008/23, entitled “Protection against trafficking in cultural property”, the Economic and Social Council, emphasizing the importance for States of protecting and preserving their cultural heritage in accordance with relevant international instruments and alarmed at the growing involvement of organized criminal groups in all aspects of trafficking in cultural property, encouraged Member States asserting State ownership of cultural property to consider means of issuing statements of such ownership with a view to facilitating the enforcement of property claims in other States. In addition, the Council urged Member States and relevant institutions, as appropriate, to strengthen and fully implement mechanisms to strengthen international cooperation, including mutual legal assistance, in order to combat trafficking in cultural property, including trafficking committed through the use of the Internet, and to facilitate the recovery, return or restitution of cultural property. The Council also requested the Secretary-General to report to the Commission on Crime Prevention and Criminal Justice at its nineteenth session on the implementation of the resolution.

2. Pursuant to that request, on 28 August 2008 the Secretary-General sent a note verbale to Governments, inviting them to submit information to the United Nations Office on Drugs and Crime (UNODC) on their efforts to implement the resolution. A reminder was sent on 12 October 2009, inviting Governments to submit information by 15 November 2009. The present report contains an analysis of the replies received from States and is based on information received by UNODC as at 2 February 2010.

## **II. Results of the survey of Member States**

3. Replies were received from the following 16 States: Armenia, Australia, Belarus, Bulgaria, Croatia, Germany, Japan, Mexico, Oman, Qatar, Republic of Moldova, Saudi Arabia, Switzerland, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland and Uruguay. Information on national measures taken to prevent trafficking in cultural property, provided by Austria, Bolivia (Plurinational State of) and Egypt in the context of the meeting of the expert group on protection against trafficking in cultural property, held in Vienna from the 24 to 26 November 2009,<sup>1</sup> has also been reflected in the present paper.

### **A. Legislation and procedures to protect cultural property and prevent its trafficking**

4. In paragraph 6 of its resolution 2008/23 the Economic and Social Council urged Member States to protect cultural property and prevent trafficking in such property by introducing appropriate legislation, including, in particular, procedures for the seizure, return or restitution of cultural property, promoting education, launching awareness-raising campaigns, mapping and carrying out inventories of cultural property, providing adequate security measures, developing the capacities

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<sup>1</sup> See the report on the meeting of the expert group (UNODC/CCPCJ/EG.1/2009/2).

and human resources of monitoring institutions such as the police, customs services and the tourism sector, involving the media and disseminating information on the theft and pillaging of cultural property.

5. All States replying to the survey reported having specific legislation in place to protect cultural property and prevent trafficking in such property. The United Arab Emirates stated in its reply that its relevant authorities were taking all the measures necessary to implement Economic and Social Council resolution 2008/23.

6. Several States reported having adopted specific measures on seizure, return and restitution (Australia, Croatia, Germany, Japan, Mexico, Saudi Arabia, Switzerland, United Kingdom, Uruguay) and some referred specifically to mutual legal assistance (Germany, United Kingdom). To allow national museums to return works of art lost during the Nazi era, the United Kingdom adopted the Holocaust (Return of Cultural Objects) Act 2009, which allows 17 named national museums in England and Scotland to return cultural objects lost during the Nazi era where this follows a recommendation by the Spoliation Advisory Panel and Ministers agree. Switzerland reported that the return of cultural property would not be affected if it placed the items in potential danger and that Swiss museums or similar institutions would be provided financial support to keep and protect the items.

7. Several States reported on specific cases of seizure and return. For example, over 10,000 fossil pieces valued at over \$5 million were returned from Australia to China in 2005. Austria reported that it was able to return items stolen from churches in the Czech Republic and Slovakia in the framework of Council of the European Communities directive 93/7/EEC, but noted that the procedure tended to be slow and complicated.

8. The United Kingdom reported that part 6 of the Tribunals, Courts and Enforcement Act 2007 provided immunity from seizure for cultural objects on loan from abroad in temporary exhibitions on its territory. A number of conditions needed to be satisfied for the protection to apply; for instance, the museum must be approved by the Secretary of State and must have complied with the Act concerning the publication of information about the protected objects.

9. Some States reported having carried out training activities (Belarus, Croatia and Switzerland). Those activities involved customs officers, the police, conservators of cultural property, owners of monuments and collections, and museum and gallery personnel.

10. Some States reported having security measures in place to protect cultural property. Belarus encouraged the organization of manned security and the inspection of vulnerable sites. Croatia supported the establishment of modern security systems and the installation of fire alarms at sites where cultural property was located. Uruguay reported that its police was involving Uruguayan society as a whole in addressing security-related problems, an endeavour that had begun with the establishment of the Neighbourhood Security Commission. Egypt protected its archaeological sites through, inter alia, the use of special police forces that received dedicated training.

11. Some States reported having (Croatia, United Kingdom) or developing (Armenia) specific measures against illegal excavations. Croatia reported that those

measures extended to the monitoring of underwater sites and excavation and to archaeological explorations.

12. Armenia reported having disseminated prevention leaflets to the organizations preserving, acquiring and selling cultural property, including information on the universal ethical norms and requirements related to the acquisition of cultural property originating in the territory of other countries. Croatia also reported informing the general public about stolen and missing works of art, by way of the website of the Ministry of the Interior and through the press, professional journals, television etc. The Plurinational State of Bolivia reported it was developing an awareness campaign and training on the preservation and protection of cultural and artistic heritage.

13. Croatia reported that it was developing a dedicated database of stolen works of art and missing cultural goods, which was of particular interest to professional organizations and associations, representatives of insurance companies, collectors, art dealers and expert witnesses. The United Kingdom had developed the Cultural Property Advice online advisory service, launched in February 2007. The service was a practical source of information and guidance to help users to collect, buy and sell art, antiques and antiquities legitimately. The website had separate areas for those working in the art, antiques and antiquities trade, including dealers and auction houses; private individuals; and public collections.

14. Several States reported that they had carried out data collection and data exchange efforts in the area of cultural property. Belarus, Bulgaria, Croatia, Japan and the Republic of Moldova gathered data mainly from their national police to derive trends. Some States (Bulgaria, Croatia, Japan and the Republic of Moldova) reported that such data were exchanged with relevant institutions of other Governments or through international institutions such as the International Criminal Police Organization (INTERPOL) and the European Police Office (Europol). The Plurinational State of Bolivia reported that any theft of cultural property was immediately reported to INTERPOL and to the International Council of Museums.

## **B. Measures to facilitate identification of cultural property**

15. Most States reported on measures already established or to be established to facilitate the identification of cultural property. The measures included defining the concept of cultural property and establishing inventories, or lists, often accompanied by the establishment of databases. Armenia reported that a national inventory for protected cultural property was to be established on the basis of a database for movable historic and cultural heritage initiated by the Agency for the Preservation of Cultural Property. Australia maintained a control list of Australian protected objects. In Belarus, a list of cultural property subject to restricted movement across the customs border of the country in the context of export for non-commercial purposes was established in 2008. Bulgaria had defined the concept of “cultural valuables”, in order to be able to identify objects that would benefit from special protection.

16. Belarus had established a list including tangible objects and intangible manifestations of human creativity registered as historical and cultural property by decision of the Council of Ministers. Each item of historical and cultural property

had a reference card and was issued a passport. Belarus also maintained a database of its historical and cultural heritage, to preserve and systematize records and information on the distinctive products and evidence of the historical, cultural and spiritual development of the people of Belarus and on lost material objects and intangible manifestations of human creativity.

17. The Plurinational State of Bolivia reported that it was drafting a law on declaration of cultural heritage, establishing procedures and standards for the declaration of intangible cultural heritage. Egypt reported that, in an effort to prevent trafficking, the registration procedures of antiquities found in archaeological sites began immediately when the item was found, including the taking of digital photos of the item and determination of its exact specifications. From the site, the item was transported directly to a museum or a warehouse, as appropriate.

18. Croatia provided legal protection of cultural goods through the inscription of collections or individual items in the registry of protected cultural goods. In addition, the most valuable collections, particularly sacral ones, were documented and entered into databases. Cooperation had been established with church authorities in order to draw up detailed inventories of church collections. Efforts had been made to raise the quality and scope of the documentary evidence of museum and gallery holdings.

19. Japan reported on various measures to enable the confirmation of the origin and identity of cultural property by establishing legal requirements for dealers, such as keeping account book entries and reporting on suspected fraudulent items. In order to facilitate identification and recovery, Mexico reported that it was working on the development of a catalogue of stolen cultural property and of works of art held in churches and museums around the country but not yet under the protection of the National Institute of Anthropology and History. Work had been done to systematize databases containing information on trafficking in cultural property to assist in the recovery of stolen items.

20. Switzerland reported that its legislation required the establishment of an inventory at the federal level to register all cultural property of the Confederation in a central database.

21. Mexico emphasized the need to certify cultural property, as that was a basic requirement for letters rogatory submitted with a view to securing the return of stolen cultural property located on the territory of another country. Mexico reported that the absence of appropriate certification of cultural property by the national authorities was one of the main obstacles to securing the return of archaeological items that had been taken abroad and made it difficult to lodge a claim against the Governments of countries where such items were located.

### **C. Measures to prevent the transfer of illicitly acquired or illegally obtained cultural property**

22. In paragraph 7 of its resolution 2008/23, the Economic and Social Council urged Member States to take effective measures to prevent the transfer of illicitly acquired or illegally obtained cultural property, especially through auctions,

including through the Internet, and to effect its return or restitution to its rightful owners.

23. Some States reported having established export and import regulations and specific measures for temporary export, such as export permits or licences. Armenia, Australia, Austria, Belarus, Croatia, Egypt, Mexico and the United Kingdom reported that they monitored exports of cultural property, which were prohibited unless a special permit had been granted by the authority in charge. Austria reported that this requirement applied to all works of art exported, regardless of their origin. It also reported that large auction houses contacted the authorities when such licences were missing.

24. Armenia monitored imports, with illicit imports being seized; and during the period 2003-2006, 12 cases of illicit export were recorded, involving 114 pieces of cultural property. In Belarus, the customs agencies detected 16 instances of illegal transfer of cultural property across the customs border in 2009 (in 2008, 40 instances had been detected). Croatia also monitored imports.

25. The United Kingdom Borders Agency had procedures in place to investigate and pursue, whenever possible, cases where in the normal course of its duties it identified goods that were tainted. Profiles sent on the Agency's entry processing system were designed to check the authenticity of cultural objects freely declared as originating in a specific country. The United Kingdom also published guidelines to help museums, libraries and archives take precautions to ensure that they acquired or borrowed only ethically acceptable items and rejected items that might have been looted or illegally exported.

26. The United Kingdom and Switzerland had established an obligation for the buyer to check the legitimate origin of purchased items. The United Kingdom had made it an offence in 2003 for any person to deal dishonestly in a cultural object that was tainted, knowing or believing that the object was tainted. In Switzerland, the buyer had a responsibility to secure information and to show that it had displayed a certain degree of vigilance.

27. With regard to specific measures to prevent the transfer of illicitly acquired or illegally obtained cultural property through the Internet, the United Kingdom reported that in October 2006 the British Museum and the Museums, Libraries and Archives Council had announced a memorandum of understanding with a major online auction company, whereby the British Museum would monitor the company's website for items constituting potential treasure, question vendors and notify the Metropolitan Police's Art and Antiques Unit of any unreported items. In 2007 information on 144 cases had been passed on to the police.

28. In Switzerland, the Federal Office for Culture, in collaboration with the federal police and the Swiss Association of Cantonal Archaeologists, signed on 20 October 2009 a declaration of intent with a major online auction company, with a view to restricting the offer of cultural goods on the Internet. Croatia reported that its Ministry of Culture was monitoring the sale of antiquities at auctions on the Internet.

## **D. National coordination**

29. In relation to monitoring institutions, some States reported on their national authorities in charge of the protection against and the prevention of trafficking in cultural property. In Armenia, the institutions in charge of the protection of cultural heritage were the Department for Cultural Heritage and Cultural Property within the Ministry of Culture and the agencies for the preservation of historic and cultural monuments and cultural property.

30. In Australia, the Department of the Environment, Water, Heritage and the Arts, with the active participation of the Australian Customs and Border Protection Service and the Australian Federal Police, administered the legislation on the protection of movable cultural heritage. In Belarus, the Ministry of Culture issued authorizations for the export of cultural property subject to restricted movement across the border and cooperated with ministries of other States to sign intergovernmental cooperation agreements; the Ministry of Internal Affairs, the State Customs Committee, the State Security Agency and the State Border Committee carried out coordinated inter-agency activities to detect and prevent the smuggling and theft of cultural property.

31. In Bulgaria, the Ministry of the Interior was the competent authority for the prevention and detection of criminal activity involving cultural and historical property as well as the exchange of police information on international operations, while the procedures for confiscation, recovery, restitution and titles of ownership lay within the area of competence of the Ministry of Culture. Mutual legal assistance and cooperation were within the area of competence of the Supreme Cassation Prosecution Office and the Ministry of Justice. Promotion of educational training and awareness-raising were within the area of competence of the Ministry of Education, Youth and Science.

32. In Croatia, it was the Ministry of Culture that undertook, in close cooperation with the Ministry of International Affairs and other relevant services and institutions, the prevention of trafficking in cultural goods. Oman reported that it had established a separate ministry focusing on heritage and culture to preserve its civilization and cultural heritage. In Qatar, the implementation of the law covering all types of cultural property in that State was supervised by the Office for the Protection of Copyright and Related Rights, which was under the authority of the Ministry of Trade and Industry. In Switzerland, the Federal Office for Culture and its specialized section on the international transfer of cultural goods were in charge of the prevention of and protection against trafficking in cultural property. It also cooperated with the federal police and other institutions, as appropriate.

33. In Egypt, a directorate for the restitution of antiquities had been established to provide a comprehensive survey of all items illegally exported from that country. The directorate maintained contacts with consulates and embassies that reported on suspicious items.

## **E. International cooperation and international instruments**

34. In its resolution 2008/23, the Economic and Social Council urged Member States and relevant institutions, as appropriate, to strengthen and fully implement

mechanisms to strengthen international cooperation, including mutual legal assistance, in order to combat trafficking in cultural property, including trafficking committed through the use of the Internet, and to facilitate the recovery, return or restitution of cultural property (para. 5); and also urged Member States to continue to strengthen international cooperation and mutual assistance for the prevention and prosecution of crime against cultural property that forms part of the cultural heritage of peoples, and to ratify and implement the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property<sup>2</sup> and other relevant international instruments (para. 8).

35. Several States made reference to international conventions that were relevant to the prevention of trafficking in cultural property and the establishment of international cooperation mechanisms for that purpose. Australia, Belarus, Croatia, Egypt, Japan, Oman, Qatar, Saudi Arabia, Switzerland and the United Kingdom reported being parties to the 1970 Convention, which currently has 118 States parties.<sup>3</sup> Among the reporting States, Armenia, Bolivia (Plurinational State of), Bulgaria, Germany, Mexico, the Republic of Moldova, the United Kingdom and Uruguay are also States parties to the Convention.

36. Armenia reported that the 1970 Convention had been officially translated, published and distributed to museums, libraries and other organizations, together with explanations of its main provisions. Egypt reported that a national committee had been established for the purpose of implementing the Convention's provisions on restitution.

37. Other States mentioned the Convention for the Protection of Cultural Property in the Event of Armed Conflict<sup>4</sup> (Croatia, Oman, Qatar and Saudi Arabia<sup>5</sup>). Croatia made reference to the Convention on the Protection of the Underwater Cultural Heritage,<sup>6</sup> which entered into force in January 2009.<sup>7</sup> Croatia also referred to the Convention on Stolen or Illegally Exported Cultural Objects, adopted by the International Institute for the Unification of Private Law (Unidroit) in Rome on 24 June 1995,<sup>8</sup> as well as the specific European Union regulations in this area. The United Kingdom and Austria referred to Council of the European Communities directive 93/7/EEC on the return of cultural objects unlawfully removed from the territory of a member State of the European Union. The directive confers a right of action on any member State of the European Union to recover cultural objects.

38. Oman and Saudi Arabia mentioned the Convention for the Protection of the World Cultural and Natural Heritage.<sup>9</sup> Additionally, Qatar referred to the Universal Copyright Convention as revised at Paris on 24 July 1971.<sup>10</sup>

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<sup>2</sup> United Nations, *Treaty Series*, vol. 823, No. 11806.

<sup>3</sup> For a full list of States parties to the Convention, see <http://portal.unesco.org>.

<sup>4</sup> United Nations, *Treaty Series*, vol. 249, No. 3511.

<sup>5</sup> For a list of States parties to the Convention, see <http://portal.unesco.org>.

<sup>6</sup> United Nations Educational, Scientific and Cultural Organization, *Records of the General Conference, Thirty-first Session, Paris, 15 October-3 November 2001*, vol. 1 and corrigendum: *Resolutions*, resolution 24.

<sup>7</sup> For a full list of States parties to the Convention, see <http://portal.unesco.org>.

<sup>8</sup> Available from [www.unidroit.org](http://www.unidroit.org).

<sup>9</sup> United Nations, *Treaty Series*, vol. 1037, No. 15511.

<sup>10</sup> *Ibid.*, vol. 943, No. 13444.

39. Two States reported on regional cooperation. Armenia and Belarus reported on regional cooperation agreements within the Commonwealth of Independent States. Belarus further reported that as part of the creation of a system of non-tariff regulation within the Commonwealth's customs union, work was being done to unify the acts regulating the movement of cultural property subject to restricted movement across the borders of the customs union. A draft list of cultural property whose export from the territory of the customs union was subject to restrictions and draft regulations for the administration of such exports were being prepared. The documents would establish unified procedures for the movement of cultural property across the border of the customs union.

40. In addition, Belarus reported that, within the framework of the World Customs Organization Regional Intelligence Liaison Office in Moscow, information on the holding of cultural property by participating customs agencies was collected and exchanged on a permanent basis.

41. Some States reported that they had negotiated specific bilateral agreements to protect cultural property and facilitate the return of such property. Belarus had signed a cooperation agreement on the protection of historical and cultural heritage with Lithuania in 2009. In addition, Belarus reported that it was performing the necessary procedures with Ukraine to sign an intergovernmental cooperation agreement to combat the illegal import and export of cultural property. Egypt reported that it, too, used diplomatic channels to negotiate the return of stolen items.

42. Switzerland reported that, on the basis of the 1970 Convention, it had negotiated agreements for the import and return of cultural property. Such agreements had been concluded with Greece, Italy and Peru. Switzerland was currently negotiating similar agreements with other States parties to the Convention.

43. Uruguay had approved by law an agreement with Peru for the protection, conservation, recovery and return of cultural, archaeological and historic property or works of art that had been stolen, illegally exported or trafficked. A similar agreement with the Plurinational State of Bolivia and two draft agreements with Chile and Colombia addressing the same issue were currently under consideration by the Parliament.

44. Australia reported that it had acted on requests from a number of Governments to seize and return objects of their cultural heritage that had been illegally exported in contravention of their laws relating to cultural heritage. Saudi Arabia indicated that it had recently returned to their country of origin (Egypt, Iraq, Yemen) a number of items of cultural property that had been seized by the customs authorities.

45. In Mexico, the Office of the Attorney General had entrusted the National Centre for Planning, Analysis and Information to Combat Crime (CENAPI) and the Special Investigative Unit (UEIDAPLES), dealing with environmental offences and offences targeted by specific laws, with establishing mechanisms for exchanging information with other States on matters relating to trafficking in cultural property to support the recovery of archaeological or artistic property. On the basis of a bilateral agreement on legal assistance in criminal matters, Mexican archaeological items had been seized in France. Mexico noted in its reply the problem of letters rogatory being linked to the requirement imposed by a number of States that those letters should contain, among other details, the circumstances, place and time of the

offence and the way the cultural property had been stolen. Mexico further noted that, owing to the fact that undocumented and unregistered archaeological property was inevitably stolen in a clandestine manner, such information was often unavailable, which made it difficult for the Government to take action.

### **III. Technical assistance and data collection activities of the United Nations Office on Drugs and Crime**

46. In paragraph 3 of its resolution 2008/23, the Economic and Social Council reiterated its request that UNODC, in close cooperation with the United Nations Educational, Scientific and Cultural Organization (UNESCO), convene an open-ended intergovernmental expert group meeting to submit to the Commission relevant recommendations on protection against trafficking in cultural property, including ways of making more effective the model treaty for the prevention of crimes that infringed on the cultural heritage of peoples in the form of movable property.<sup>11</sup> The expert group meeting was held in Vienna from 24 to 26 November 2009. A report containing the recommendations of the expert group will be before the Commission (E/CN.15/2010/5). An account of the proceedings of the meeting and its recommendations are contained in the report of the meeting (UNODC/CCPCJ/EG.1/2009/2).

47. In paragraph 9 of resolution 2008/23, the Economic and Social Council requested UNODC to develop its relations with the cooperative network established among UNESCO, the International Council of Museums, INTERPOL, Unidroit and the World Customs Organization in the areas of trafficking in cultural property and its return or restitution. During the expert group meeting held in November 2009, UNODC convened a meeting with experts from UNESCO, the International Council of Museums, INTERPOL, Unidroit and the World Customs Organization Regional Intelligence Liaison Office for Western Europe to discuss possible future cooperation. Subsequent to the meeting, UNODC was invited to attend the annual meeting of the INTERPOL Expert Group on Stolen Cultural Property, in February 2010. UNODC was also invited to an international seminar on trafficking in cultural property, organized by the Ministry of Culture of Italy, in Rome in December 2009. At the seminar, a representative of UNODC delivered a presentation on the international legal regime applicable to trafficking in cultural property, in particular the United Nations Convention against Transnational Organized Crime,<sup>12</sup> and on coordinated action of the United Nations and other partners in this area.

48. Since the late 1970s, Member States have regularly exchanged information on crime prevention and criminal justice through the United Nations Survey of Crime Trends and Operations of Criminal Justice Systems.<sup>13</sup> UNODC coordinates the collection of statistics by disseminating relevant questionnaires through the

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<sup>11</sup> *Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990: report prepared by the Secretariat* (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. B.1, annex.

<sup>12</sup> United Nations, *Treaty Series*, vol. 2225, No. 39574.

<sup>13</sup> See [www.unodc.org/unodc/en/data-and-analysis/United-Nations-Surveys-on-Crime-Trends-and-the-Operations-of-Criminal-Justice-Systems.html](http://www.unodc.org/unodc/en/data-and-analysis/United-Nations-Surveys-on-Crime-Trends-and-the-Operations-of-Criminal-Justice-Systems.html).

permanent missions and, in collaboration with the Statistics Division of the Secretariat, the national statistical offices. In its resolution 2009/25 on improving the collection, reporting and analysis of data to enhance knowledge on trends in specific areas of crime, the Economic and Social Council requested UNODC to establish an open-ended intergovernmental expert working group to prepare recommendations on the improvement of tools for the collection of relevant crime data, in particular the Survey; and noted that the working group should base its work on such considerations as the possibility of using for the Survey a shorter questionnaire containing a core set of questions and the possibility of including thematic modules reflecting the theme or themes of the thematic discussion of the Commission. At its meeting held in Buenos Aires in February 2010, the expert group on improving the collection, reporting and analysis of crime data endorsed this proposal and included it in its recommendations. In 2009, UNODC included a module on trafficking in cultural property in the Eleventh Survey on a pilot basis. The module covered police and court statistics on a number of crimes, including trafficking (defined by the Survey as import, export or transport) of cultural property, theft of cultural property, possession/handling of cultural property and unlawful excavation of cultural property. National police were asked to provide information on the number of recorded offences and persons suspected of, arrested for or accused of those crimes. Courts were also asked to provide information on the number of persons tried and convicted for those crimes.

49. The Eleventh Survey questionnaire was sent to Member States in September 2009. As of February 2010, 76 States had responded, including 24 that had entered data in the module on trafficking in cultural property. Responding States were more frequently able to provide police data (20 responses) than court data (12 responses). Some 10 responses included both police and court data. States were most usually able to respond to the question on the number of police-recorded offences of theft of cultural property (18 States). In contrast, only five States provided data on the number of offences involving unlawful excavation of cultural property. Analysis of data over time for the States reporting a continuous time series for police-recorded offences of theft of cultural property for the period 2003-2008 (10 States) suggests a consistent decreasing trend. Caution must be exercised in such analysis, however, due to the small number of States for which data are available and differences in the definition of theft of cultural property. Supplementary information on statistics collected by the Survey module indicate, for example, significant divergence in responses with respect to whether police-recorded offences of theft of cultural property included theft from museums, places of worship, castles, archaeological sites, art galleries/antique dealers and private collections.

#### **IV. Conclusions**

50. As replies to the Secretary-General's request for information were received from 16 Member States only, it is not possible to determine the level of implementation of Economic and Social Council resolution 2008/23 by Member States in general. Member States that did reply had already taken or were taking appropriate measures to implement the different elements of the resolution. On the basis of the replies received, several measures can be identified as necessary in

order to increase the protection of cultural property and prevention of its trafficking. The Commission may thus wish to invite States to consider the following measures:

- (a) Establishment of inventories, lists of cultural property, databases and/or passports to develop a sound basis for identification of cultural property and claims for restitution and return;
  - (b) Imposing licensing requirements for cultural property intended for export;
  - (c) The convening of joint training seminars involving police officers, border police officers, museum staff, members of the media and other relevant actors to promote greater understanding and cooperation;
  - (d) Increased security and monitoring of vulnerable sites;
  - (e) Promotion of cooperation between States at the bilateral, regional and international levels;
  - (f) Strengthening of international mechanisms for return and restitution and conclusion of bilateral and regional agreements for exchange of information and return and restitution of cultural property;
  - (g) Promotion of data exchange and information-sharing to increase the information available with respect to trafficking in cultural property at the global level.
-