CONVENTION ON THE PROTECTION OF THE ARCHEOLOGICAL, HISTORICAL, AND ARTISTIC HERITAGE OF THE AMERICAN NATIONS

(Convention of San Salvador)

(Resolution adopted at the second plenary session, held on June 16, 1976)

THE GENERAL ASSEMBLY,

 ${\tt HAVING}$ SEEN the continuous looting and plundering of the native cultural

heritage suffered by the countries of the hemisphere, particularly the Latin American countries; and

CONSIDERING:

That such acts of pillage have damaged and reduced the archeological, historical, and artistic wealth, through which the national character of

their peoples is expressed;

That there is a basic obligation to transmit to coming generations the legacy of their cultural heritage;

That this heritage can only be protected and preserved through mutual appreciation and respect for such properties, within a framework of the

soundest inter-American cooperation; and

That the member states have repeatedly demonstrated their willingness

establish standards for the protection and surveillance of the archeological, historical, and artistic heritage,

DECLARES:

That it is essential to take steps, at both the national and international levels, for the most effective protection and retrieval of

cultural treasures, and

RESOLVES:

1. To approve the following Convention on the Protection of the Archeological, Historical, and Artistic Heritage of the American Countries:

Article 1

The purpose of this Convention is to identify, register, protect, and safeguard the property making up the cultural heritage of the American nations in order: (a) to prevent illegal exportation or importation of cultural property, and (b) to promote cooperation among the American states for mutual awareness and appreciation of their cultural property.

The cultural property referred to in the preceding article is that included in the following categories:

- a. Monuments, objects, fragments of ruined buildings, and archeological materials belonging to American cultures existing prior to contact with European culture, as well as remains of human beings, fauna, and flora related to such cultures;
- Monuments, buildings, objects of an artistic, utilitarian, and ethnological nature, whole or in fragments, from the colonial era and the Nineteenth Century;
- c. Libraries and archives; incunabula and manuscripts; books and other publications, iconographies, maps and documents published before 1850;
- d. All objects originating after 1850 that the States Parties have recorded as cultural property, provided that they have given notice of such registration to the other parties to the treaty;
- e. All cultural property that any of the States Parties specifically declares to be included within the scope of this convention.

Article 3

The cultural property included in the above article shall receive \max

protection at the international level, and its exportation and importation shall be considered unlawful, except when the state owning i + i

authorizes its exportation for purposes of promoting knowledge of national cultures.

Article 4

Any disagreement between the parties to this Convention, regarding application of the definitions and categories of Article 2 to specific property shall be resolved definitively by the Inter-American Council

Education, Science, and Culture (CIECC), following an opinion by the Inter-American Committee on Culture.

Article 5

The cultural heritage of each state consists of property mentioned in Article 2, found or created in its territory and legally acquired items of foreign origin.

Article 6

The control exercised by each state over its cultural heritage and any actions that may be taken to reclaim items belonging to it are imprescriptible.

Article 7

Regulations on ownership of cultural property and its transfer within the

territory of each state shall be governed by domestic legislation. With a

view to preventing unlawful trade in such goods, the following measures

shall be encouraged:

a. Registration of collections and of transfer of cultural property

subject to protection;

- b. Registration of transactions carried out by establishments engaged in the sale and purchase of such property;
- c. Prohibition of imports of cultural property from other states without appropriate certificate and authorization.

Article 8

Each state is responsible for identifying, registering, protecting, preserving, and safeguarding its cultural heritage; in fulfillment of these functions each state undertakes to encourage:

a. Preparation, in accordance with its respective constitutional standards, of rules and legislative provisions required for effective protection of this heritage from destruction resulting

from neglect or inadequate preservation work;

- b. Establishment of technical organs entrusted specifically with the protection and safeguarding of cultural property;
- c. Establishment and maintenance of an inventory and record of cultural property, to make it possible to identify and locate it;
- d. The delimitation and protection of archeological sites and places of historical and artistic interest;
- e. Exploration, excavation, investigation, and preservation of archeological sites and objects by scientific institutions, in collaboration with the national agency in charge of the archeological heritage.

Article 9

Each State Party shall prevent by all available means any unlawful excavation in its territory or any removal of cultural property therefrom.

Article 10

Each State Party to this Convention undertakes to take whatever measures

it may consider effective to prevent and curb the unlawful exportation,

importation, and removal of cultural property, as well as those necessary

for the return of such property to the state to which it belongs in the $\ensuremath{\mathsf{I}}$

event of its removal.

Article 11

When the government of a State Party becomes aware of the unlawful exportation of an item of cultural property, it may address the government of the state to which the property has been removed, requesting that it take measures for its recovery and return. This shall

be done through diplomatic channels. The request shall be accompanied by

evidence of the unlawful removal of the property in question, in accordance with the laws of the requesting state. This evidence shall be

considered by the state petitioned.

The state petitioned shall employ all available lawful means in order to

locate, recover, and return the cultural property claimed and that may have been removed after this Convention has come into effect.

If the laws of the state petitioned require judicial action for recovery

of foreign cultural property unlawfully imported or removed, such judicial action shall be instituted in the appropriate courts by the competent authority of that state.

The petitioning state also has the right to institute appropriate judicial action in the state petitioned in order to bring about recovery

of the property that has been removed and application of the pertinent penalties against those responsible.

Article 12

As soon as the state petitioned is in a position to do so, it shall return to the petitioning state the cultural property that has been remove. The cost of returning such property shall be covered by the state

petitioned without prejudice to the measures or action it should take in

order to be reimbursed for such expenses.

Article 13

No tax or government fee shall be charged for cultural property returned

in accordance with the provisions of Article 12.

Article 14

Those responsible for crimes against the integrity of cultural property $% \left(\frac{1}{2}\right) =\frac{1}{2}\left(\frac{1}{2}\right) +\frac{1}{2}\left(\frac{1}{2}\right) +\frac{1$

or for crimes resulting from the illegal exportation or importation thereof are subject to extradition treaties, when appropriate.

Article 15

The States Parties bind themselves to cooperate in the mutual ${\tt knowledge}$

and appreciation of their cultural values by taking the following measures:

- a. Facilitating the circulation, exchange, and exhibition, for educational, scientific, and cultural purposes, of cultural property from other nations and of their own cultural property abroad, when authorized by the pertinent governmental agencies;
- b. Promoting the exchange of information on cultural property and on archeological excavations and discoveries.

Article 16

Articles on loan to museums, exhibitions, or scientific institutions

are outside the state to whose cultural heritage they belong shall not be

subject to seizure as a result of public or private lawsuits.

Article 17

For purposes of compliance with the objectives of this Convention, the General Secretariat of the OAS is charged with:

- a. Ensuring the enforcement and effectiveness of this Convention;
- b. Promoting the adoption of collective measures directed toward the protection and preservation of cultural property belonging to the American states;
- c. Establishing an Inter-American Registry of cultural property, both movable and immovable, that is of special value;
- d. Promoting coordination of national legislation on this subject;
- e. Granting and arranging any technical cooperation the States Parties may request;
- f. Disseminating information on the cultural property of the States

Parties and the objectives of this Convention;

g. Promoting the circulation, exchange, and exhibition of cultural property among the States Parties.

Article 18

from entering into bilateral or multilateral agreements relative to their

cultural heritage, nor shall they limit the application of any agreements

to the same end as may be in force.

Article 19

The present Convention is open to signature by the member states of the $\,$

OAS and to adherence by any state.

Article 20

The present Convention shall be ratified by the signatory states in

accordance with their respective constitutional procedures.

Article 21

The original instruments, whose Spanish, French, English, and Portuguese

texts are equally authentic, shall be deposited with the General Secretariat of the OAS, which shall send certified copies to the signatory states for purpose of ratification. The instruments of ratification shall be deposited with the General Secretariat of the OAS,

which shall notify the signatory governments of the deposit.

Article 22

This Convention shall enter into force among the states ratifying it in

the order of deposit of their instruments of ratification.

Article 23

The present Convention shall be in force indefinitely; however, any of the States Parties may denounce it. The denunciation shall be communicated to the General Secretariat of the Organization of American

States, which shall inform the other States Parties thereof. One year from the date of denunciation, the Convention shall cease to be in force

for the state that denounced it and remain in force for the other States $\mbox{\sc Parties.}$

2. This Convention shall be known as the Convention of San Salvador.

*[Reproduced from Organization of American States, Proceedings of the General Assembly, Sixth Regular Session, Santiago, Chile, June 4-18, 1976, Volume I.

[The Convention was unanimously adopted by the General Assembly by Resolution 210 (VI-O/76) on June 16, 1976. As of January 1, 1990, the Convention had been ratified by 9 parties: Costa Rica, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Nicaragua, Panama, and Peru.]

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