

International Law and the prevention of illicit trafficking of cultural property

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United Nations
Educational, Scientific and
Cultural Organization



Convention for the Protection of
Cultural Property in the Event
of Armed Conflict



ويعلم
بشيء من
شعره في
بعضه
صلى الله عليه وسلم
الله تبارك وتعالى
صلى الله عليه وسلم
بسم الله الرحمن الرحيم
الحمد لله الذي هدانا لهذا
أحسنا من كتابه أو تراجمه
في حق الله محمد وآله
الله عليه وسلم وتعالى
الله عليه وسلم



Mosul, Iraq



Apamea, Syria

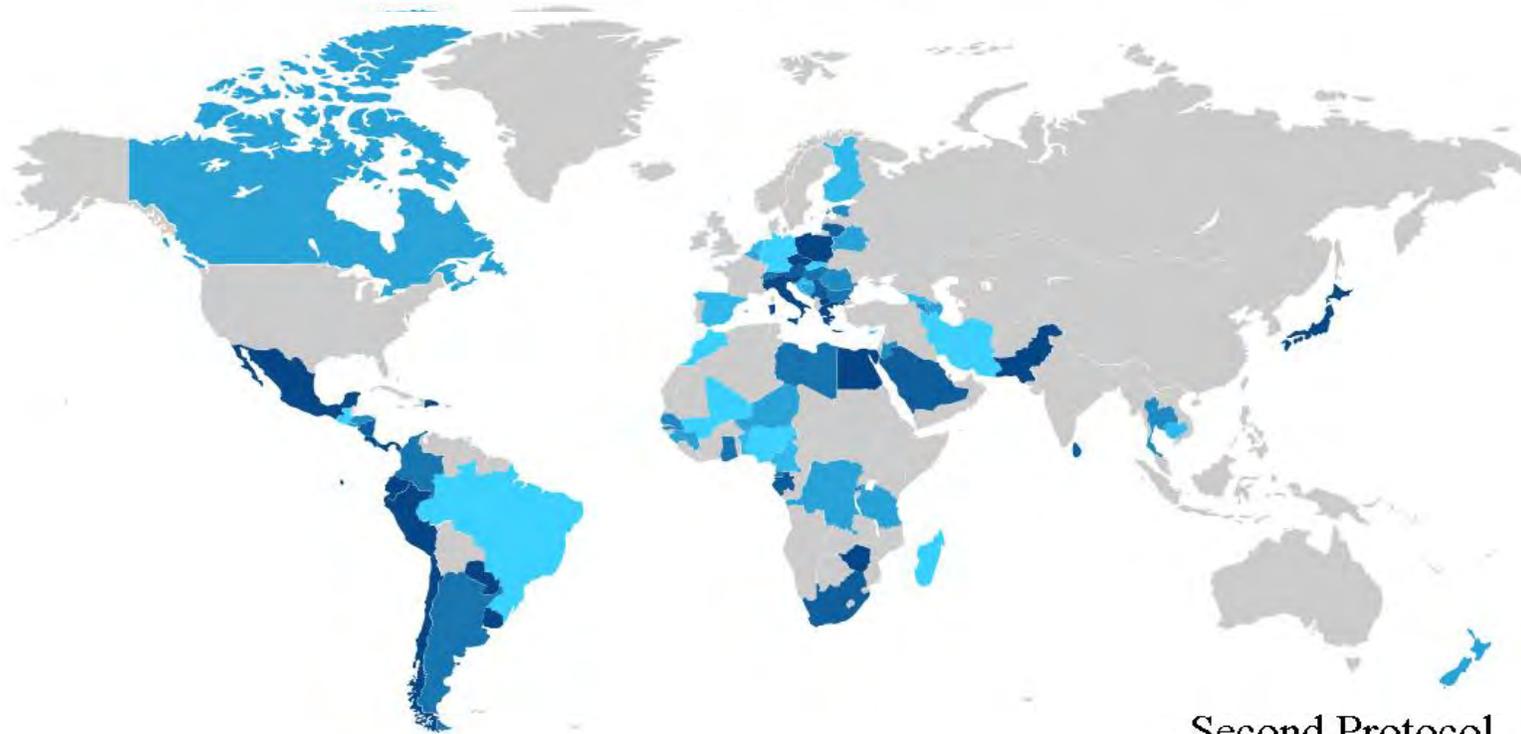
Figures

- ▶ According to the TEFAF Art Market Report 2017, in 2016 the art market generated about US\$45 billion of global sales, up 1.7 percent compared to 2015
- ▶ According to UNODC, proceeds of transnational crime related to art and cultural property is between 3.4 and 6.3 billion dollars every year.
- ▶ Between March 2003 and early 2005, 400,000 to 600,000 antiquities may have been looted from Iraq, generating between \$10 million and \$20 million
- ▶ It is estimated that ISIS raises US\$200 million a year from cultural looting (2015)

International Law

- ▶ 1954 Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict and its two Protocols
- ▶ Recommendation on International Principles Applicable to Archaeological Excavations (1956)
- ▶ 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transport of Ownership of Cultural Property
- ▶ UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects (1995)
- ▶ The Council of Europe Convention on Offences relating to Cultural Property

Overview of the 1954 Hague Convention and its two Protocols (1954 and 1999)



Second Protocol

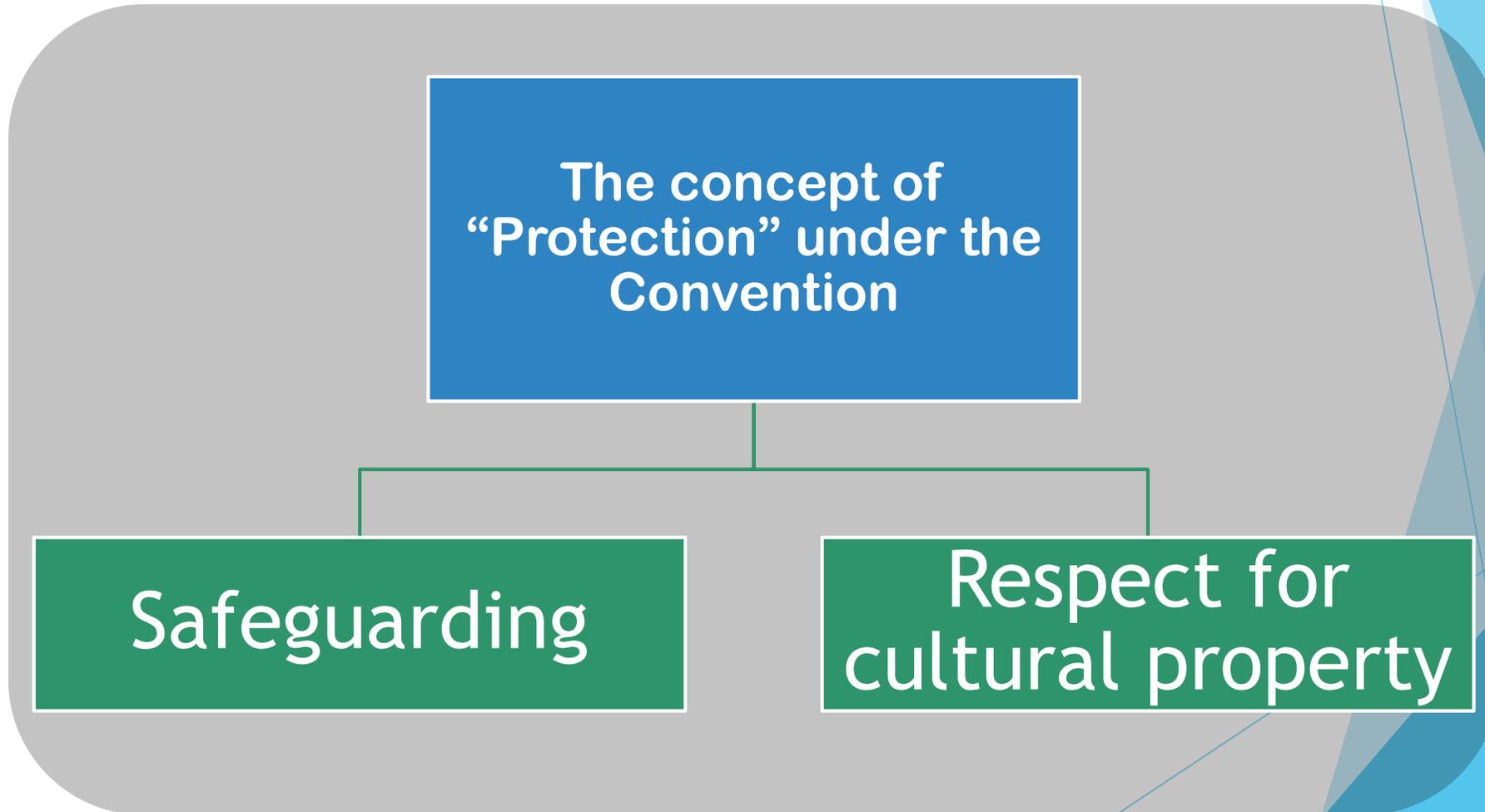
Key elements of the 1954 Hague Convention and its two Protocols (1954 and 1999)

“Cultural Property”
under the 1954
Convention includes:

Movable cultural
property

Immovable
cultural property

Key elements of the 1954 Hague Convention and its two Protocols (1954 and 1999)

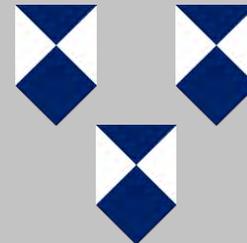


Key elements of the 1954 Hague Convention and its two Protocols (1954 and 1999)

General Protection



Special Protection



Enhanced Protection





United Nations
Educational, Scientific and
Cultural Organization



World
Heritage
Convention

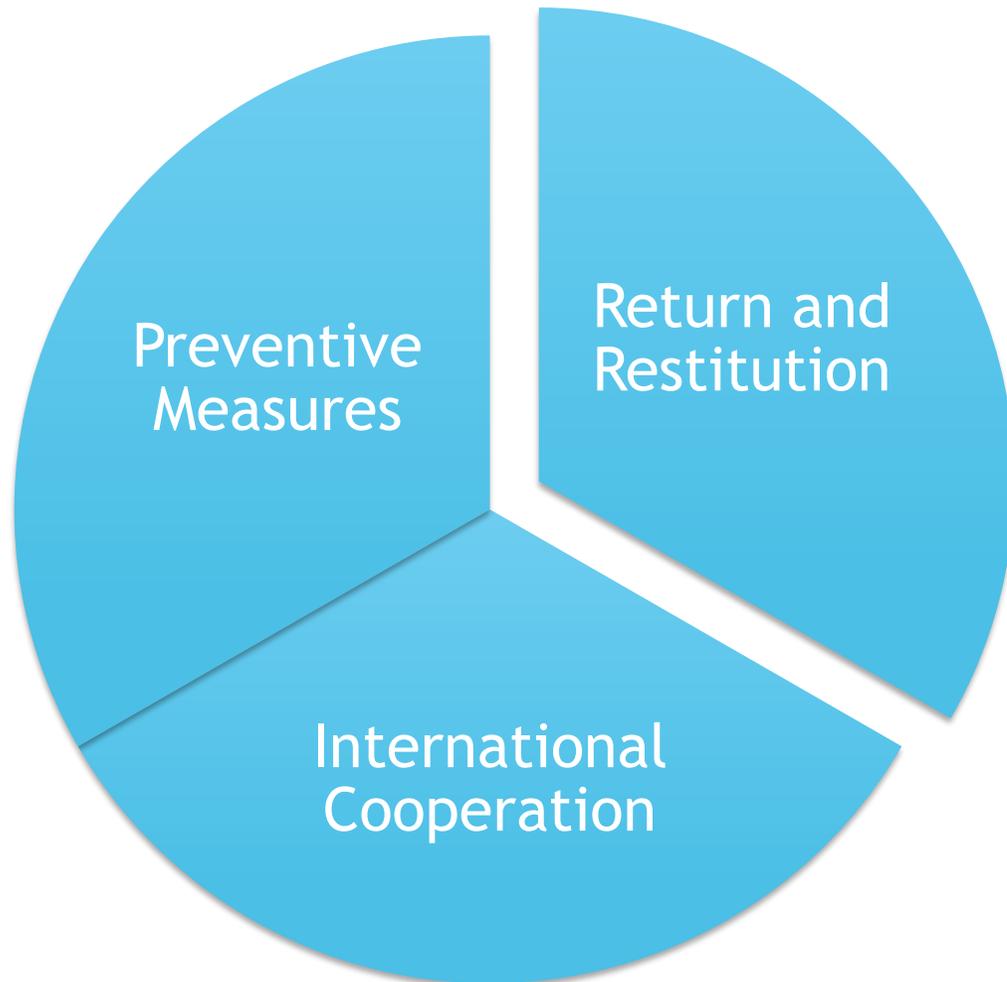


Gücləndirilmiş mühafizə altında olan mədəniyyət abidəsi
Cultural Property under Enhanced Protection

Recommendation on International Principles Applicable to Archaeological Excavations

- ▶ Each Member State should consider the adoption of regulations to govern the trade in antiquities so as to ensure that this trade does not encourage smuggling of archaeological material or affect adversely the protection of sites
- ▶ Member States should, whenever necessary or desirable, conclude bilateral agreements to deal with matters of common interest arising out of the application of the present Recommendation
- ▶ Excavation services and museums should lend one another assistance in order to ensure or facilitate the recovery of objects derived from clandestine excavations or theft, and of all objects exported in infringement of the legislation of the country of origin. It is desirable that each Member State should take the necessary measures to ensure this recovery.

Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transport of Ownership of Cultural Property



Preventive Measures



Restitution in the framework of the 1970 Convention

- Must be **AFTER** the entry into force of the Convention in both States concerned: **not retroactive**
- Request should be made via **diplomatic channels** and requesting State must provide evidence
- « **Just compensation** » is to be paid to an innocent purchaser or a person with valid title to that property (no definition provided)
- Can only be applied to **inventoried objects**



Framework for International Cooperation

Art. 7

- States Parties should return or restitute cultural objects which have been stolen or illegally exported

Art. 9

- States Parties should assist a State requesting protection of its cultural property, especially in emergency situations

Art. 13

- States Parties are required to have their police forces and other competent authorities cooperate to ensure the speedy return of trafficked objects

Art 15

- States Parties can enhance their cooperation by signing bilateral agreements

Intergovernmental Committee for Return and Restitution (ICPRCP)

- Established in 1978 to handle issues of return and restitution of lost cultural property, either due to foreign or colonial occupation, or following the illicit traffic before the entry into force - for the states concerned - of the 1970 Convention.
- In total 6 cases have been solved via the ICPRCP.
- Currently two cases pending before the ICPRCP:
 - Parthenon Sculptures (Greece - U.K)
 - Broken Hillman Skull (Zambia - U.K)



UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects

- ▶ UNIDROIT was asked by UNESCO to develop the Convention on Stolen or Illegally Exported Cultural Objects (1995), as a complementary instrument to the 1970 Convention
- ▶ Under UNIDROIT Convention, States commit to a uniform treatment for restitution of stolen or illegally exported cultural objects and allow restitution claims to be processed directly through national courts
- ▶ UNIDROIT Convention covers all stolen cultural objects, not just inventoried and declared ones and stipulates that all cultural property must be returned

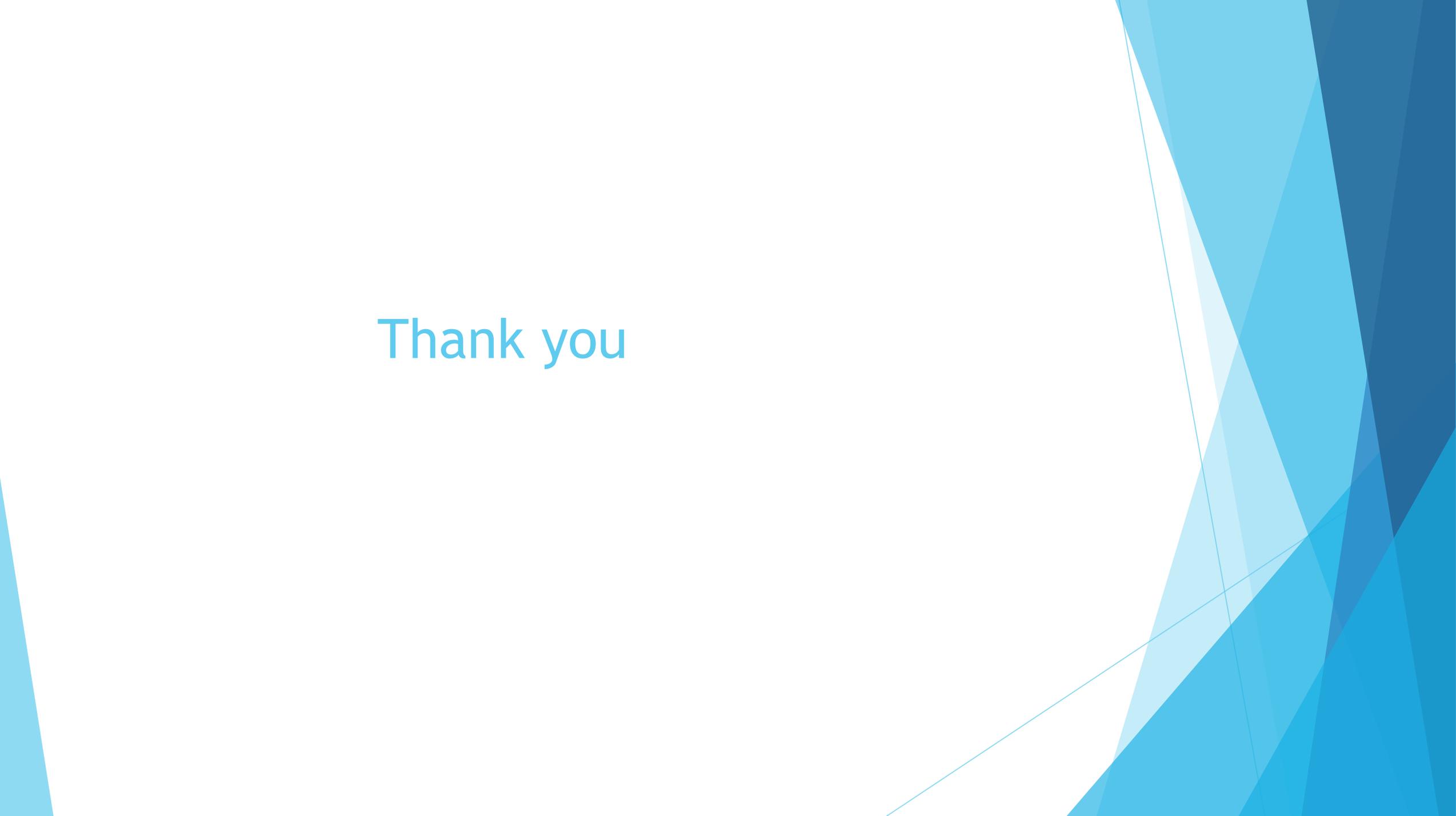
UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects

- ▶ Any claim for restitution shall be brought within a period of three years from the time when the claimant knew the location of the cultural object and the identity of its possessor, and in any case within a period of fifty years from the time of the theft;
- ▶ A claim for restitution of a cultural object forming an integral part of an identified monument or archaeological site, or belonging to a public collection, shall not be subject to time limitations

UNESCO's role in settling disputes

- ▶ The Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in case of Illicit Appropriation
- ▶ Other mechanisms

Thank you

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