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International Law Association, Committee on Cultural Heritage Law (London, England, May 17-18, 2007)

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The Committee on Cultural Heritage Law of the International Law Association (ILA) held an interim meeting in London on May 17–18, 2007. After completing the work on the Principles for Cooperation in the Mutual Protection and Transfer of Cultural Material¹ on the occasion of the Seventy-Second Conference in Toronto 2006, the committee has now two projects on its agenda. The first one is concerned with a study of the concept of safe havens for temporary deposit of cultural material rescued from circumstances of armed conflict and other serious threats; the second study deals with the relationship between international trade law and cultural heritage law.

At the London meeting, the committee started the discussion on the safe havens project based on a profound study prepared by Kurt Siehr. The committee was also grateful to obtain some critical written comments on this draft by Lyndel Prott sharing some of her practical experience at UNESCO. Although she could not attend the meeting personally, the committee carefully considered her comments. The idea of creating “safe havens” for endangered cultural material was first established by Lord Renfrew in connection with the problem of illegally excavated archaeological objects. Currently, these objects are almost taboo for archaeologists, because their code of ethics prohibits both exhibiting and publishing them. Although this might be a well-intentioned approach to ban such objects from art research and the art market and to finally deter illegal excavations, the question of storage and preservation of these objects remains totally unsolved. Therefore, creating safe havens as special entities for the storage and preservation of such material could be helpful. Apart from illegal excavation of archaeological objects there are also other situations in which “deposits” for endangered cultural material are needed; that is in times of armed conflict, natural disasters, or because of insecurity in the country of origin.

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The committee meticulously reviewed the draft guidelines on safe havens prepared by Siehr. These deal with issues such as the establishment and supervision of safe havens, a catalog of the safe havens obligations, and the duties of source countries or source entities. It is crucial that the aim of a safe haven is a temporary safekeeping for the time of danger. Accordingly, the objects must be returned once they are no longer in jeopardy. The institution providing a safe haven shall be reasonably compensated for costs of deposit and conservation. Conversely, any revenue collected by the hosting institution (e.g., by exhibitions, which should be allowed) may only be used for costs of safekeeping and preservation. One open question might still be whether a safe haven should be seen as a permanent institution or entity ready to provide for safekeeping objects in jeopardy or just as a legal instrument (similar to a trust) that only exists once a situation of necessary safekeeping appears. Based on these fruitful discussions by the committee, a slightly redrafted version of the guidelines on safe havens shall be ready for adoption by the committee for the Biennial Conference of the ILA held in Rio de Janeiro in August 2008.²

The committee also started its discussions on the second project dealing with the relationship between cultural heritage law and international trade law. The discussion focused on two memos prepared by Sabine von Schorlemer and Bob Paterson. It was decided to first limit the focus of this project to article XX(f) of the General Agreement on Tariffs and Trade (GATT) 1994 dealing with a qualified general exception from the otherwise prescribed rules for national measures “imposed for the protection of national treasures of artistic, historic or archaeological value.” This subject matter was further discussed at the Rio Conference in August 2008.

ENDNOTES

1. Compare with *International Journal of Cultural Property*, 409 ss.
2. ILA, Rio de Janeiro Conference (2008), Cultural Heritage Law, p. 1.

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