Implementation of Council Regulation (EEC) No 3911/92 on the export of cultural goods and Council Directive 93/7/EEC on the return of cultural objects unlawfully removed from the territory of a Member State

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PURPOSE : to present a report relating to the export of cultural goods and the return of cultural objects unlawfully removed from the territory of a Member State. CONTENT : in the context of the operation of the single market, Regulation 3911/92/EEC and Directive 93/7/EEC seek to reconcile the fundamental principle of free movement of cultural goods with that of the protection of national treasures. The Regulation introduces uniform controls for the prevention of exports of cultural goods at the external borders of the Community, which allow the competent authorities of the Member State from which the cultural goods are to be exported to a third country to take the interests of the other Member States into account. The Directive, on the other hand, complements this preventative instrument by providing mechanisms and a procedure for restoring national treasures when these have been unlawfully removed from the territory of a Member States. Thus, given the complementary relationship between Regulation 3911/92/EEC and Directive 93/7/EEC, the Commission felt it appropriate to produce a single report reviewing the application of both acts. As the Member States had not yet submitted a report, the Commission sent them a questionnaire in 1996. It was not possible to complete this exercise as most of the reports and answers received were unusable. As soon as the Directive was transposed in all Member States, the Commission sent out questionnaires in May 1999 on its application and on that of the Regulation. The Member States' replies to this questionnaire, and the discussion of these replies in the meeting of the Advisory Committee on Cultural Goods of 30 November 1999, provided the Commission with sufficient information to draw up this report. Overall, it is clear from the general tenor of the replies to the questionnaire sent to them that Member States themselves realise that the slow progress in implementing the Directive in national law delayed its application. This has meant that the actual period of application has not been long enough to make valid assessment of its effectiveness. Nevertheless, several States have noted that the Directive has had a major impact in raising awareness among the various parties concerned about the protection of cultural goods in the various Member States. As far as the public authorities are concerned, it would appear the cooperation between authorities both at national level has not taken any practical shape. This is because, according to most Member States, there is not enough information on the cultural goods leaving the territory of a Member State unlawfully. Furthermore, all Member States found it difficult or even impossible to give a proper answer to the question relating to evaluating the phenomenon of unlawful transfers of cultural goods since the Directive entered into force. This is due to the lack of specific information on the actual working of the Directive. Finally, as the Commission has already stressed insufficient time has passed for it to make a valid assessment of the real effectiveness of the Directive's operation. Consequently, it would be premature for the Commission to propose at this stageamendments to the material provisions of this instrument. Nevertheless, the Commission considers that, on the basis of the general trend emerging from the information supplied by the Member States, the Directive has made Member States and private operators aware of the need to support improved protection for cultural goods at European level, something which did not exist before. The positive development should be reinforced in the future by further improvements to the system set up by the Directive and to its operation, namely imparting a structure to administrative cooperation and to the information to be exchanged.