

Kingdom of Cambodia
Nation – Religion - King

Cambodian National Report
on the Implementation of the 1954 Hague Convention
for the Protection of Cultural Property in the Event of
Armed Conflict

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I. Introduction

Cambodia's rich cultural heritage and conflict-ridden modern history has made the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict ("1954 Hague Convention") a particularly important international legal instrument in Cambodia.

The deadly clashes that have taken place numerous times near the Temple of Preah Vihear over the past few years have drawn even more attention to the 1954 Hague Convention. The temple's physical proximity to the Thai-Cambodian border has caused the 900-year-old monument to fall victim to a decades-long border dispute between Thailand and Cambodia. Though an International Court of Justice ("ICJ") judgment awarded the temple to Cambodia in 1962, sovereignty over the area around the monument remains a point of contention to this day. The two countries both claim a 4.6-square-kilometer mountainous area adjacent to the temple as their own.

This ongoing tension and conflict has motivated Cambodia to examine the availability of instruments it can utilize to protecting the 900-year-old Hindu temple. And naturally, Cambodia has reached for the 1954 Hague Convention, which it ratified in 1962. Today, the country is working to comply with the provisions to the best of its ability as well as exploring the benefits it can stand from 1954 Hague Convention.

Cambodia has also seen two other particularly noteworthy developments since submitting its first periodical report on the implementation of the 1954 Hague Convention in 2010.

First, Cambodia has invested time in assessing the compatibility between national law and obligations under the 1954 Hague Convention. Assessing past and current national measures to implement the 1954 Hague Convention has allowed Cambodia to understand the shortcomings of existing measures. Moreover, Cambodia has verified what measures remain to be taken in order to honor the obligations it had undertaken when it became a State Party to the 1954 Hague Convention. Cambodia is currently particularly interested in taking measures that would ensure wider dissemination of the rules

protection cultural property in the event of armed conflict within the military as well as in the civil sector as a whole.

Second, as of July 2012, the Cambodian government is strongly considering the issue of whether to sign and ratify the 1999 Second Protocol to the 1954 Hague Convention.

The above-mentioned developments reflect Cambodia's ongoing commitment to the 1954 Convention. Moreover, they go further to demonstrate the country's maturing attitude towards the Convention as well as strengthen the foundation for future endeavors.

This report provides information regarding the measures Cambodia has taken in an effort to comply with the 1954 Hague Convention and the First Protocol. In "II. The Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict," which immediately follows, each issue is composed of two parts – "General Remarks" and "Recommendations." The former documents past and present measures, whereas the latter lists suggestions Cambodia may want to take into consideration when determining future measures. The next chapter, "Specific Recommendations," is a compilation of reports, which discuss issues, more in-depth, dealt with in the 1954 Hague Convention and the two Protocols and Cambodia finds to be particularly relevant today.

II. 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict

II.1. Safeguarding of Cultural Property

Cambodia has undertaken a number of measures to safeguard its Cultural Heritage.

a. Legislation

General Remarks

The National Law on the Protection of Cultural Heritage (NS/RKM/0196/26) was adopted in February 1993 and promulgated in January 1996 (*see Annex 3 for full text of law*). The legislation was

motivated by the set of recommendations made by the World Heritage Committee in 1992, when Angkor was inscribed onto the World Heritage List of Danger. The Sub-Decree Respecting Implementation of Cultural Heritage Protection followed in 2002 (*see Annex 4 for full text of law*). Additional Royal Decrees were passed subsequently to establish a zoning system (001/NS) and the National Authority for the Protection and Management of Angkor and the Region of Siem Reap (“APSARA,” NS/RKT/0295/12), which is responsible for the protection and development of Angkor. Angkor, as a result of the successful efforts in managing, conserving and restoring the site, was removed from the World Heritage List in Danger in 2004.

In the early 2000s, several Royal Decrees and Sub-Decrees were passed to secure protection of the Temple of Preah Vihear. They include, among others, the Royal Decree on the Establishment of Preah Vihear Temple Site (NS/RKM/0303/115), Royal Decree on the Creation of Preah Vihear National Authority (“ANPV”), and Sub-Decree on the Establishment of the Administrative Board of ANPV. As a result of the above-mentioned efforts, the Temple of Preah Vihear was inscribed on the World Heritage List in 7 July 2008.

Recommendations

- (1) It is suggested that legislation be revised so it includes provisions that explicitly address the matter of cultural heritage protection in the event of armed conflict and in natural disasters. For example, provisions expressly banning the requisition, repression, attack, and use of cultural heritage purposes during armed conflict should be added.

b. Identification and Inventories

General Remarks

The General Department of Cultural Heritage, which Cambodia’s Ministry of Culture and Fine Arts established in 2003, manages archeological sites, antiquities, the Division for Safeguarding and Preservation of Ancient Monuments, and the National Museum.

The Division for Safeguarding and Preservation of Ancient Monuments is responsible for the inventorying of immovable cultural property. It has identified 400 some sites to date. In doing so, the Division collaborated with institutions like the École Française d'Extrême Orient, which has been carrying out inventorying efforts since the early 20th century. And collaborations continue to this day as the Division is currently in the process of documenting the following information for each site: location, general details, type of site, details of its origin, photographs, and plans of the sites. The public can access the inventory via the Internet at <http://www.site-archeologique-khmer.org/index.php>.

Moveable cultural properties in Cambodia are identified and documented by different institutions including the École Française d'Extrême Orient, National Museum of Cambodia, and Preah Norodom Sihanouk-Angkor Museum. The lack of a single unified inventory makes it difficult to draw an estimate of moveable cultural properties registered for protection in Cambodia.

Recommendations

- (1) It is strongly suggested that a single national database be created for moveable cultural property.

While the existing system of having different institutions keep track of their own inventories may not be creating problems now, but in the case of emergency such a system may prove to be inefficient. Overlap of documentation in the different inventories may cause personnel from each institution to respond individually, which will cause the loss of valuable time and money. A single database would allow more efficient coordination between the inventory keeper and personnel designated by the government to act during an emergency. Therefore, it is suggested that a department devoted to the national inventory of moveable cultural property be created within the Ministry of Culture and Fine Arts like the Division for Safeguarding and Preservation of Ancient Monuments.

- (2) It is suggested that as many records of both moveable and immovable cultural property as possible be digitalized. The creation of a digital back up system would allow documentation to better serve its purpose, which is to enable authorities to restore or rebuild cultural property when

it has been damaged or destroyed. If for any reason, it is either not possible to carry out restoration or reconstruction, the documentation will nonetheless serve as a valuable scientific record and testament.

c. Emergency Measures for Protection against Armed Conflict or Natural Disaster

General Remarks

The severe lack of security and emergency measures for protection against armed conflict or natural disaster has been brought to the attention to relevant authorities.

Recommendations

- (1) It is suggested that the UNESCO Office in Phnom Penh assists Cambodia in drafting special emergency plans for the protection of cultural property in the event of armed conflict aimed at protecting, safeguarding, and safekeeping of national treasures against destruction and looting in the event of war.
- (2) It is suggested that the government designate competent authorities responsible for the transit of cultural property during armed conflict. Persons entrusted with the protection of cultural property should ideally be recruited among professionals employed by museums, libraries, archives, restoration agencies, etc. In other words, the task should be put in the hands of those with the requisite know-how.
- (3) It is suggested that “Benchmarks in Collection Care for Museums, Archives and Libraries. A Self-Assessment Checklist” is translated into Khmer and distributed to relevant authorities.
- (4) It is suggested that Cambodia build shelters especially designed for protection. For the safekeeping of the cultural property for long periods of time, the shelter should be built so that it maintains suitable physical conditions.

d. The Temple of Preah Vihear

General Remarks

Skirmishes between the Thai and Cambodian military started to erupt near the Temple of Preah Vihear in July 2008, when Cambodia's bid for inscription of the temple on the World Heritage List was approved by the World Heritage Committee. But the situation took a turn for the worst in October 2008, when rocket and rifle fire near the temple brought about casualties. Out of growing concern over the safety of the temple, Cambodian authorities responded quickly in the immediate aftermath of the confrontation by putting up signs bearing the distinctive sign of the 1954 Hague Convention around the site.

With each country having secured soldiers on their respective side of the border, tension prevailed. And the clashes continued – occurring in April 2009 and again in January 2010 – further adding to the death toll and damage to the temple.

But the worst had yet to come – 4 February 2011 marked the start of the hostilities that would continue on and off for the following two months. The situation was grave enough to seize the attention of the UN Security Council, which urged for cease-fire and the deployment of ASEAN military observers to ensure that cease-fire is enforced. But it was only in April – after more than 15 deaths, dozens of wounded soldiers and civilians, displacement of thousands of citizens, and significant damage to the temple – that the Thai and Cambodian military commanders agreed on a cease-fire.

Following the February 2011 conflict, a group of Cambodian conservators from the APSARA National Authority Stone Conservation Unit and ANPV technicians were commissioned to carry out a survey of the damage at the Temple of Preah Vihear. Their report noted 414 new impact points on the temple in 13 different locations. The assessment displayed how the impact points varied in size and shape having resulted from small arms fire, medium caliber weapons, and even blasts and shrapnel damage from heavy artillery.

Most recently, Simon Warrack, ICCROM consultant and stone conservator, assessed the temple's condition at the request of the APSARA National Authority. Following a mission that took place in December 2011, the expert presented his findings in a report featuring a visual assessment of the damage

and emergency conservation proposals. His report made clear that the damage to the monument was obvious and would increase in the absence of conservation and consolidation programmes on the impact points. It also called for a budget for the needed materials and logistics needed for conservation efforts as well as further research and study (*see Annex 5 for full text of report*).

The ICJ on 18 July 2011, in an effort to defuse tension at the Thai-Cambodia area, mapped out a 17.3-square-kilometer provisional demilitarized zone (PDZ) adjacent to the temple to further prevent irreparable damage from occurring. The ICJ also imposed restrictions on the armies and police forces of both Cambodia and Thailand by ordering them to immediately withdraw their respective military personnel present in the zone and refrain from any military presence within that zone and from any armed activity directed at that zone with the exception of ASEAN observers.

On 13 July 2012, just a few days shy of the one year mark of the 2011 ICJ ruling, Prime Minister Hun Sen and his Thai counterpart, Yingluck Shinawatra, announced that both countries would be pulling their troops out of the temple area. According to local reports, 485 Cambodian soldiers, in the presence of the Defense Minister General Tea Banh, took part in a ceremony on 18 July that made the pullout official. It has not been reported how many Thai soldiers have been withdrawn. While both countries have announced that armed border police officers will take the place of soldiers in the disputed area, it remains to be seen how “demilitarized” the PDZ will in fact remain and whether ASEAN observers will come to monitor the area. Cambodia has repeatedly expressed its desire to have observers ensure cease-fire, whereas Thailand is maintaining its original position that outside intervention is unnecessary and bilateral talks are the best way to resolve issues (*see Annex 6 for compilation of media reports on Preah Vihear*).

Recommendations

- (1) It is strongly suggested that UNESCO look beyond the conflict and assist Cambodia in preservation and restoration work at the Temple of Preah Vihear.
- (2) It is strongly suggested that UNESCO assist the government in promoting the 1954 Hague Convention as widely as possible. It is essential that Cambodia knows what tools it has at hand to

protect its cultural heritage from armed conflict and what rights it is entitled to as a State Party to the Convention.

II.2. *Military Measures*

a. Heritage Police

General Remarks

The Heritage Police Force guard major cultural heritage sites to prevent pillaging and destruction. As a part of the National Police Force, Heritage Police comes under the jurisdiction of the Ministry of Interior. Today, 538 Heritage Police Officers serve in and around the site of Angkor, the Temple of Preah Vihear, and other cultural sites.

Since the Heritage Police Force was established in 1994, different institutions like the French Embassy, FBI, UNESCO and various NGOs have provided support in the form of donations and training sessions. The Force has received donations of office equipment, computers, and automobiles. In terms of training, sessions have been held numerous times but they have been limited to basic police skills and are held on an irregular basis. Although high-ranking officers have participated in workshops covering International Humanitarian Law (“IHL”), the lack of resources and know-how make it difficult for those who have been trained to train others.

In March 2012, The Heritage Police Force requested assistance from the UNESCO Office in Phnom Penh in regards to capacity building.

Recommendations

- (1) It is suggested that, as at present the Heritage Police are not being educated on the 1954 Hague Convention, the UNESCO Office in Phnom Penh help arrange training on the Convention.
- (2) It is suggested that, if the above recommendation is not feasible, the UNESCO Office in Phnom Penh help to see to it that the Heritage Police are invited to workshops dealing with the Convention.

- (3) It is suggested that UNESCO Office in Phnom Penh help coordinate information sharing between the Heritage Police, Ministry of Culture and Fine Arts, Ministry of Defence, APSARA National Authority, and Preah Vihear National Authority. At present, Heritage Police are deployed on an ad hoc basis at the order of the Ministry of Culture. Also, the Heritage Police must only do with maps they are supplied with on an irregular basis. Information sharing among the different ministries would allow the Heritage Police to know of newly marked cultural heritage and archeological sites and ultimately enable the Force to have a better understanding of the larger scheme of protection.

b. Military

General Remarks

The Cambodian armed forces are not formally trained on the 1954 Hague Convention nor is it reflected in military regulations and instructions. However, the military has made numerous requests over the years to the UNESCO Office in Phnom Penh for assistance to start training.

It is important that the UNESCO Office in Phnom Penh provide support and assistance because the National Commission for the Protection of Cultural Goods in the Case of Armed Conflict exists in name only (this is discussed in more detail in “IV. Resolution II of the 1954 Hague Conference”). The armed forces ultimately would like integrate International Humanitarian Law (IHL) including the 1954 Hague Convention in all levels of military training.

In Spring 2012, the UNESCO Office in Phnom Penh initiated correspondence with the International Committee of the Red Cross (“ICRC”) with hopes of future collaboration regarding military training. The start of training on IHL including the 1954 Hague Convention remains a high priority in Cambodia so training is expected to start in the near future in one form or another.

Recommendations

- (1) It is suggested that the Law on the Protection of Cultural Heritage be revised so that the law features instructions for:

- participation of the armed forces when work is done on immovable cultural property in the event of armed conflict or other extreme situations
 - preparation of itineraries for military and industrial transporting of hazardous cargo in order to circumvent cultural property protected under the 1954 Hague Convention
 - evacuation of moveable cultural property and plans for them to be kept in museums, archives, and other spaces storing objects needing protection
- (2) It is suggested that the obligations under 1954 Hague Convention is widely disseminated to the armed forces. It must be noted that dissemination must not stop at horizontal dissemination - vertical diffusion of the Convention is just as important. It goes without saying that training should be held subject to high ranking officers but it is just as important to make sure that lower ranking officers and soldiers are educated as well.
- (3) It is suggested that the UNESCO Office in Phnom Penh advise on and arrange ad hoc trainings by foreign IHL experts for instructors. The following are examples of themes which may be covered:
- definitions of “cultural property,” “protection” and “respect”
 - history of Cambodian cultural heritage from the past to the present
 - need to protect cultural heritage
 - Additional Protocols of 1977 to the Geneva Conventions of 1949
 - 1954 Hague Convention and its two (1954, 1999) Protocols
- (4) It is suggested that the Council of Ministers (or Ministry of Culture and Fine Arts, depending on which body will house the National Committee for the Protection of Cultural Goods in the Case of Armed Conflict) and the Ministry of Defence sign a sort of Memorandum of Cooperation. Such cooperation would ensure effective protection of cultural heritage by the military both in Cambodia and during international peacekeeping missions. The National Committee for the Protection of Cultural Goods should coordinate all that is agreed under the memorandum of cooperation.
- (5) It is strongly suggested that the Cambodian armed forces establish direct relations with the ICRC. It is worth noting the collaboration between the Former Yugoslav Republic of Macedonia (FYROM)

and the Office of the ICRC in Skopje in 2000. According to the FYROM's National Report for the Implementation of the 1954 Hague Convention, the ICRC started training instructors in the army. Such training enabled the instructors to start the integration of IHL within the army. The ICRC also offered scholarships to instructors from various backgrounds (operational officers, medical officers, and lawyers) from outside the FYROM. Two years of cooperation resulted in the publishing of a manual titled "Law on Armed Conflicts for the Armed Forces."

- (6) It is suggested, if the above recommendations can not be realized due to political reasons, that "legal advisors" be appointed to advise Cambodian military leaders. Such special personnel would advise the military in the theatre of operations and to promote respect for cultural property. Legal advisors could examine the legal basis of orders and rules of procedure making sure that IHL is taken into account. They could also be consulted to provide legal appraisal of possible targets. The 1954 Hague Convention would be one of the texts which underpin the legal advisor's recommendations.

II.3. Granting of Special Protection

General Remarks

Cambodia currently has no pending requests for registration on the International Register of Cultural Property Under Special Protection.

Recommendations

- (1) It is suggested that, as the success of arrangements for special protection has proven very limited, upon ratifying the 1999 Second Protocol, Cambodia try applying for Enhanced Protection for cultural sites it feels needs a higher form of protection.

II.4. The Distinctive Emblem

General Remarks

The distinctive emblem of the 1954 Hague Convention was put up in and around Angkor as early as the 1960s. More recently, in the aftermath of the October 2008 conflict between Cambodia and Thailand near the border dividing the two countries, local authorities put up signs bearing the emblem at various points on the site of the Temple of Preah Vihear.

In March 2009, Professor Jiri Toman of Santa Clara University School of Law, during a 1954 Hague Convention Awareness Raising Workshop organized by the UNESCO Office in Phnom Penh, advised participants on the proper use of the emblem. Participants consisted of officials from the Council of Ministers, Ministry of Culture and Fine Arts, APSARA National Authority, Preah Vihear National Authority, the National Museum, and the Tuol Sleng Genocide Museum. The workshop was held in part at the Ministry of Culture and Fine Arts and on-site at Tonle Bati, Takeo Province. During a session held at the site of Taprum Temple in Takeo Province, Professor Toman explained where and in what manner the emblem should be displayed.

At present, there are no criteria for selecting cultural property to bear the emblem. Decisions to put up signs are made ad hoc.

Recommendations

- (1) It is suggested that the Law on the Protection of Cultural Heritage be revised so that the law defines practical guidelines for the use of the distinctive sign of the 1954 Hague Convention. The rules would concern the selection of cultural property to bear the emblem, proper marking, and placement of signs on objects, sites, sleeves of personnel transporting objects when during conflict, and automobiles.
- (2) It is suggested that a provision be added to the criminal code penalizing misuse of the distinctive emblem of the 1954 Hague Convention and other international signals.
- (3) It is suggested that all cultural property bearing the distinctive emblem of the 1954 Hague Convention be registered in a database which can be accessed by relevant government agencies and institutions.

- (4) It is suggested that objects and sites bearing the emblem be marked on maps and shared with the armed forces and relevant civilian authorities and or/ have map legends feature the Blue Shield. The maps should be kept to date and be shared all relevant agencies.
- (5) It is suggested that sustainable efforts be made to promote the meaning and context of the Blue Shield and discourage the unauthorized use or misuse of the emblem.
- (6) It is suggested that, pursuant to Article 20 (Affixing of the Emblem), designated authorities responsible for the transit of cultural property during armed conflict shall display the distinctive emblem on armlets on which the emblem is painted on or represented in any other appropriate form. It is also suggested that such person carry a special identity card bearing the distinctive emblem. This card should feature the full name, date of birth, title or rank, and role the person concerned carries out. It should also bear the photograph of the holder as well as his/her signature or fingerprints (or both). A model identity card is featured in the Annex to the Regulations of the 1954 Hague Convention.

II.5. Dissemination

General Remarks

The need for wider dissemination of the 1954 Hague Convention is being called for now more than ever, especially after the numerous unfortunate clashes in the vicinity of the Temple of Preah Vihear in recent years.

Following the success of the 1954 Hague Convention Awareness Raising Workshop held in 2009, the Cambodian authorities have repeatedly made requests to the UNESCO Office in Phnom Penh for more training. The Cambodian armed forces, in particular, have made requests on several occasions to the UNESCO Office in Phnom Penh for assistance to start of training of IHL. In February 2012, the Ministry of Culture and Fine Arts also requested assistance from UNESCO in the organization of workshops for cultural heritage professionals, who could upon completion of the sessions train others.

In response, the UNESCO Office in Phnom Penh advised that the 1954 Hague Convention should be promoted to not only government authorities and the armed forces, but the general public as well. The UNESCO Office in Phnom Penh will continue to, upon request advise on, facilitate, and provide technical support regarding dissemination efforts.

Recommendations

- (1) It is suggested that the UNESCO Office in Phnom Penh make it a priority to assist the government in promoting the 1954 Hague Convention. It is essential that Cambodia knows what tools it has at hand to protect its cultural heritage from armed conflict and what rights it is entitled to as a signatory to the Convention.
- (2) It is suggested that the UNESCO Office in Phnom Penh help arrange collaborations between the Council of Ministers (or Ministry of Culture and Fine Arts, depending on which body will house the National Committee for the Protection of Cultural Goods in the Case of Armed Conflict) and the Cambodian Red Cross. Cambodia may take inspiration from the Belgian Red Cross, as described in its Periodic Report on the Implementation of the 1954 Hague Convention and its Protocols for 2005-2011, and such collaboration could result in training sessions and brochures designed to raise awareness among the public.
- (3) It is suggested that UNESCO Office in Phnom Penh facilitate correspondence between the Association of National Committees of the Blue Shield and groups interested in helping establish a Cambodian National Committee of the Blue Shield. National Committees of the Blue Shield are non-governmental organizations that have been established in 19 states with 19 more currently under construction. The principle goal of national committees is to raise awareness among cultural heritage professionals, the armed forces, and general public.
- (4) It is suggested that UNESCO Office in Phnom Penh continue to organize training sessions similar to the Professor Jiri Toman-led workshop of 2009. These workshops could be held subject to different target groups like the government, military, and students.

II.6. *Translation Reports*

General Remarks

The 1954 Hague Convention was officially translated into Khmer and submitted to the Parliament before it was ratified in 1962. The Khmer translation of the Convention is already in the possession of the Secretariat of UNESCO.

II.7. *Sanctions*

General Remarks

Sanctions in relation to violations of the 1954 Hague Convention are not provided for in the Cambodian penal code. This has been brought to the attention of local authorities.

Recommendations

- (1) It is suggested that either the Law on the Protection of Cultural Heritage or the penal code be revised to better ensure that respect for the protection of cultural property is obligatory to both civilians and military personnel. Violations of the Convention should result in monetary or penal sanctions.

III. The 1954 (First) Protocol

General Remarks

Cambodia has never invaded nor occupied any country or part of another country's territory.

Recommendations

- (1) It is suggested that Cambodia revise the Law on the Protection of Cultural Heritage. Although laws protecting the illegal export of its own moveable cultural heritage are in place, there are no laws concerning the export of cultural property from a territory occupied by it and thus requiring the return of property to the State from which it was removed.

IV. Resolution II of the 1954 Hague Conference

General Remarks

Cambodia, in 1970, eight years after ratifying the 1954 Hague Convention, established the National Commission for the Protection of Cultural Goods in the Case of Armed Conflict. It was authorized to overlook implementation efforts related to the Convention. Unfortunately, today this body exists in name only. However, taking into account Cambodia's conflict-ridden modern history and the recent clashes at the Cambodian-Thai border, the government is discussing the relaunching of the National Commission for the Protection of Cultural Goods in the Case of Armed Conflict.

The UNESCO Office in Phnom Penh is aware of such discussions and prepared to provide assistance in defining the composition and main functions the National Commission for the Protection of Cultural Goods in the Case of Armed Conflict should ideally be charged with.

Recommendations

- (1) It is strongly suggested that the UNESCO Office in Phnom Penh provide support in reestablishing the National Commission for the Protection of Cultural Goods in the Case of Armed Conflict.
- (2) It is suggested that the UNESCO Office in Phnom Penh advise the personnel involved in reestablishment process that the National Commission for the Protection of Cultural Goods in the Case of Armed Conflict should assess and streamline existing implementation efforts and ultimately lay out an overarching implementation master plan.

V. The 1999 (Second) Protocol

General Remarks

Cambodia is currently discussing the issue of signing and ratifying the 1999 Second Protocol to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict.

Recommendations

(1) It is strongly suggested that Cambodia ratify the 1999 Second Protocol as it complements the 1954 Convention by elaborating the provisions of the Convention thereby allowing cultural property to enjoy greater protection than before. By ratifying the 1999 Second Protocol of 1999, Cambodia may benefit from the following:

- the scheme of Enhanced Protection (Article 10)
- the Fund for the Protection of Cultural property in the Event of Armed Conflict (Article 29)

VI. Specific Recommendations

V1.1. National Commission for the Protection of Cultural Goods in the Case of Armed Conflict

I. Introduction

Cambodia ratified the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict (“1954 Hague Convention”) in 1962. And in 1970, the government established the National Commission for the Protection of Cultural Goods in the Case of Armed Conflict (“National Commission”).¹ However, today this body exists in name only.

Taking into account Cambodia’s conflict-ridden modern history and the recent clashes at the Cambodian-Thai border, the need to establish a government body specially devoted to the 1954 Hague Convention has been voiced often in recent months. This memo serves to propose the revival of Cambodia’s defunct National Commission and goes further to suggest the functions it is to provide as well as the task it should carry out.

II. Background

The concepts of “protection,” “safeguarding,” and “respect” serve as the foundation of the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict (“1954 Hague Convention”). Expanding on these core concepts, the 1954 Hague Convention requires State Parties to take measures to preserve their cultural property.

As if understanding the above-mentioned concepts in the context of the Convention was not difficult enough already – State Parties must thereafter take on the challenge of “implementation.” Implementation should be a collected effort of relevant government agencies. As responsibility for

¹ Not to be confused with the Cambodian National Commission for UNESCO.

determining the methods and forms of protection rests with each individual State Party, it is essential that Cambodia designate a government body capable of taking initiatives, presenting recommendations, and facilitating cooperation among different agencies.

Cambodia must realize that effective implementation is crucial because poor practical application of the 1954 Hague Convention may render its intent and efforts to protect, safeguard, and respect useless in times of conflict.

1. Relevant Provisions

1) Article 2 – Protection of Cultural Property

Article 2 lays out a general definition of protection – it is comprised of the “safeguarding of” and “respect” for cultural property.² According to the authors of the UNESCO Draft, “safeguarding” refers to all the “positive steps”³ for “ensuring the best possible material arrangements for the protection of cultural property.”⁴ On the other hand, “respect” is negative in character in that it represents an obligation to “avoid the use of the property or the use of its immediate vicinity for purposes which might expose the property to destruction or damage in the event of armed conflict.”⁵

2) Article 3 – Safeguarding of Cultural Property

The State Parties, by virtue of Article 3 of the 1954 Hague Convention, “undertake to prepare in time of peace for the safeguarding of cultural property situated within their own territory against the foreseeable effects of an armed conflict, by taking such measures *as they consider appropriate*.”⁶

a. “as they consider appropriate”

² The 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, Article 2.

³ UNESCO Draft, Article 2

⁴ Toman, Jiri, *The Protection of Cultural Property in the Event of Armed Conflict*, Dartmouth Publishing Company, 1996, p.60

⁵ UNESCO Draft, Article 2.

⁶ The 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, Article 3 (Emphasis added).

Implicit in this language is the principle of internal freedom of action. In other words, the language gives a great deal of latitude to the State Parties in organizing the safeguarding measures they wishes to take. State Parties may base their decisions on the financial, material, and technical resources they have at hand.⁷ State Parties have exclusive responsibility as to how it will protect and control.

3) Resolution II of the Hague Conference 1954

It is essential to designate a government body that will overlook the implementing of the 1954 Hague Convention. The text does not specify which body should be charged with such a responsibility but the 1954 Conference did lay out guidelines in the form of recommendations.⁸ Resolution II suggests that the State Parties set up a “national advisory committee” that would be authorized to implement the provisions of the 1954 Hague Convention.

In accordance to Resolution II, Cambodia launched the National Commission in 1970. However, as mentioned above, this body is defunct as of July 2012.

III. Relaunch of National Commission for the Protection of Cultural Goods in the Case of Armed Conflict

As recent as March 2012, the Cambodian military confirmed to UNESCO Office in Phnom Penh that gunshots go off near the Temple of Preah Vihear.⁹ Military and civilian observers have obviously not yet arrived at the Cambodian-Thai border as called for by the UN Security Council in February 2011.

Cambodia should this time of peace as an opportunity to plan a strategic and calculated approach to protecting Cambodia. The first step would be to relaunch a government agency that would streamline existing implementation efforts and stand behind an overarching implementation master plan.

⁷ Toman p.61.

⁸ Id.

⁹ Suos Yara, E-mail to author, 22 March 2012. Yara, Suos,

1. Functions and Composition

Resolution II suggests that the composition and main functions committee charged with implementation be defined. The following section aims to set out guidelines for the National Commission.¹⁰

1) Function

As mentioned above the National Commission should be the mastermind behind a nationwide implementation plan regarding the 1954 Hague Convention. The body should deliberate to take to take needed initiatives, present recommendations to the appropriate agencies and personnel, facilitate coordination among different State bodies and institutions, and cooperated with relevant organizations.

2) Tasks

The following are some examples of tasks that the National Commission could take on:

- preparation, maintenance, and regular update of inventories of cultural property;
- adoption of the necessary measures to ensure the protection of cultural property in the event of armed conflict or other situations of emergency, including preparation of documentation and identification of refuges for moveable cultural property;
- designation of competent authorities responsible for the transit of cultural property during armed conflict;
- drafting of special emergency plans for the protection of cultural property in the event of armed conflict aimed at protecting, safeguarding, and safekeeping of national treasures against destruction and looting in the event of war;
- identification of cultural property which may be considered for entry in the International Register of Cultural Property under Special Protection;¹¹
- consideration for marking of immovable cultural property with the distinctive emblem of the 1954 Hague Convention;

¹⁰ It is important to note that what follows is not intended to be an exhaustive list but merely a starting point and hopefully a source of inspiration for the creation of new tasks.

¹¹ If and when Cambodia ratifies the 1999 Second Protocol to the 1954 Hague Convention, the National Commission may also consider registering cultural property on the List of Cultural Property under Enhanced Protection.

- training of specialized civilian and military personnel responsible for the protection of cultural property in the event of armed conflict;
- assist in preparing texts and explanations of provisions of International Humanitarian Law for the protection of cultural property in the event of armed conflict in military manuals
- ensuring the widest possible dissemination of the rules protecting cultural property in the event of armed conflict within concerned target groups such as the armed forces, law enforcement officers, civil servants, cultural heritage professionals, as well as in the civil society as a whole;
- the inclusion of the subject of the protection of cultural property in the event of armed conflict in curricula and training of different educational institutions, both civilian and military; and
- facilitating of information sharing between different institutions.

3) Composition

Responsibilities must be shared between different government bodies for implementation efforts to be most effective and efficient. The division of responsibilities concerning cultural heritage protection varies from State to State. In the case of Cambodia, it is suggested that the National Commission be composed of personnel from the following agencies:

- ASPARA National Authority
- Preah Vihear National Authority
- Council of Ministers
- Ministry of Culture and Fine Arts
- Ministry of Affairs
- Ministry of Defence
- Ministry of Education
- National Museum
- Royal University of Fine Arts
- Cambodian National Commission for UNESCO

To ensure necessary coordination and communication among the various government bodies, it is suggested that the National Commission be positioned under the wing of the Council of Ministers.

IV. Conclusion

It is strongly suggested that Cambodia take this time of peace to relaunch the National Commission for the Protection of Cultural Goods in the Case of Armed Conflict. This body should be responsible for laying out a strategic implementation strategy to protect cultural property as soon as possible because if and when another armed conflict occurs – it will already be too late.

V1.2. UNESCO – NGOs, Potential Partnerships in Implementing the 1954 Hague Convention

I. Introduction

Political barriers currently stand in UNESCO's way of taking practical action related to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict ("1954 Hague Convention") at the Temple of Preah Vihear. And inevitable it has become that UNESCO is cautious, perhaps even hesitant, to apply the 1954 Hague Convention in Cambodia altogether. As a result, there has been very little development in efforts to implement the 1954 Hague Convention since 2011.

While it is true that UNESCO is unable to actively utilizing the 1954 Hague Convention, UNESCO should make an effort to look beyond the conflict. After all, assisting States in cultural heritage protection is one UNESCO's fundamental missions.

This memo serves to examine the roles non-governmental organizations ("NGO") can play to protect cultural property and goes further to explore practical ways in which the UNESCO Office in Phnom Penh could possibly collaborate with them

II. Background

Cambodia and Thailand have yet to comply with the July 2011 International Court of Justice ("ICJ") order for a complete withdrawal of forces. Until mid-July 2011, there had been a heavy military presence in the Cambodian-Thai border area. At the Temple of Preah Vihear, there had been far more soldiers than there were visitors. Occasionally restless soldiers (Cambodian or Thai, we can not know for sure) will fire aimlessly into the air, frightening villagers.¹² Also, it is uncertain when and whether

¹² "Waiting for RI Observers at Preah Vihear," Jonathan Prentice, *The Jakarta Post*, 17 March, 2012; Yara, Suos, Undersecretary of State, E-mail to author, 21 March 2012.

ASEAN Observers will come to monitor ceasefire as called for by the UN Security Council in February 2011.

Promotion of the 1954 Hague Convention can take the form of campaigns, education or training programs, publications, etc. To such promotion efforts, NGOs play a vital role in providing direct assistance that include, but is not limited to, professional and technical assistance, specialized equipment and materials for protection and emergency conservation, and assistance with the temporary evacuation of important moveable cultural property in times of actual or threatened armed conflict.

Awareness-raising initiatives during peacetime is especially crucial in Cambodia's case because the country has not yet worked effective provisions into its national military and civilian criminal law for prosecution and imposing of sanctions upon persons having allegedly committed cultural war crimes. Only through widespread promotion of concepts like "cultural heritage," "cultural property," "protection," and "respect," will civilians and the military alike come to know just what constitutes unacceptable wartime actions and understand that such actions are followed by grave consequences.

III. NGOs

Jurists like Jiri Toman and Patrick J. Boylan have long proposed involvement of the voluntary sector in the implementation process of the 1954 Hague Convention. Boylan, in his often-referenced "Review of the Convention for the Protection of Cultural Property in the Event of Armed Conflict,"¹³ suggests that UNESCO work closely with relevant NGOs. And his reasoning is persuasive: "their non-governmental status can also give them a very considerable advantage over governmental and inter-governmental organizations in cases where there are serious political problems making the practical involvement of bodies such as UNESCO is impossible."¹⁴

¹³ UNESCO, *Review of the Convention for the Protection of Cultural Property in the Event of Armed Conflict*, Patrick J. Boylan, 1993.

¹⁴ Boylan, p.141.

It is perhaps bearing in mind a situation like the one that has resulted from the clashes near the Temple of Preah Vihear in recent years that jurists like Toman and Boylan suggested collaborations between UNESCO and NGOs. The situation we are witnessing in Preah Vihear today seems to fit the scenario Boylan describes like a glove, which is why Cambodian cultural heritage may benefit from protection efforts resulting from collaborations between UNESCO and different organizations.

NGOs are essential in the implementation of 1954 Hague Convention in the sense that it may undertake and accomplish tasks that UNESCO or Cambodia is unwilling or unable to do at this time. Awareness-raising programs led by NGOs may be excellent alternatives to UNESCO or government-led initiatives, which often entail cumbersome processes.

The following is a list of organizations that the UNESCO Office in Phnom Penh may want to consider collaborating with in the future:

1. International Committee of the Blue Shield

- 1) Overview

The International Committee of the Blue Shield (“ICBS”) plays a key role in promoting the protection of cultural property by helping implement the instruments relative thereto. The ICBS, created in 1996, is a non-governmental umbrella organization comprised of cultural heritage professionals who represent five NGOs: the International Council of Museums (ICOM); the International Council on Monuments and Sites (ICOMOS); the International Federation of Library Associations and Institutions (IFLA); the International Council on Archives (ICA); and the Coordinating Council of Audiovisual Archives Associations (CCAAA).¹⁵

- 2) Purpose

The ICBS’s principal aim is to prevent loss of or damage to cultural heritage in the event of disaster by encouraging safeguarding and respect for cultural property and works to make decision

¹⁵ These five NGOs enjoy official relations with UNESCO. They also serve as official advisors to UNESCO, International Criminal Court, etc.

makers and professional staff aware of the need to develop prevention, response, preparedness, and recovery measures.

The ICBS also encourages the establishment of non-governmental national Blue Shield committees. In addition, the ICBS was recognized in the 1999 Second Protocol to the 1954 Hague Convention, giving it a new role – to advise the Inter-Governmental Committee for Protection of Cultural Property in the Event of Armed Conflict.

2. The Association of National Committees of the Blue Shield

1) Overview

The Association of National Committees of the Blue Shield (“ANCBS”) is the association for national committees of the Blue Shield in different countries. It was established officially in coordination with the ICBS in 2008 and has its own bylaws and board.¹⁶ The Hague-based body coordinates international efforts to protect cultural property at risk of destruction in armed conflict or natural disaster. National committees have been established in 19 States to date with 19 more currently under construction.

2) Organization and Structure of National Committees

Cultural heritage professionals who are members of the ICBS’s pillar organizations band together within each country to form a Blue Shield national committee. As an NGO, it does not seek government approval for formation. The ANCBS and National Committees are meant to be independent from governments. As its principle purpose is to raise awareness about the 1954 Hague Convention and in the course of these duties national committees are sometimes called upon to criticize the actions of the government for their actions with regard to protection of cultural property. For such reasons, national committees cannot be dependent upon governments for financial or organizational structure.

¹⁶ “The ICBS and ANCBS were intended to look much like the Red Cross. ICBS is like the International Committee of the Red Cross and ANBS is like the International Federation of the Red Cross,” Corine Wegener, e-mail to author, 20 May 2012. Ms. Corine Wegener is the President of U.S. Committee of the Blue Shield. She also serves on the Board of the ANCBS as Secretary.

In countries, like Cambodia, where government officials fill the roles of representatives of the pillar organizations, difficulties may exist when seeking recognition by the ICBS. This issue will be discussed in detail in a later part of this note.

3) Path to Formal Recognition as a National Committee

The ANCBS Board can offer information to and accompany the initiative seeking formal recognition as a national committee. A typical founding procedure starts with discussions between the representatives of the national committees of ICOM, ICOMOS, IFLA, CCAAA. Next, an application including the written endorsement of the pillar organizations is submitted for formal recognition as a national committee.

It is the ICBS that will grant approval of an application. In the deliberation process, the ICBS will see whether the national initiative that wishes to seek recognition have fulfilled the set of requirements laid down by the ANCBS.¹⁷ It might help to include in the application the endorsement of additional organizations.¹⁸ The inclusion of other important and relevant groups could help further demonstrate the committee's strong commitment to honoring the spirit of the Blue Shield.

4) Benefits Enjoyed by National Committees

National committees can benefit from the communication exchanged among the different committees. Since, May 2012, the ANCBS has circulated newsletters featuring information related to training, legislative activities, upcoming events, and other Blue Shield-related projects taking place in each country. National Committees can also look to each other for advice. However, training and implementation efforts vary from one country to another to address the individual and unique situations each country is in.

¹⁷ See "Annex A." This set of requirements was approved by the ICBS at its meeting in Paris, 8 June 2001.

¹⁸ When the U.S. formed its Blue Shield National Committee, the Archaeological Institute of America and the American Institute for the Conservation of Historic and Artistic Works were included in its application for approval.

Newly launched national committees, in its initial stages, may find it helpful to draw inspiration from the projects of other national committees. For instance, the U.S. Committee of the Blue Shield organizes trainings for the U.S. military regarding their responsibilities under the 1954 Hague Convention, where it distributes texts of the Convention and provides information coordinated by experts on museums, archaeology and other aspects of cultural heritage. Trainings organized by a local Blue Shield Committee (when one is established) may be an excellent alternative to UNESCO or government-led initiatives. Such training is the kind of assistance referred to in the Boylan Review.

5) Case of Cambodia

a. Overview

Cambodia has yet to form a national committee. And the ANCBS, since its inception in 2008, has never been approached by any person or group expressing interest in launching a Cambodian Blue Shield National Committee.¹⁹ If and when a committee is established in the country, the UNESCO Office in Phnom Penh may consider looking to the committee for professional and/or technical assistance. Therefore, the UNESCO Office in Phnom Penh should watch carefully to see when a national committee is formed. If it comes to know of a person(s) planning to launch a committee, the it is encouraged to share the information provided in the note.

Both the UNESCO Office in Phnom Penh and person(s) interested in forming a local Blue Shield National Committee might also find it interesting to know that ICBS and ANCBS awareness-raising initiatives are not limited to countries that already have established committees. ANCBS Board members are often invited to speak to promote the meaning and significance of the Blue Shield in countries looking to start committees or where one is under construction.²⁰ A few years go, the ANCBS organized and conducted a workshop in Sweden at the request of local cultural heritage professionals considering the launching of a national committee. In the summer of 2012, the ANCBS will speak in Japan to encourage

¹⁹ The ANCBS, since its inception in 2008, has never been approached by any person or group expressing interest in launching a Cambodian Blue Shield National Committee. Corine Wegener, E-mail to author, 20 May 2012.

²⁰ Ms. Corine Wegener has lectured on several occasions for such purposes.

the formation of a Japanese Blue Shield National Committee. Lectures have also been held in Haiti and South Korea, both of which are not yet even signatories to the 1954 Hague Convention.

b. Suggestions/ Recommendations

As mentioned earlier, Cambodia is an example of a country where close relations lie between heritage organization representatives and the government. H.E. Mr. ROS Borath and H.E. Mr. BUN Narith, both of the APSARA Authority, preside as the Representative of the ICOMOS National Committee of Cambodia and President of ICOM National Committee of Cambodia respectively.

While this does make for a somewhat difficult situation, the formation of a national committee is not impossible as ICBS and ANCBS are used to taking into account the fact that the role of NGOs and the development of civil society vary considerably from nation to nation²¹ According to the ANCBS, ultimately, the decisive factor in granting approval is a committee's dedication and willingness to take action for protection.

However, it is still advised by the ANCBS Board that a committee be started as close to the conventional way as realistically possible. One solution for Cambodia could be to have the representatives of the four pillar organizations preside as chairs of the committee during the establishment process (discussing of administrative issues, drafting and signing the application letter to the ICBS, etc.) but upon approval, transform the chairs to honorary positions. Soon after, a newly constructed Board, ideally consisting of active heritage experts, would carry out the practical tasks and work to ensure the committee's independence from the government. However, the ICBS and ANCBS acknowledge that in instances like Cambodia, it is helpful -even essential - to have the support of UNESCO and/or the government. The Cambodian National Commission for UNESCO could be included as a constituent member.

²¹ Thomas Schuler, E-mail to author, 24 May 2012. Dr. Thomas Schuler is the representative of German National Committee of the Blue Shield.

3. International Committee of the Red Cross

1) Overview

The International Committee of the Red Cross ("ICRC") develops and disseminates International Humanitarian Law ("IHL")²² under a mandate by the international community of nations through the Geneva Conventions of 1949 and their Additional Protocols of 1977, as well as in Article 4 of the Statutes of the International Red Cross and Red Crescent Movement. Article 4 of the Statutes of the Movement states that part of the role of the ICRC is "to work for the understanding and dissemination of knowledge of international humanitarian law applicable in armed conflicts and to prepare any development thereof."

2) Relevance to the 1954 Hague Convention

The ICRC is relevant to the 1954 Hague Convention because it is so well established that it is now regarded as an integral part of customary international law and as falling within the category of IHL because of the intimate, and even closer, relationship between the physical evidence of the culture of a people and its national, cultural [sic], ethnic and spiritual identity.²³

3) Case of Cambodia

a. Division for Relations with Security and Security Forces

UNESCO, in particular, should look into collaborating with the ICRC's Division for Relations with Armed and Security Forces. Established in 1993, the Division for Relations with Armed and Security Forces aims to help a country's armed forces achieve autonomy in relation to its obligations under IHL and to this end it offers a broad range of training possibilities.

The Division for Relations with Armed and Security Forces is headquartered in Geneva and regional delegates, many of whom are retired military officers trained in IHL, are strategically stationed

²² IHL, also known as the law of armed conflict or the law of war, is a set of rules that applies during armed conflict and is intended to limit the suffering caused by armed conflict. IHL refers to both customary and treaty law rules.

²³ Boylan, p.7.

around the world. The regional delegate responsible for operations in Cambodia is based in Bangkok, Thailand.

Delegates serve to support governments, ministries, and military academies. They have access to learning materials dealing with IHL like informational leaflets, instruction books, training videos, and CDs. As there is no war in Cambodia, ICRC Office in Phnom Penh is not operational as in other countries and thus do not store these materials. The UNESCO Office in Phnom Penh could try to arrange a meeting with the delegate, who occasionally visits Cambodia to discuss strategies.

b. Suggestions/Recommendations

The following are some examples of training initiatives that UNESCO may want to discuss when meeting with the regional delegate:

- distribution of teaching tools for instructors and learning materials to officers of all ranks;
- short IHL presentations/lectures/discussions for senior officers at military headquarters or in military academies;
- 3-day seminars for senior combat officers and legal officers; and
- 5-day workshops to train instructors in IHL

In addition to training activities, the UNESCO Office in Phnom Penh may want to discuss the possibility of the ICRC providing scholarships for courses at the International Institute of Humanitarian Law in San Remo, Italy. In the past, the ICRC provided both training support and scholarships for the development of the Army of the Former Yugoslav Republic of Macedonia.²⁴

²⁴ In 2000, the General Staff of the Army of the Former Yugoslav Republic of Macedonia ("FYROM") established direct operations with the ICRC. The ICRC then started training instructors in the Army to develop their capability to create a foundation for further integration of IHL and the law on armed conflicts within the Army. In addition, scholarships were offered to instructors from various profiles (operational officers, medical officers, and lawyers) from outside of the FYROM. After two years of active cooperation, and with the direct support of the ICRC, the manual "Law on Armed Conflicts for the Armed Forces" was published as a multimedia CD in the Macedonian language for basic training and integration of the law on armed conflicts with Army training. UNESCO, Report on the Implementation of the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and its Two (1954 and 1999) Protocols, p.52.

UNESCO could try to work together with the regional delegate in exploring possible endeavors to integrate IHL into local training and operations. It should also be noted that collaboration efforts could be maximized if the Cambodian armed forces is involved in discussions.

4. Cambodian National Red Cross

1) Overview

The National Red Cross and Red Crescent Societies, which play a special role in the dissemination and implementation of humanitarian law, could also be involved in promoting treaties relative to the protection of cultural property. The Cambodian Red Cross, established in 1955, boasts a comprehensive network of 24 branches covering every one of the country's provinces, over 100,000 members and 5,000 volunteers.

2) Suggestions/Recommendations

The Cambodian Red Cross, in the course of its routine activities could assist Cambodia in terms of promoting the distinctive emblem of the 1954 Hague Convention and other activities related to the implementation of the Convention and its Protocols, either on its own initiative or in cooperation with UNESCO or any other concerned body.

By way of example, the Red Cross of Belgium, in its ancillary role to the Belgian public authorities, disseminates IHL. The dissemination of IHL by the Red Cross involves, but is not limited to, awareness-raising and training in the rules on the protection of civilian property, in particular the cultural property protected by the Additional Protocols of 1977 to the Geneva Conventions of 1949, and the 1954 Hague Convention and its two (1954 and 1999) Protocols. Also, the Red Cross of Belgium played an active role, in the course of the work of Interministerial Commission on Humanitarian Law, in producing a brochure designed to raise awareness among Belgian authorities with responsibility for the rules on protection of cultural property.

The UNESCO Office in Phnom Penh could perhaps help arrange collaborations with the local Red Cross and the Ministry of Culture and Fine Arts and/or the Ministry Defense. If and when a department or bureau devoted to 1954 Hague Convention is created within the Council of Ministers (or Ministry of Culture and Fine Arts, depending on which body will house the National Committee for the Protection of Cultural Goods in the Case of Armed Conflict), the Red Cross could work closely with it.

In addition, the UNESCO Office in Phnom Penh might want to offer ideas such as the following to the Cambodian Red Cross:

- awareness-raising for the general public by disseminating material via online sources
- devising teaching tools
- training sessions targeted to different audiences like diplomatic and consular officials, members of the armed forces, legal professionals, youth organizations, students, teachers, etc.
- organization of special events encouraging students to take interest in cultural heritage protection. A poster drawing competition subject to students was held in Belgium in 2004 to commemorate the 50th Anniversary of the 1954 Hague Convention.

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IV. Conclusion

In light of the current situation, it is in the best interest of Cambodian cultural heritage that immediate action is taken. UNESCO should make an effort to develop relations with the organizations listed above.

²⁵ The competition was organized by the Red Cross of the Belgium–Flemish Community on the theme of protection of cultural property in wartime. In support of this competition, an educational brochure was sent out to art teachers. The Red Cross of the Belgium–Flemish Community also launched, in collaboration with the Flemish magazine *Knack op school*, a campaign designed to raise awareness of this subject among teachers. UNESCO, 2011 Report on the Implementation of the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and its Two (1954 and 1999) Protocols, p.49.

In addition, the UNESCO Office in Phnom Penh should advise the government that Cambodia should, rather than just wait for the withdrawal of forces and arrival of ASEAN Observers, consider taking this time of peace to promote understanding of and respect for the protection of cultural property in accordance to the 1954 Hague Convention. And if possible, UNESCO should assist in facilitating the above-mentioned promotion efforts. After all, the 1954 Hague Convention is just as much about peacetime preparations as it is about wartime conduct.

Annex A

The following requirements are to be met by national initiatives that wish to seek recognition as national Blue Shield committees.

1. Initiatives for establishing a national committee of the Blue Shield should fully recognize the ICBS Charter as adopted by ICBS in Strasbourg, 14 April 2000.
 - In order to protect endangered cultural heritage, the International Committee of the Blue Shield has been created in 1996 by the four non-governmental organizations, which represent professionals active in the fields of archives, libraries, monuments and sites, and museums.
 - In the framework of the Hague Convention (1954) for the protection of cultural property in the event of armed conflict, ICA (International Council on Archives), ICOM (International Council of Museums), ICOMOS (International Council on Monuments and Sites), and IFLA (International Federation of Library Associations and Institutions) have taken up the emblem of the Convention as symbol of the International Committee of the Blue Shield
 - The four organizations have decided to work together to prepare for, and respond to, emergency situations in case of armed conflict or natural disaster that could affect cultural heritage. They respect the following principles:
 - joint actions
 - independence
 - neutrality
 - professionalism
 - respect of cultural identity
 - work on a not-for-profit basis.
2. Initiatives for establishing a national committee of the Blue Shield should have the support of the national representatives of all four non-governmental organizations listed above, which together form the ICBS. In case of doubt, the bureaux of the four non-governmental organizations will decide on the respective representational claims.

3. An appropriate representative of initiatives to establish a national committee of the Blue Shield should inform the ICBS of the membership, contact addresses, meeting schedules and agendas and relevant national events of the proposed national committee.
4. An appropriate person or organization on behalf of initiatives to establish a national committee of the Blue Shield may request the ICBS to grant official recognition. The ICBS has the sole right to decide whether to accord such recognition.

V1.3. Understanding Enhanced Protection

I. Introduction

The Second Protocol, which entered into force on 9 March 1999, is an international agreement that complements the 1954 Hague Convention for the Protection of Cultural in the Event of Armed Conflict (“1954 Hague Convention”). It allows cultural property to enjoy greater protection than before by both expanding on the provisions of the Convention and adding new features. Among the new features of the Second Protocol is the enhanced protection regime, which is one of the Protocol’s highlights and will be the focus of this memo.

In recent months, Cambodia authorities have engaged in discussions whether to become a signatory to the 1999 Second Protocol. Ratification of the Protocol would surely be welcomed by the international community and be perceived as an earnest effort by Cambodia to provide supplementary protection to its cultural heritage.

In light of such developments, this memo serves to explain to relevant Cambodian authorities the concept of enhanced protection and how they may try to go about seeking enhanced protection in the case it ratifies the 1999 Second Protocol. This memo will then close with four hypothetical scenarios the author has created with hopes that they will enable the reader to better understand the rules of enhanced protection.

II. What is Enhanced Protection?

1. Background

It is generally accepted that the scheme of special protection, as featured in the 1954 Hague Convention, has enjoyed only very limited success.²⁶ A primary reason why such a small number of properties have been listed on the International Register of Cultural Property under Special Protection is due to the unrealistic requirements of the special protection system.²⁷ For instance, entry on the Register is conditional on the property be at an “adequate distance” from any large industrial centre or from any important military objective. Not only is this condition too vague - there is no agreement as to what constitutes “adequate distance” - but many sites of great importance are frequently either in the very centre of a large city or on the outskirts. In light of modern humanitarian law and warfare, a cultural property’s physical proximity to a city centre should not preclude it from being granted special protection.

Political motivations serve as another reason for the limited success, if not failure, of the special protection system.²⁸ A glaring example of when political motivations stood in the way of a request for granting of special protection would be Cambodia’s failed attempt to enter Angkor on the Register.²⁹

On 25 April 1972, the Director-General of UNESCO informed the High Contracting Parties of the Khmer Republic’s application for special protection of the centres containing monuments of Angkor and Rolous and of the sanctuaries situated at Phnom-Bok and Phnom-Krom, together with a refuge situated at Angkor. At that time, the Director-General also referred to Article 14 of the Regulations of the Execution of the Convention, which states that any of the High Contracting Parties may lodge an objection to an application in writing to the Director-General. In response, four High Contracting Parties – Cuba, Egypt, Romania, and Yugoslavia – objected stating that the application had not been presented by the authority, which they considered to be the sole government entitled to represent the Khmer

²⁶ At present only one centre containing monuments (the whole of the Vatican City State, effective 11 March 1960) and three refuges (the Alt-Aussee Refuge in Upper Austria, effective 7 January 1968; three refuges for cultural property in the Netherlands, effective 2 July 1969; and the Oberried Mine Drift Central Refuge in Germany, effective 26 July 1978) are on the International Register of Cultural Property under Special Protection.

²⁷ Toman, Jiri, *Cultural Property in War: Improvement in Protection – Commentary on the 1999 Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict*, UNESCO Publishing, 2009, p.172,3

²⁸ Toman, Jiri, *Cultural Property in War: Improvement in Protection*, p.173

²⁹ *Id.*

Republic.³⁰ This example illustrates how purely political considerations have stood in the way of effective implementation of the special protection regime.

Since the 1960s, many calls were made for the need to address the shortcomings and update the 1954 Hague Convention. The 1999 Hague Conference's adoption of articles concerning enhanced protection reflects the constructive suggestions and efforts made by the delegates throughout the years.

2. Enhanced Protection

1) A Brief Overview

As the Second Protocol supplements 1954 Hague Convention rather than amends it, a new system had to be established for the 1999 Second Protocol.³¹ Entitled "enhanced protection," Article 10 of the 1999 Protocol deals with this new protection regime. Article 10 provides the following:

Cultural property may be placed under enhanced protection provided that it meets the following three conditions:

- (a) it is cultural heritage of the greatest importance for humanity
- (b) it is protected by adequate domestic legal and administrative measures recognizing its exceptional cultural and historic value and ensuring the highest level of protection;
- (c) it is not used for military purposes or to shield military sites and a declaration has been made by the Party which has control over the cultural property, confirming it will not be so used.

The use of a different name for this system was imperative as the continued use of the title "special protection" would have implied an amendment of the existing scheme of special protection.³² Thus, the drafter's naming of this new protection system reflects their intent to create something entirely new.

³⁰ Toman, Jiri, *The Protection of Cultural Property in the Event of Armed Conflict*, Dartmouth Publishing Company, 1996, p.108.

³¹ Chamberlain, Kevin, *War and Cultural Heritage*, Institute of Art and Law, 2004, p.183.

³² Chamberlain, p.183.

The objective of Article 10 is to replace the narrow definition and unrealistic conditions of the special protection system. Also, the conditions to lodging objections are more restrictive. The specifics of Article 10 and related provisions will be discussed in the subsections that follow.

2) Relationship between the 1954 Convention and the Second Protocol

Although enhanced protection is a departure from the special protection system of the 1954 regime, this does not mean that the former bears no relationship with the latter. Article 4 of the 1999 Second Protocol explains the relationship between the two systems in the following terms:

The application of the provisions of Chapter 3 of this Protocol is without prejudice to:

- a. the application of the provisions of Chapter I of the Convention and of Chapter 2 of this Protocol;
- b. the application of the provisions of Chapter II of the Convention save that, as between Parties to this Protocol or as between a Party and a State which accepts and applies this Protocol in accordance with Article 3 paragraph 2, where cultural property has been granted both special protection and enhanced protection, only the provisions of enhanced protection shall apply.

Paragraph (a) ensures that the new enhanced protection system does not affect Chapter 1 of the 1954 Convention, which features provisions dealing with general measures of protection, nor Chapter 2 of the Protocol, which supplement the provisions of the Convention's Chapter 1.³³

Paragraph (b) provides that, as between State Parties that are signatories to the Protocol, the provisions of the Protocol dealing with enhanced protection apply and replace the special protection system of the 1954 Convention. This is also the case when only one State Party is a signatory to the Protocol and the other State Party, which is a signatory to only the Convention, accepts and applies the Protocol pursuant to Article 3, Paragraph 2 of the Protocol.³⁴

³³ Chamberlain, p.176.

³⁴ Chamberlain, p.177.

When a State becomes a Party to the Protocol and has cultural property on the International Register of Cultural Property under Special Protection, it should apply for the removal of the property from that Register and apply for granting of enhanced protection.³⁵

As between State Parties to the Protocol, features of the special protection system will continue to apply in respect to issues that Enhanced Protection does not address. For example, transport under special protection (dealt with in Article 12 of the 1954 Convention), would apply even in the enhanced protection system.³⁶

3) The Requirements

a. “cultural heritage of the greatest importance for humanity”

- “cultural heritage”

As mentioned above, one of the aims of Article 10 of the 1999 Protocol was to broaden the definition of cultural properties eligible for protection. Although Article 10, Paragraph (a) of the Second Protocol refers to “cultural heritage” without following up with a definition, cultural heritage is defined in Article 1 of the Protocol. Article 1, in turn, refers State Parties back to the cultural property as defined in Article 1 of the 1954 Hague Convention, which is as follows:

For the purposes of the present Convention, the term ‘cultural property’ shall cover, irrespective of origin or ownership:

- (a) moveable or immoveable property of great importance to the cultural heritage of every people, such as monuments of architecture, art or history, whether religious or secular; archaeological sites; groups of buildings which, as a whole, are of historical or artistic interest; works of art; manuscripts, books and other objects of artistic, historical or archaeological interest; as well as scientific collections and important collections of books or archives or of reproductions of the property defined above;
- (b) buildings whose main and effective purpose is to preserve or exhibit the moveable cultural property defined in subparagraph (a) such as museums, large libraries and depositories of archives, and refuges intended to shelter, in the event of armed conflict, the moveable cultural property defined in subparagraph (a);

³⁵ Chamberlain, p.177.

³⁶ Id.

- (c) centres containing a large amount of cultural property as defined in subparagraphs (a) and (b), to be known as 'centres containing monuments'.

In contrast to the special protection system, which applied only to "refuges intended shelter moveable cultural property" and "centres containing monuments and other immovable cultural property,"³⁷ enhanced protection applies to all cultural heritage as defined in Article I of the Convention. Thus, enhanced protection is wider in scope in terms of the property that can seek protection.

- "of greatest importance for humanity"

The first criterion for entry on the List of Cultural Property Under Enhanced Protection reflects the drafter's intent to put in place of the unrealistic requirements of special protection, a more objective condition.

The drafting of Article 10, like the other articles regarding enhanced protection, was inspired by the success of the 1972 Convention Concerning the Protection of the World Cultural and Natural Heritage ("1972 World Heritage Convention").³⁸ So naturally, the 1972 World Heritage Convention's criterion for inclusion in the World Heritage List, which is that the property in question must be of "outstanding universal value,"³⁹ served as a guide for drafters of the Protocol's Article 10.⁴⁰

In a further effort to make the criterion more objective, the 3rd Meeting of the Parties to the Second Protocol endorsed operational guidelines for the implementation of the Second Protocol in November 2009. Paragraphs 32 through 37 of the Guidelines for the Implementation of the 1999 Second Protocol should serve as guidance to State Parties preparing applications and the Committee for the Protection of Cultural Property in the Event of Armed Conflict,⁴¹ in making the determination of whether a cultural heritage qualifies as being "of greatest importance for humanity."⁴²

³⁷ 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, Article 8.

³⁸ The World Heritage List features 962 properties as of July 2012.

³⁹ 1972 Convention Concerning the Protection of the World Cultural and Natural Heritage, Article 1, 2.

⁴⁰ Toman, Jiri, *Cultural Property in War: Improvement in Protection*, p.188.

⁴¹ Article 24 of the 1999 Second Protocol establishes the Committee.

⁴² See "Annex A" for the complete text of Paragraphs 32 through 37 of the Guidelines for the Implementation of the 1999 Second Protocol.

Cambodia should, in particular, take note of Paragraph 36 of the Guidelines,⁴³ which provides, “it is presumed that the Committee, subject to other relevant considerations, will consider that immovable cultural property inscribed on the World Heritage List satisfies the condition of greatest importance for humanity.”

b. “protected by adequate domestic legal and administrative measures”

The second criterion is intended to see if the importance of the cultural property is recognized at a national level.⁴⁴ As another attempt to make the criteria for enhanced protection more objective, Article 10 Paragraph (b) looks at whether local authorities have taken sufficient legislation and administrative measures. General legislation or administrative measures applicable to cultural property in that country are likely not to suffice – measures should be specific to the cultural property seeking enhanced protection.⁴⁵

The second criterion is dealt with in paragraphs 38 through 41 of the Guidelines to the Implementation of the 1999 Second Protocol.⁴⁶ A list of what the Committee will consider can be found under Paragraph 39. They are as follows:

- the identification and safeguarding of cultural property proposed for enhanced protection in accordance with Article 5 of the Second Protocol;
- due consideration of the protection of the cultural property proposed for enhanced protection in military planning and military training programs; and,
- appropriate criminal legislation providing for the repression of, jurisdiction over, offenses committed against cultural property under enhanced protection within the meaning of, and in accordance with Chapter 4 of the Second Protocol.

Another helpful provision in the Guidelines is Paragraph 40, which states that domestic measures of protection are adequate only if they are effective in practice.

c. “it is not used for military purposes or to shield military sites and a declaration has been made by the Party which has control over the cultural property, confirming that it will not be so used.”

⁴³ Guidelines for the Implementation of the 1999 Second Protocol, Paragraph 36.

⁴⁴ Toman, Jiri, *Cultural Property in War: Improvement in Protection*, p.194.

⁴⁵ Chamberlain, p.195.

⁴⁶ See “Annex B” for complete text of Paragraphs 38 through 41 of the Guidelines for the Implementation of the 1999 Second Protocol.

- “it is not used for military purposes”

Although the third criterion featured in Article 10, Paragraph (c) of the 1999 Second Protocol, opens with the requirement that the cultural property seeking enhanced protection “is not used for military purposes,” a definition of “military purpose” is not provided. Hence, Article 8, Paragraph 3 of the 1954 Convention, which defines “military purpose” must be referred to:

A centre containing monuments shall be deemed to be used for military purposes whenever it is used for the movement of military personnel or material, even in transit. The same shall apply whenever activities directly connected with military operations, the stationing of military personnel, or the production of war material are carried on within the centre.

Also, given the similarity of the use of the words “military purpose” with that of the definition the International Committee of the Red Cross (ICRC) proposed to the 1974-1977 Diplomatic Conference, the ICRC Commentary to Article 52 of the 1977 Additional Protocol I should be looked to for further guidance. The ICRC Commentary explains the two words “purpose” and “use” as follows:

the criterion of ‘purpose’ is concerned with the intended future use of an object, while that of ‘use’ is concerned with its present function. Most civilian objects can become useful objects to the armed forces. Thus, for example a school or a hotel is a civilian object, but if they are used to accommodate troops or headquarters staff, they become military objectives. It is clear from paragraph 3 that in case of doubt, such places must be presumed to serve civilian purposes.

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Attention should also be drawn to Article 5 Paragraph 3 of the Convention, where it is provided that a monument is deemed to be used for military purposes when activities directly connected with “military operations” and the “stationing of military personnel.”

- “it is not used to shield military sites”

This is new language that not been used in the Convention. It has been suggested that the term “military sites” can be assimilated to the notion of “military objectives” as explained in relation to Article

⁴⁷ Commentary on the Additional Protocols of 8 June 1977, para.2019, p.635.

6, Paragraph 1, sub-paragraph (i).⁴⁸ Also “the phrase ‘shield military sites’ refers to the location of military installations very close or inside cultural property.”⁴⁹ It has also been said that “shield genuine military objective during a conflict will by no means be confined to deliberate action taken by a defending States [sic], e.g. by locating military installations very close to important cultural property.”⁵⁰

Article 10 as a whole imposes a very big responsibility on the Committee to take into consideration possible situations with respect to cultural property in relation to military objectives.⁵¹ An in-depth preliminary study will have to be done to assess situations and the responsibility for this important task will again fall on the Secretariat.⁵² International organizations and non-governmental organizations will have to be consulted and the collection of adequate documentation, maps, military or geographic grid coordinates or GIS data will be imperative.⁵³ The experience of the World Heritage Committee and Centre should serve as inspiration and guidance to the committee.⁵⁴

- “a declaration has been made by the Party . . . confirming that it will not be so used”

The State Party seeking enhanced protection for cultural property situated on its territory is required to make an express declaration. It would be likely that such a declaration would be binding on that State Party and a breach of the undertaking honor Article 10 could constitute a serious violation of the Protocol.⁵⁵

4) Procedural Matters

Article 11 explains the procedure a State Party must go through to apply for the granting of enhanced protection. The Guidelines for the Implementation of the 1999 Second Protocol covers

⁴⁸ Toman, Jiri, *Cultural Property in War: Improvement in Protection*, p.198.

⁴⁹ *Id.*

⁵⁰ Boylan, Patrick, 1999 Second Protocol Draft procedures, para. .14, p.22)

⁵¹ Toman, Jiri, *Cultural Property in War: Improvement in Protection*, p.199.

⁵² *Id.*

⁵³ Toman, Jiri, *Cultural Property in War: Improvement in Protection*, p.199.

⁵⁴ *Id.*

⁵⁵ Chamberlain, p.196.

procedural matters from Paragraph 44 to 65.⁵⁶ The texts of the above-mentioned should be referred to if and when Cambodia seeks enhanced protection for the Temple of Preah Vihear. What follows is a selection of paragraphs within Article 11 which may be of particular interest to Cambodia.

Article 11, Paragraph 7 concerns the basis on which decisions for requests for enhanced protection may be made. It states, “a decision to grant or deny enhanced protection may only be made on the basis of the criteria mentioned in Article 10.” It has been noted that this is “the most important” paragraph of Article 11 as it may prevent the reoccurrence of the 1972 Cambodia case, where political motivations from standing in the way of a site from being granted special protection.⁵⁷

Article 11, Paragraph 9 allows State Parties to request enhanced protection on an “emergency basis.” Paragraph 9 provides the following:

Upon the outbreak of hostilities, a Party to the conflict may request, on an emergency basis, enhanced protection of cultural property under its jurisdiction or control by communicating this request to the Committee. The Committee shall transmit this request immediately to all Parties to the conflict. In such cases the Committee will consider representations from the Parties concerned on an expedited basis. The decision to grant provisional enhanced protection shall be taken as soon as possible and, notwithstanding Article 26, by a majority of four-fifths of its members present and voting. Provisional enhanced protection may be granted by the Committee pending the outcome of the regular procedure for the granting of enhanced protection, provided that the provisions of Article 10 sub-paragraphs (a) and (c) are met.

III. Understanding Enhanced Protection through Hypothetical Scenarios

The following are hypothetical scenarios the author has drawn up with the situation of Cambodia specifically in mind. It must be noted that in a real life situation, there would be elements in the context, which could lead to a more nuanced response or perhaps a completely different one.

⁵⁶ See “Annex C” for text of Paragraph 44 through 46 of the Guidelines for the Implementation of the 1999 Second Protocol.

⁵⁷ Toman, Jiri, *Cultural Property in War: Improvement in Protection*, p.213.

1. Scenario 1

Facts

- State A is a State Party to the 1954 Hague Convention and the 1954 First Protocol but *not* the 1999 Second Protocol.
- State B is a State Party to the 1954 Hague Convention and the 1954 First Protocol but *not* the 1999 Second Protocol.
- Hostilities break out between State A and State B.

Issue

Whether State A may request for Enhanced Protection

Brief Answer

No, State A may not request for Enhanced Protection

Analysis

According to Article 2 of the Second Protocol, the Protocol “supplements” the 1954 Hague Convention. The Guidelines for the Implementation of the 1999 Second Protocol further elaborates by stating that it reinforces the provisions related to the safeguarding of and respect for cultural property in the event of armed conflict.⁵⁸ In sum, the Second “does not amend the 1954 Convention” but rather “supplements” it.⁵⁹

The Protocol will apply “only as between those States that are Parties to it.”⁶⁰ In mutual relations between State Parties to the 1954 Convention, the Parties remain bound by the

⁵⁸ Guidelines for the Implementation of the 1999 Second Protocol, Paragraph 6.

⁵⁹ Chamberlain, 171.

⁶⁰ Id.

Convention alone.⁶¹ Thus, State A does not have the option to request for enhanced protection as the facts indicate that neither State A nor State B are signatories to the 1999 Second Protocol.⁶²

Conclusion

State A may not request for the granting of enhanced protection.

2. Scenario 2

Facts

- State A is State Party to the 1954 Hague Convention but *not* the 1999 Second Protocol.
- State B is State Party to the 1954 Hague Convention, the 1954 First Protocol, *and* the 1999 Second Protocol.
- Hostilities break out between State A and State B.

Issue

Whether State A request for and be granted enhanced protection?

Brief Answer

Yes, State A may request for enhanced protection if it accepts the provisions of the 1999 Second Protocol and so long as it applies them.

Analysis

In principle, in mutual relations between a State Party to the Convention and a State Party to the Convention and the Second Protocol, they are bound only by the provisions of the

⁶¹ Guidelines for the Implementation of the 1999 Second Protocol, Paragraph 11.

⁶² The situation would differ if one at least one of the parties to the hostilities was a signatory to the 1999 Protocol. That type of situation is dealt with in Scenario 2, which follows.

Convention.⁶³ But Article 3 Paragraph 2 states that if the State Party, which is not bound by the 1999 Second Protocol, accepts the provisions of this Protocol and applies them, it may be bound by the Protocol.

This scenario deals with a complex situation, which arises when two State Parties that are not signatories to the same instruments are involved in a conflict. By virtue of Article 3 Paragraph 2, if State A (not bound by the 1999 Second Protocol) accepts the provisions of the Protocol and applies the Protocol, the State then becomes bound by the Protocol for as long as State A continues to apply it.

Conclusion

State Party A may request for Enhanced Protection pursuant to Article 3, Paragraph, as long as it accepts, applies, continues to apply the 1999 Second Protocol.

3. Scenario 3

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Facts

- On August 1, 2013, Country A, a signatory to the 1954 Hague Convention and the 1954 First Protocol, deposited its instrument of ratification to the 1999 Second Protocol.
- On September 1, 2013, hostilities break out in Country A.

Issue

Whether Country A is entitled to request for enhanced protection.

Brief Answer

⁶³ Guidelines to the Implementation of the 1999 Second Protocol, Article 11.

Yes, Country A may request for enhanced protection on an emergency basis.

Analysis

Before an analysis of whether Country A may request for Enhanced Protection or not, one initial threshold issue must be addressed - whether the Second Protocol has actually entered into force. This is required as the facts indicate that hostilities have broken out only one month after Country A deposited its instrument of ratification.

According to Article 43 of the Second Protocol, the Protocol enters into force for each new Party three months after the deposit of its instrument of ratification, acceptance, approval, or accession (“three-month rule”). However, Article 44 provides an exception to this three-month rule by stipulating that in situations of armed conflict (both of international or non-international character), instruments deposited by the parties to the conflict either before or after the start of hostilities are effective immediately. From this, it can be deduced that the Second Protocol has entered into force for State A.

Article 11 of the Second Protocol is the relevant provision in regards to the issue of whether Country A may request for enhanced protection. Generally, State Parties are obliged to submit a formal request for granting of enhanced protection in accordance to Article 11, Paragraph 1, 2 of the Second Protocol and Paragraph 44 through 62 of the Guidelines for the Implementation of the 1999 Second Protocol. However, according to Article 11 Paragraph 9, a Party to the conflict, upon the outbreak of hostilities, may request on an “emergency basis,” enhanced protection of cultural property under its jurisdiction or control by communicating this request to the Committee.

Conclusion

Country A is entitled to request for enhanced protection.

4. Scenario 4

Facts

- Hostilities break out between Country A and Country B.
- Country A is a State Party to the 1954 Hague Convention, 1954 First Protocol *and* the 1999 Second Protocol.
- Country A is greatly concerned about "Cultural Property X" and seeks granting of Enhanced Protection of it on an emergency basis immediately after hostilities break out.
- Enhanced Protection is denied by the Committee.
- In the aftermath of hostilities, out of concern of the future of Cultural Property X, Country A would like to seek granting of Enhanced Protection again.

Issue

Whether Country A may make a second request for enhanced protection for Cultural Property X.

Brief Answer

In principle, no, Country A may not be able to make a second request for enhanced protection.

Analysis

Paragraph 70 of the "Guidelines for the Implementation of the 1999 Second Protocol provides that "[i]f the Committee decides to deny enhanced protection to a cultural property, it will generally not accept an identical request" Therefore, the above-mentioned provision may preclude Country A, in principle,⁶⁴ from making a second request for Cultural Property X.

Conclusion

⁶⁴ It is interesting to note that the drafters of the guideline used the term "generally" in the language of Article 70. This may indicate that the committee might not always refuse the [subsequent] requests. Etienne Clement, E-mail to Author, 21 June 2012. Regarding the exceptions that the Committee may make, inquiries should be made to the International Standards Department at UNESCO Headquarters featuring detailed descriptions of the real life situation.

Country A, in principle, may not be able to make a second request for enhanced protection for Cultural Property X.

Annex A

Guidelines for the Implementation of the 1999 Second Protocol to the Hague Convention

III. ENHANCED PROTECTION

Criteria

Greatest importance for humanity

32. While considering whether cultural property is of greatest importance for humanity, the Committee will evaluate, case by case, its exceptional cultural significance, and/or its uniqueness, and/or if its destruction would lead to irretrievable loss for humanity.

33. Cultural property of national, regional or universal value may have exceptional cultural significance. This significance may be deduced from the following indicative criteria:

- it is an exceptional cultural property bearing testimony to
- one or more periods of the development of humankind at
- the national, regional or global level;
- it represents a masterpiece of human creativity;
- it bears an exceptional testimony to a cultural tradition or
- to a civilization which is living or which has disappeared;
- 13
- it exhibits an important interchange of human
- achievements, over a span of time or within a cultural
- area of the world on developments in arts and sciences;
- it has a central significance to the cultural identity of
- societies concerned.

34. Cultural property is considered to be unique if there is no other comparable cultural property that is of the same cultural significance. The unique character may be deduced from a variety of indicative criteria including:

- a. age;
- b. history;
- c. community;
- d. representativity;
- e. location;
- f. size and dimension;
- g. shape and design;
- h. purity and authenticity in style;
- i. integrity;
- j. context;
- k. artistic craftsmanship;
- l. aesthetic value;
- m. scientific value.

35. The criterion of irretrievable loss for humanity is met if the damage or destruction of the cultural property in question would result in the impoverishment of the cultural diversity or cultural heritage of humankind.

36. It is presumed that the Committee, subject to other relevant considerations, will consider that immovable cultural property inscribed on the World Heritage List satisfies the condition of greatest importance for humanity.

37. In the case of documentary heritage, the Committee will consider the fact that the cultural property is inscribed on UNESCO's Memory of the World Register.

Annex B

Guidelines for the Implementation of the 1999 Second Protocol to the Hague Convention

III. ENHANCED PROTECTION

Criteria

Adequate domestic legal and administrative measures of protection

38. The cultural property is protected by adequate domestic legal and administrative measures recognizing its exceptional cultural and historic value and ensuring the highest level of protection. The protection accorded to cultural property of exceptional value takes into account the obligations of the Parties under Article 12 of the Second Protocol.
39. Such measures ensure that the cultural property is protected adequately against any kind of negligence, decay or destruction even in time of peace. In evaluating whether cultural property is protected by adequate domestic legal and administrative measures recognizing its exceptional cultural and historic value and ensuring the highest level of protection, the Committee considers, in particular, national measures intended for:
- the identification and safeguarding of cultural property
 - proposed for enhanced protection in accordance with
 - Article 5 of the Second Protocol;
 - due consideration of the protection of the cultural
 - property proposed for enhanced protection in military
 - planning and military training programs; and,
 - appropriate criminal legislation providing for the
 - repression of, and jurisdiction over, offenses committed
 - against cultural property under enhanced protection
 - within the meaning of, and in accordance with, Chapter 4
 - of the Second Protocol.

40. The domestic legal and administrative measures of protection are only adequate if they are effective in practice. The Committee therefore examines, *inter alia*, whether they are based on a coherent system of protection and achieve the expected results.
41. A Party may request international assistance from the Committee in the preparation, development or implementation of the laws, administrative provisions and other measures to be fulfilled.

Annex C

Guidelines for the Implementation of the 1999 Second Protocol to the Hague Convention

III. ENHANCED PROTECTION

Procedure for granting enhanced protection

- 44.** The Parties are entitled and encouraged to submit to the Committee requests for the granting of enhanced protection to cultural property under their jurisdiction or control. The Committee, which establishes and maintains the List, decides in each particular case whether the criteria set out above are met. To facilitate the granting of enhanced protection, the Secretariat prepared an enhanced protection request form (Annex I of the Guidelines for the implementation of the 1999 Second Protocol, <http://unesdoc.unesco.org/images/0018/001867/186742e.pdf>).
- 45.** The request for the granting of enhanced protection is sent to the Committee through the Secretariat.
- 46.** The Secretariat acknowledges the receipt, checks for completeness and registers the request. The Secretariat requests any additional information from the Party, as appropriate. The Secretariat forwards complete requests to the Bureau of the Committee (hereinafter “the Bureau”).
- 47.** The Bureau may consult organisations with relevant expertise for evaluation of the request. The Bureau will forward the request (including the evaluation) to the Committee and may propose a decision.

48. Once the Committee has received a request, it informs all Parties of the request for inclusion in the List. Parties may submit a representation concerning the request to the Committee within 60 days. These representations may only be made on the basis of the criteria mentioned in Article 10 and will be specific and related to facts.
49. The Committee considers the representations, providing the requesting Party with a reasonable opportunity to respond before making a decision.
50. In exceptional cases, if the cultural property does not meet the criteria laid down in Article 10(b), the Committee requires the Party which has control or jurisdiction over the cultural property to submit a request for international assistance under Article 32.
51. The Committee may decide to invite a Party to request inclusion of cultural property in the List. Other Parties as well as ICBS and other NGO's with relevant expertise may recommend cultural property to the Committee for inclusion in the List. In such cases, the Committee may decide to invite the Party concerned to request inclusion of that property in the List.

Tentative lists

52. For the purposes of the Guidelines the term “tentative list” means a list of cultural property for which a Party intends to request the granting of enhanced protection. Parties are

encouraged to submit tentative lists in order to facilitate the Committee's maintenance and update of the List as well as the management of requests for international assistance. Parties may amend their tentative lists as appropriate. However, the fact that cultural property has not been included in the tentative list does not prevent the Party from requesting the granting of enhanced protection for such cultural property.

53. The tentative list, which contains a brief description of the cultural property, is submitted by the Party to the Committee through the Secretariat.

Content of a request

54. A request submitted by a Party meets the following requirements in order to be considered by the Committee:

a. Identification of the cultural property

55. The boundaries of an immovable cultural property and its immediate surroundings are clearly defined. Maps are sufficiently detailed to determine precisely which area of land and/or building(s) are nominated. Movable cultural property is identified by its detailed descriptions and sufficient images.
56. The location of the cultural property (including shelters or other storage for movable cultural property) should be indicated by reference to its geographical location. At a minimum, the

approximate central point of each cultural property should be indicated by a pair of coordinates in the Universal Transverse Mercator system. Boundaries of a wider property could be indicated by providing a list of coordinates indicating the course of the property boundary. In case of movable cultural property this information refers to the location where this cultural property is stored or intended to be stored.

b. Description of the cultural property

57. The Party provides the relevant information and documentation on the cultural property concerned, including those on the present state of conservation, the appearance of the cultural property, as well as its history and development. This includes a description on how the cultural property has reached its present form and the significant changes that it has undergone. The information provides the facts needed to support and substantiate the argument that the cultural property meets the criterion of being of greatest importance for humanity under Article 10(a).

c. Protection of the cultural property

58. The Party includes a list of the legal and administrative measures regarding the adequate protection and maintenance of the cultural property. It provides a detailed analysis with regard to the practical implementation of the protection measures and the safeguarding of the highest level of protection. Legislative, regulatory, and/or institutional texts, or an abstract of the texts, are attached to the request. The information provides the facts needed to support

and substantiate the argument that the cultural property meets the criterion of being adequately protected under Article 10(b).

d. Use of the cultural property

59. The Party describes the use of the cultural property. The declaration confirming that the cultural property and its immediate surroundings are not and will not be used for military purposes or to shield military sites is attached to the request. The information provides the facts needed to support and substantiate the argument that the cultural property meets the criterion laid down in Article 10(c).

e. Information regarding responsible authorities

60. Detailed contact information of responsible authorities is provided in the request.

f. Signature on behalf of the Party

61. The request is duly signed by the Party's competent authorities.

g. Format of the request

62. Parties are invited to submit their requests both in paper and electronic format provided by the Secretariat. Requests may be submitted in one of the two working languages of the Secretariat.

Emergency request

63. If a Party submits a request upon the outbreak of hostilities the request is to be considered as an “emergency request” under Article 11 (9). The emergency request has to meet the requirements a., b., d., e., f. and g. as set forth in paragraphs 54 - 62.

Withdrawal of a request

64. A Party may withdraw in writing a request it has submitted at any time prior to the Committee’s session at which it is scheduled to be examined. The Party can resubmit a request for the cultural property, which will be considered as a new request.

Information about a change of situation

65. The Party informs the Committee of any change affecting the cultural property concerned to meet the criteria set out in Article 10 in order to allow an update and, where appropriate, a reconsideration of the status of enhanced protection and/or a new decision by the Committee.

VII. Annexes

Annex 1: The 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and the First Protocol

CONVENTION FOR THE PROTECTION OF CULTURAL PROPERTY IN THE EVENT OF ARMED CONFLICT

The Hague 14 May 1954

The High Contracting Parties,

Recognizing that cultural property has suffered grave damage during recent armed conflicts and that, by reason of the developments in the technique of warfare, it is in increasing danger of destruction;

Being convinced that damage to cultural property belonging to any people whatsoever means damage to the cultural heritage of all mankind, since each people makes its contribution to the culture of the world;

Considering that the preservation of the cultural heritage is of great importance for all peoples of the world and that it is important that this heritage should receive international protection;

Guided by the principles concerning the protection of cultural property during armed conflict, as established in the Conventions of The Hague of 1899 and of 1907 and in the Washington Pact of 15 April, 1935;

Being of the opinion that such protection cannot be effective unless both national and international measures have been taken to organize it in time of peace;

Being determined to take all possible steps to protect cultural property;

Have agreed upon the following provisions:

CHAPTER I GENERAL PROVISIONS REGARDING PROTECTION

ARTICLE 1 – DEFINITION OF CULTURAL PROPERTY

For the purposes of the present Convention, the term "cultural property" shall cover, irrespective of origin or ownership:

- (a) movable or immovable property of great importance to the cultural heritage of every people, such as monuments of architecture, art or history, whether religious or secular; archaeological sites; groups of buildings which, as a whole,

are of historical or artistic interest; works of art; manuscripts, books and other objects of artistic, historical or archaeological interest; as well as scientific collections and important collections of books or archives or of reproductions of the property defined above;

- (b) buildings whose main and effective purpose is to preserve or exhibit the movable cultural property defined in sub-paragraph (a) such as museums, large libraries and depositories of archives, and refuges intended to shelter, in the event of armed conflict, the movable cultural property defined in sub-paragraph (a);
- (c) centres containing a large amount of cultural property as defined in sub-paragraphs (a) and (b), to be known as "centres containing monuments".

ARTICLE 2 – PROTECTION OF CULTURAL PROPERTY

For the purposes of the present Convention, the protection of cultural property shall comprise the safeguarding of and respect for such property.

ARTICLE 3 – SAFEGUARDING OF CULTURAL PROPERTY

The High Contracting Parties undertake to prepare in time of peace for the safeguarding of cultural property situated within their own territory against the foreseeable effects of an armed conflict, by taking such measures as they consider appropriate.

ARTICLE 4 – RESPECT FOR CULTURAL PROPERTY

1. The High Contracting Parties undertake to respect cultural property situated within their own territory as well as within the territory of other High Contracting Parties by refraining from any use of the property and its immediate surroundings or of the appliances in use for its protection for purposes which are likely to expose it to destruction or damage in the event of armed conflict; and by refraining from any act of hostility, directed against such property.
2. The obligations mentioned in paragraph 1 of the present Article may be waived only in cases where military necessity imperatively requires such a waiver.
3. The High Contracting Parties further undertake to prohibit, prevent and, if necessary, put a stop to any form of theft, pillage or misappropriation of, and any acts of vandalism directed against, cultural property. They shall refrain from requisitioning movable cultural property situated in the territory of another High Contracting Party.

4. They shall refrain from any act directed by way of reprisals against cultural property.
5. No High Contracting Party may evade the obligations incumbent upon it under the present Article, in respect of another High Contracting Party, by reason of the fact that the latter has not applied the measures of safeguard referred to in Article 3.

ARTICLE 5 – OCCUPATION

1. Any High Contracting Party in occupation of the whole or part of the territory of another High Contracting Party shall as far as possible support the competent national authorities of the occupied country in safeguarding and preserving its cultural property.
2. Should it prove necessary to take measures to preserve cultural property situated in occupied territory and damaged by military operations, and should the competent national authorities be unable to take such measures, the Occupying Power shall, as far as possible, and in close co-operation with such authorities, take the most necessary measures of preservation.
3. Any High Contracting Party whose government is considered their legitimate government by members of a resistance movement, shall, if possible, draw their attention to the obligation to comply with those provisions of the Convention dealing with respect for cultural property.

ARTICLE 6 – DISTINCTIVE MARKING OF CULTURAL PROPERTY

In accordance with the provisions of Article 16, cultural property may bear a distinctive emblem so as to facilitate its recognition.

ARTICLE 7 – MILITARY MEASURES

1. The High Contracting Parties undertake to introduce in time of peace into their military regulations or instructions such provisions as may ensure observance of the present Convention, and to foster in the members of their armed forces a spirit of respect for the culture and cultural property of all peoples.
2. The High Contracting Parties undertake to plan or establish in peace-time, within their armed forces, services or specialist personnel whose purpose will be to secure respect for cultural property and to co-operate with the civilian authorities responsible for safeguarding it.

CHAPTER II SPECIAL PROTECTION

ARTICLE 8 – GRANTING OF SPECIAL PROTECTION

1. There may be placed under special protection a limited number of refuges intended to shelter movable cultural property in the event of armed conflict, of centres containing monuments and other immovable cultural property of very great importance, provided that they:
 - (a) are situated at an adequate distance from any large industrial centre or from any important military objective constituting a vulnerable point, such as, for example, an aerodrome, broadcasting station, establishment engaged upon work of national defense, a port or railway station of relative importance or a main line of communication;
 - (b) are not used for military purposes.
2. A refuge for movable cultural property may also be placed under special protection, whatever its location, if it is so constructed that, in all probability, it will not be damaged by bombs.
3. A centre containing monuments shall be deemed to be used for military purposes whenever it is used for the movement of military personnel or material, even in transit. The same shall apply whenever activities directly connected with military operations, the stationing of military personnel, or the production of war material are carried on within the centre.
4. The guarding of cultural property mentioned in paragraph 1 above by armed custodians specially empowered to do so, or the presence, in the vicinity of such cultural property, of police forces normally responsible for the maintenance of public order shall not be deemed to be used for military purposes.
5. If any cultural property mentioned in paragraph 1 of the present Article is situated near an important military objective as defined in the said paragraph, it may nevertheless be placed under special protection if the High Contracting Party asking for that protection undertakes, in the event of armed conflict, to make no use of the objective and particularly, in the case of a port, railway station or aerodrome, to divert all traffic therefrom. In that event, such diversion shall be prepared in time of peace.
6. Special protection is granted to cultural property by its entry in the "International Register of Cultural Property under Special Protection". This entry shall only

be made, in accordance with the provisions of the present Convention and under the conditions provided for in the Regulations for the execution of the Convention.

ARTICLE 9 – IMMUNITY OF CULTURAL PROPERTY UNDER SPECIAL PROTECTION

The High Contracting Parties undertake to ensure the immunity of cultural property under special protection by refraining, from the time of entry in the International Register, from any act of hostility directed against such property and, except for the cases provided for in paragraph 5 of Article 8, from any use of such property or its surroundings for military purposes.

ARTICLE 10 – IDENTIFICATION AND CONTROL

During an armed conflict, cultural property under special protection shall be marked with the distinctive emblem described in Article 16, and shall be open to international control as provided for in the Regulations for the execution of the Convention.

ARTICLE 11 – WITHDRAWAL OF IMMUNITY

1. If one of the High Contracting Parties commits, in respect of any item of cultural property under special protection, a violation of the obligations under Article 9, the opposing Party shall, so long as this violation persists, be released from the obligation to ensure the immunity of the property concerned. Nevertheless, whenever possible, the latter Party shall first request the cessation of such violation within a reasonable time.
2. Apart from the case provided for in paragraph 1 of the present Article, immunity shall be withdrawn from cultural property under special protection only in exceptional cases of unavoidable military necessity, and only for such time as that necessity continues. Such necessity can be established only by the officer commanding a force the equivalent of a division in size or larger. Whenever circumstances permit, the opposing Party shall be notified, a reasonable time in advance, of the decision to withdraw immunity.
3. The Party withdrawing immunity shall, as soon as possible, so inform the Commissioner-General for cultural property provided for in the Regulations for the execution of the Convention, in writing, stating the reasons.

CHAPTER III TRANSPORT OF CULTURAL PROPERTY

ARTICLE 12 – TRANSPORT UNDER SPECIAL PROTECTION

1. Transport exclusively engaged in the transfer of cultural property, whether within a territory or to another territory, may, at the request of the High Contracting Party concerned, take place under special protection in accordance with the conditions specified in the Regulations for the execution of the Convention.
2. Transport under special protection shall take place under the international supervision provided for in the aforesaid Regulations and shall display the distinctive emblem described in Article 16.
3. The High Contracting Parties shall refrain from any act of hostility directed against transport under special protection.

ARTICLE 13 – TRANSPORT IN URGENT CASES

1. If a High Contracting Party considers that the safety of certain cultural property requires its transfer and that the matter is of such urgency that the procedure laid down in Article 12 cannot be followed, especially at the beginning of an armed conflict, the transport may display the distinctive emblem described in Article 16, provided that an application for immunity referred to in Article 12 has not already been made and refused. As far as possible, notification of transfer should be made to the opposing Parties. Nevertheless, transport conveying cultural property to the territory of another country may not display the distinctive emblem unless immunity has been expressly granted to it.
2. The High Contracting Parties shall take, so far as possible, the necessary precautions to avoid acts of hostility directed against the transport described in paragraph 1 of the present Article and displaying the distinctive emblem.

ARTICLE 14 – IMMUNITY FROM SEIZURE, CAPTURE AND PRIZE

1. Immunity from seizure, placing in prize, or capture shall be granted to:
(a) cultural property enjoying the protection provided for in Article 12 or that provided for in Article 13;

(b) the means of transport exclusively engaged in the transfer of such cultural property.

2. Nothing in the present Article shall limit the right of visit and search.

CHAPTER IV PERSONNEL

ARTICLE 15 – PERSONNEL

As far as is consistent with the interests of security, personnel engaged in the protection of cultural property shall, in the interests of such property, be respected and, if they fall into the hands of the opposing Party, shall be allowed to continue to carry out their duties whenever the cultural property for which they are responsible has also fallen into the hands of the opposing Party.

CHAPTER V THE DISTINCTIVE EMBLEM

ARTICLE 16 – EMBLEM OF THE CONVENTION

1. The distinctive emblem of the Convention shall take the form of a shield, pointed below, persaltire blue and white (a shield consisting of a royal-blue square, one of the angles of which forms the point of the shield, and of a royal-blue triangle above the square, the space on either side being taken up by a white triangle).
2. The emblem shall be used alone, or repeated three times in a triangular formation (one shield below), under the conditions provided for in Article 17.

ARTICLE 17 – USE OF THE EMBLEM

1. The distinctive emblem repeated three times may be used only as a means of identification of:
 - (a) immovable cultural property under special protection;
 - (b) the transport of cultural property under the conditions provided for in Articles 12 and 13;

- (c) improvised refuges, under the conditions provided for in the Regulations for the execution of the Convention.
- 2. The distinctive emblem may be used alone only as a means of identification of:
 - (a) cultural property not under special protection;
 - (b) the persons responsible for the duties of control in accordance with the Regulations for the execution of the Convention;
 - (c) the personnel engaged in the protection of cultural property;
 - (d) the identity cards mentioned in the Regulations for the execution of the Convention.
- 3. During an armed conflict, the use of the distinctive emblem in any other cases than those mentioned in the preceding paragraphs of the present Article, and the use for any purpose whatever of a sign resembling the distinctive emblem, shall be forbidden.
- 4. The distinctive emblem may not be placed on any immovable cultural property unless at the same time there is displayed an authorization duly dated and signed by the competent authority of the High Contracting Party.

CHAPTER VI SCOPE OF APPLICATION OF THE CONVENTION

ARTICLE 18 – APPLICATION OF THE CONVENTION

- 1. Apart from the provisions which shall take effect in time of peace, the present Convention shall apply in the event of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one or more of them.
- 2. The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance.
- 3. If one of the Powers in conflict is not a Party to the present Convention, the Powers which are Parties thereto shall nevertheless remain bound by it in their mutual relations. They shall furthermore be bound by the Convention, in relation

to the said Power, if the latter has declared that it accepts the provisions thereof and so long as it applies them.

ARTICLE 19 – CONFLICTS NOT OF AN INTERNATIONAL CHARACTER

1. In the event of an armed conflict not of an international character occurring within the territory of one of the High Contracting Parties, each party to the conflict shall be bound to apply, as, a minimum, the provisions of the present Convention which relate to respect for cultural property.
2. The parties to the conflict shall endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.
3. The United Nations Educational, Scientific and Cultural Organization may offer its services to the parties to the conflict.
4. The application of the preceding provisions shall not affect the legal status of the parties to the conflict.

CHAPTER VII EXECUTION OF THE CONVENTION

ARTICLE 20 – REGULATIONS FOR THE EXECUTION OF THE CONVENTION

The procedure by which the present Convention is to be applied is defined in the Regulations for its execution, which constitute an integral part thereof.

ARTICLE 21 – PROTECTING POWERS

The present Convention and the Regulations for its execution shall be applied with the co-operation of the Protecting Powers responsible for safeguarding the interests of the Parties to the conflict.

ARTICLE 22 – CONCILIATION PROCEDURE

1. The Protecting Powers shall lend their good offices in all cases where they may deem it useful in the interests of cultural property, particularly if there is disagreement between the Parties to the conflict as to the application or

interpretation of the provisions of the present Convention or the Regulations for its execution.

2. For this purpose, each of the Protecting Powers may, either at the invitation of one Party, of the Director-General of the United Nations Educational, Scientific and Cultural Organization, or on its own initiative, propose to the Parties to the conflict a meeting of their representatives, and in particular of the authorities responsible for the protection of cultural property, if considered appropriate on suitably chosen neutral territory. The Parties to the conflict shall be bound to give effect to the proposals for meeting made to them. The Protecting Powers shall propose for approval by the Parties to the conflict a person belonging to a neutral Power or a person presented by the Director General of the United Nations Educational, Scientific and Cultural Organization, which person shall be invited to take part in such a meeting in the capacity of Chairman.

ARTICLE 23 – ASSISTANCE OF UNESCO

1. The High Contracting Parties may call upon the United Nations Educational, Scientific and Cultural Organization for technical assistance in organizing the protection of their cultural property, or in connexion with any other problem arising out of the application of the present Convention or the Regulations for its execution. The Organization shall accord such assistance within the limits fixed by its programme and by its resources.
2. The Organization is authorized to make, on its own initiative, proposals on this matter to the High Contracting Parties.

ARTICLE 24 – SPECIAL AGREEMENTS

1. The High Contracting Parties may conclude special agreements for all matters concerning which they deem it suitable to make separate provision.
2. No special agreement may be concluded which would diminish the protection afforded by the present Convention to cultural property and to the personnel engaged in its protection.

ARTICLE 25 – DISSEMINATION OF THE CONVENTION

The High Contracting Parties undertake, in time of peace as in time of armed conflict, to disseminate the text of the present Convention and the Regulations for its execution as widely as possible in their respective countries. They undertake, in particular, to include

the study thereof in their programmes of military and, if possible, civilian training, so that its principles are made known to the whole population, especially the armed forces and personnel engaged in the protection of cultural property.

ARTICLE 26 – TRANSLATIONS REPORTS

1. The High Contracting Parties shall communicate to one another, through the Director-General of the United Nations Educational, Scientific and Cultural Organization, the official translations of the present Convention and of the Regulations for its execution.
2. Furthermore, at least once every four years, they shall forward to the Director-General a report giving whatever information they think suitable concerning any measures being taken, prepared or contemplated by their respective administrations in fulfillment of the present Convention and of the Regulations for its execution.

ARTICLE 27 – MEETINGS

1. The Director-General of the United Nations Educational, Scientific and Cultural Organization may, with the approval of the Executive Board, convene meetings of representatives of the High Contracting Parties. He must convene such a meeting if at least one-fifth of the High Contracting Parties so request.
2. Without prejudice to any other functions which have been conferred on it by the present Convention or the Regulations for its execution, the purpose of the meeting will be to study problems concerning the application of the Convention and of the Regulations for its execution, and to formulate recommendations in respect thereof.
3. The meeting may further undertake a revision of the Convention or the Regulations for its execution if the majority of the High Contracting Parties are represented, and in accordance with the provisions of Article 39.

ARTICLE 28 – SANCTIONS

The High Contracting Parties undertake to take, within the framework of their ordinary criminal jurisdiction, all necessary steps to prosecute and impose penal or disciplinary sanctions upon those persons, of whatever nationality, who commit or order to be committed a breach of the present Convention.

FINAL PROVISIONS

ARTICLE 29 - LANGUAGES

1. The present Convention is drawn up in English, French, Russian and Spanish, the four texts being equally authoritative.
2. The United Nations Educational, Scientific and Cultural Organization shall arrange for translations of the Convention into the other official languages of its General Conference.

ARTICLE 30 - SIGNATURE

The present Convention shall bear the date of 14 May, 1954 and, until the date of 31 December, 1954, shall remain open for signature by all States invited to the Conference which met at The Hague from 21 April, 1954 to 14 May, 1954.

ARTICLE 31 - RATIFICATION

1. The present Convention shall be subject to ratification by signatory States in accordance with their respective constitutional procedures.
2. The instruments of ratification shall be deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

ARTICLE 32 - ACCESSION

From the date of its entry into force, the present Convention shall be open for accession by all States mentioned in Article 30 which have not signed it, as well as any other State invited to accede by the Executive Board of the United Nations Educational, Scientific and Cultural Organization. Accession shall be effected by the deposit of an instrument of accession with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

ARTICLE 33 - ENTRY INTO FORCE

1. The present Convention shall enter into force three months after five instruments of ratification have been deposited.

2. Thereafter, it shall enter into force, for each High Contracting Party, three months after the deposit of its instrument of ratification or accession.
3. The situations referred to in Articles 18 and 19 shall give immediate effect to ratifications or accessions deposited by the Parties to the conflict either before or after the beginning of hostilities or occupation. In such cases the Director-General of the United Nations Educational, Scientific and Cultural Organization shall transmit the communications referred to in Article 38 by the speediest method.

ARTICLE 34 – EFFECTIVE APPLICATION

1. Each State Party to the Convention on the date of its entry into force shall take all necessary measures to ensure its effective application within a period of six months after such entry into force.
2. This period shall be six months from the date of deposit of the instruments of ratification or accession for any State which deposits its instrument of ratification or accession after the date of the entry into force of the Convention.

ARTICLE 35 – TERRITORIAL EXTENSION OF THE CONVENTION

Any High Contracting Party may, at the time of ratification or accession, or at any time thereafter, declare by notification addressed to the Director-General of the United Nations Educational, Scientific and Cultural Organization, that the present Convention shall extend to all or any of the territories for whose international relations it is responsible. The said notification shall take effect three months after the date of its receipt.

ARTICLE 36 – RELATION TO PREVIOUS CONVENTIONS

1. In the relations between Powers which are bound by the Conventions of The Hague concerning the Laws and Customs of War on Land (IV) and concerning Naval Bombardment in Time of War (IX), whether those of 29 July, 1899 or those of 18 October, 1907, and which are Parties to the present Convention, this last Convention shall be supplementary to the aforementioned Convention (IX) and to the Regulations annexed to the aforementioned Convention (IV) and shall substitute for the emblem described in Article 5 of the aforementioned Convention (IX) the emblem described in Article 16 of the present Convention, in cases in which the present Convention and the Regulations for its execution provide for the use of this distinctive emblem.

2. In the relations between Powers which are bound by the Washington Pact of 15 April, 1935 for the Protection of Artistic and Scientific Institutions and of Historic Monuments (Roerich Pact) and which are Parties to the present Convention, the latter Convention shall be supplementary to the Roerich Pact and shall substitute for the distinguishing flag described in Article III of the Pact the emblem defined in Article 16 of the present Convention, in cases in which the present Convention and the Regulations for its execution provide for the use of this distinctive emblem.

ARTICLE 37 - DENUNCIATION

1. Each High Contracting Party may denounce the present Convention, on its own behalf, or on behalf of any territory for whose international relations it is responsible.
2. The denunciation shall be notified by an instrument in writing, deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.
3. The denunciation shall take effect one year after the receipt of the instrument of denunciation. However, if, on the expiry of this period, the denouncing Party is involved in an armed conflict, the denunciation shall not take effect until the end of hostilities, or until the operations of repatriating cultural property are completed, whichever is the later.

ARTICLE 38 - NOTIFICATIONS

The Director-General of the United Nations Educational, Scientific and Cultural Organization shall inform the States referred to in Articles 30 and 32, as well as the United Nations, of the deposit of all the instruments of ratification, accession or acceptance provided for in Articles 31, 32 and 39 and of the notifications and denunciations provided for respectively in Articles 35, 37 and 39.

ARTICLE 39 - REVISION OF THE CONVENTION AND OF THE REGULATIONS FOR ITS EXECUTION

1. Any High Contracting Party may propose amendments to the present Convention or the Regulations for its execution. The text of any proposed amendment shall be communicated to the Director-General of the United Nations Educational, Scientific and Cultural Organization who shall transmit it to each High Contracting

Party with the request that such Party reply within four months stating whether it:

(a) desires that a Conference be convened to consider the proposed amendment;

(b) favours the acceptance of the proposed amendment without a Conference;
or

(c) favours the rejection of the proposed amendment without a Conference.

2. The Director-General shall transmit the replies, received under paragraph 1 of the present Article, to all High Contracting Parties.
3. If all the High Contracting Parties which have, within the prescribed time-limit, stated their views to the Director-General of the United Nations Educational, Scientific and Cultural Organization, pursuant to paragraph 1(b) of this Article, inform him that they favour acceptance of the amendment without a Conference, notification of their decision shall be made by the Director-General in accordance with Article 38. The amendment shall become effective for all the High Contracting Parties on the expiry of ninety days from the date of such notification.
4. The Director-General shall convene a Conference of the High Contracting Parties to consider the proposed amendment if requested to do so by more than one-third of the High Contracting Parties.
5. Amendments to the Convention or to the Regulations for its execution, dealt with under the provisions of the preceding paragraph, shall enter into force only after they have been unanimously adopted by the High Contracting Parties represented at the Conference and accepted by each of the High Contracting Parties.
6. Acceptance by the High Contracting Parties of amendments to the Convention or to the Regulations for its execution, which have been adopted by the Conference mentioned in paragraphs 4 and 5, shall be effected by the deposit of a formal instrument with the Director-General of the United Nations Educational, Scientific and Cultural Organization.
7. After the entry into force of amendments to the present Convention or to the Regulations for its execution, only the text of the Convention or of the Regulations for its execution thus amended shall remain open for ratification or accession.

ARTICLE 40 – REGISTRATION

In accordance with Article 102 of the Charter of the United Nations, the present Convention shall be registered with the Secretariat of the United Nations at the request of the Director-General of the United Nations Educational, Scientific and Cultural Organization.

In faith whereof the undersigned, duly authorized, have signed the present Convention.

Done at The Hague, this fourteenth day of May, 1954, in a single copy which shall be deposited in the archives of the United Nations Educational, Scientific and Cultural Organization, and certified true copies of which shall be delivered to all the States referred to in Articles 30 and 32 as well as to the United Nations.

REGULATIONS FOR THE EXECUTION OF THE
CONVENTION FOR THE PROTECTION OF CULTURAL
PROPERTY IN THE EVENT OF ARMED CONFLICT

CHAPTER I
CONTROL

ARTICLE 1 – INTERNATIONAL LIST OF PERSONS

On the entry into force of the Convention, the Director-General of the United Nations Educational, Scientific and Cultural Organization shall compile an international list consisting of all persons nominated by the High Contracting Parties as qualified to carry out the functions of Commissioner-General for Cultural Property. On the initiative of the Director-General of the United Nations Educational, Scientific and Cultural Organization, this list shall be periodically revised on the basis of requests formulated by the High Contracting Parties.

ARTICLE 2 – ORGANIZATION OF CONTROL

As soon as any High Contracting Party is engaged in an armed conflict to which Article 18 of the Convention applies:

- (a) It shall appoint a representative for cultural property situated in its territory; if it is in occupation of another territory, it shall appoint a special representative for cultural property situated in that territory;
- (b) The Protecting Power acting for each of the Parties in conflict with such High Contracting Party shall appoint delegates accredited to the latter in conformity with Article 3 below;
- (c) A Commissioner-General for Cultural Property shall be appointed to such High Contracting Party in accordance with Article 4.

ARTICLE 3 – APPOINTMENT OF DELEGATES OF PROTECTING POWERS

The Protecting Power shall appoint its delegates from among the members of its diplomatic or consular staff or, with the approval of the Party to which they will be accredited, from among other persons.

ARTICLE 4 – APPOINTMENT OF COMMISSIONER-GENERAL

1. The Commissioner-General for Cultural Property shall be chosen from the international list of persons by joint agreement between the Party to which he will be accredited and the Protecting Powers acting on behalf of the opposing Parties.
2. Should the Parties fail to reach agreement within three weeks from the beginning of their discussions on this point, they shall request the President of the International Court of Justice to appoint the Commissioner-General, who shall not take up his duties until the Party to which he is accredited has approved his appointment.

ARTICLE 5 – FUNCTIONS OF DELEGATES

The delegates of the Protecting Powers shall take note of violations of the Convention, investigate, with the approval of the Party to which they are accredited, the circumstances in which they have occurred, make representations locally to secure their cessation and, if necessary, notify the Commissioner-General of such violations. They shall keep him informed of their activities.

ARTICLE 6 – FUNCTIONS OF THE COMMISSIONER-GENERAL

1. The Commissioner-General for Cultural Property shall deal with all matters referred to him in connexion with the application of the Convention, in conjunction with the representative of the Party to which he is accredited and with the delegates concerned.
2. He shall have powers of decision and appointment in the cases specified in the present Regulations.
3. With the agreement of the Party to which he is accredited, he shall have the right to order an investigation or to conduct it himself.
4. He shall make any representations to the Parties to the conflict or to their Protecting Powers which he deems useful for the application of the Convention.
5. He shall draw up such reports as may be necessary on the application of the Convention and communicate them to the Parties concerned and to their Protecting Powers. He shall send copies to the Director-General of the United

Nations Educational, Scientific and Cultural Organization, who may make use only of their technical contents.

6. If there is no Protecting Power, the Commissioner-General shall exercise the functions of the Protecting Power as laid down in Articles 21 and 22 of the Convention.

ARTICLE 7 – INSPECTORS AND EXPERTS

1. Whenever the Commissioner-General for Cultural Property considers it necessary, either at the request of the delegates concerned or after consultation with them, he shall propose, for the approval of the Party to which he is accredited, an inspector of cultural property to be charged with a specific mission. An Inspector shall be responsible only to the Commissioner-General.
2. The Commissioner-General, delegates and inspectors may have recourse to the services of experts, who will also be proposed for the approval of the Party mentioned in the preceding paragraph.

ARTICLE 8 – DISCHARGE OF THE MISSION OF CONTROL

The Commissioners-General for Cultural Property, delegates of the Protecting Powers, inspectors and experts shall in no case exceed their mandates. In particular, they shall take account of the security needs of the High Contracting Party to which they are accredited and shall in all circumstances act in accordance with the requirements of the military situation as communicated to them by that High Contracting Party.

ARTICLE 9 – SUBSTITUTES FOR PROTECTING POWERS

If a Party to the conflict does not benefit or ceases to benefit from the activities of a Protecting Power, a neutral State may be asked to undertake those functions of a Protecting Power which concern the appointment of a Commissioner-General for Cultural Property in accordance with the procedure laid down in Article 4 above. The Commissioner-General thus appointed shall, if need be, entrust to inspectors the functions of delegates of Protecting Powers as specified in the present Regulations.

ARTICLE 10 – EXPENSES

The remuneration and expenses of the Commissioner-General for Cultural Property, inspectors and experts shall be met by the Party to which they are accredited.

Remuneration and expenses of delegates of the Protecting Powers shall be subject to agreement between those Powers and the States whose interests they are safeguarding.

CHAPTER II SPECIAL PROTECTION

ARTICLE 11 – IMPROVISED REFUGES

1. If, during an armed conflict, any High Contracting Party is induced by unforeseen circumstances to set up an improvised refuge and desires that it should be placed under special protection, it shall communicate this fact forthwith to the Commissioner-General accredited to that Party.
2. If the Commissioner-General considers that such a measure is justified by the circumstances and by the importance of the cultural property sheltered in this improvised refuge, he may authorize the High Contracting Party to display on such refuge the distinctive emblem defined in Article 16 of the Convention. He shall communicate his decision without delay to the delegates of the Protecting Powers who are concerned, each of whom may, within a time-limit of 30 days, order the immediate withdrawal of the emblem.
3. As soon as such delegates have signified their agreement or if the time-limit of 30 days has passed without any of the delegates concerned having made an objection, and if, in the view of the Commissioner-General, the refuge fulfils the conditions laid down in Article 8 of the Convention, the Commissioner-General shall request the Director-General of the United Nations Educational, Scientific and Cultural Organization to enter the refuge in the Register of Cultural Property under Special Protection.

ARTICLE 12 – INTERNATIONAL REGISTER OF CULTURAL PROPERTY UNDER SPECIAL PROTECTION

1. An "International Register of Cultural Property under Special Protection" shall be prepared.
2. The Director-General of the United Nations Educational, Scientific and Cultural Organization shall maintain this Register. He shall furnish copies to the Secretary-General of the United Nations and to the High Contracting Parties.

3. The Register shall be divided into sections, each in the name of a High Contracting Party. Each section shall be sub-divided into three paragraphs, headed: Refuges, Centres containing Monuments, Other Immovable Cultural Property. The Director-General shall determine what details each section shall contain.

ARTICLE 13 – REQUESTS FOR REGISTRATION

1. Any High Contracting Party may submit to the Director-General of the United Nations Educational, Scientific and Cultural Organization an application for the entry in the Register of certain refuges, centres containing monuments or other immovable cultural property situated within its territory. Such application shall contain a description of the location of such property and shall certify that the property complies with the provisions of Article 8 of the Convention.
2. In the event of occupation, the Occupying Power shall be competent to make such application.
3. The Director-General of the United Nations Educational, Scientific and Cultural Organization shall, without delay, send copies of applications for registration to each of the High Contracting Parties.

ARTICLE 14 – OBJECTIONS

1. Any High Contracting Party may, by letter addressed to the Director-General of the United Nations Educational, Scientific and Cultural Organization, lodge an objection to the registration of cultural property. This letter must be received by him within four months of the day on which he sent a copy of the application for registration.
2. Such objection shall state the reasons giving rise to it, the only, valid grounds being that:
 - (a) the property is not cultural property;
 - (b) the property does not comply with the conditions mentioned in Article 8 of the Convention.
3. The Director-General shall send a copy of the letter of objection to the High Contracting Parties without delay. He shall, if necessary, seek the advice of the International Committee on Monuments, Artistic and Historical Sites and

Archaeological Excavations and also, if he thinks fit, of any other competent organization or person.

4. The Director-General, or the High Contracting Party requesting registration, may make whatever representations they deem necessary to the High Contracting Parties which lodged the objection, with a view to causing the objection to be withdrawn.
5. If a High Contracting Party which has made an application for registration in time of peace becomes involved in an armed conflict before the entry has been made, the cultural property concerned shall at once be provisionally entered in the Register, by the Director-General, pending the confirmation, withdrawal or cancellation of any objection that may be, or may have been, made.
6. If, within a period of six months from the date of receipt of the letter of objection, the Director-General has not received from the High Contracting Party lodging the objection a communication stating that it has been withdrawn, the High Contracting Party applying for registration may request arbitration in accordance with the procedure in the following paragraph.
7. The request for arbitration shall not be made more than one year after the date of receipt by the Director-General of the letter of objection. Each of the two Parties to the dispute shall appoint an arbitrator. When more than one objection has been lodged against an application for registration, the High Contracting Parties which have lodged the objections shall, by common consent, appoint a single arbitrator. These two arbitrators shall select a chief arbitrator from the International list mentioned in Article 1 of the present Regulations. If such arbitrators cannot agree upon their choice, they shall ask the President of the International Court of Justice to appoint a chief arbitrator who need not necessarily be chosen from the international list. The arbitral tribunal thus constituted shall fix its own procedure. There shall be no appeal from its decisions.
8. Each of the High Contracting Parties may declare, whenever a dispute to which it is a Party arises, that it does not wish to apply the arbitration procedure provided for in the preceding paragraph. In such cases, the objection to an application for registration shall be submitted by the Director-General to the High Contracting Parties. The objection will be confirmed only if the High Contracting Parties so decide by a two-third majority of the High Contracting Parties voting. The vote shall be taken by correspondence, unless the Director-General of the United Nations Educational, Scientific and Cultural Organization deems it essential to convene a meeting under the powers conferred upon him by Article 27 of the Convention. If the Director-General decides to proceed with the vote by correspondence, he shall invite the High Contracting Parties

to transmit their votes by sealed letter within six months from the day on which they were invited to do so.

ARTICLE 15 REGISTRATION

1. The Director-General of the United Nations Educational, Scientific and Cultural Organization shall cause to be entered in the Register, under a serial number, each item of property for which application for registration is made, provided that he has not received an objection within the time-limit prescribed in paragraph 1 of Article 14.
2. If an objection has been lodged, and without prejudice to the provision of paragraph 5 of Article 14, the Director-General shall enter property in the Register only if the objection has been withdrawn or has failed to be confirmed following the procedures laid down in either paragraph 7 or paragraph 8 of Article 14.
3. Whenever paragraph 3 of Article 11 applies, the Director-General shall enter property in the Register if so requested by the Commissioner-General for Cultural Property.
4. The Director-General shall send without delay to the Secretary-General of the United Nations, to the High Contracting Parties, and, at the request of the Party applying for registration, to all other States referred to in Articles 30 and 32 of the Convention, a certified copy of each entry in the Register. Entries shall become effective thirty days after despatch of such copies.

ARTICLE 16 – CANCELLATION

1. The Director-General of the United Nations Educational, Scientific and Cultural Organization shall cause the registration of any property to be cancelled:
 - (a) at the request of the High Contracting Party within whose territory the cultural property is situated;
 - (b) if the High Contracting Party which requested registration has denounced the Convention, and when that denunciation has taken effect;
 - (c) In the special case provided for in Article 14, paragraph 5, when an objection has been confirmed following the procedures mentioned either in paragraph 7 or in paragraph 8 of Article 14.

2. The Director-General shall send without delay, to the Secretary-General of the United Nations and to all States which received a copy of the entry in the Register, a certified copy of its cancellation. Cancellation shall take effect thirty days after the despatch of such copies.

CHAPTER III TRANSPORT OF CULTURAL PROPERTY

ARTICLE 17 – PROCEDURE TO OBTAIN IMMUNITY

1. The request mentioned in paragraph 1 of Article 12 of the Convention shall be addressed to the Commissioner-General for Cultural Property. It shall mention the reasons on which it is based and specify the approximate number and the importance of the objects to be transferred, their present location, the location now envisaged, the means of transport to be used, the route to be followed, the date proposed for the transfer, and any other relevant information.
2. If the Commissioner-General, after taking such opinions as he deems fit, considers that such transfer is justified, he shall consult those delegates of the Protecting Powers who are concerned, on the measures proposed for carrying it out. Following such consultation, he shall notify the Parties to the conflict concerned of the transfer, including in such notification all useful information.
3. The Commissioner-General shall appoint one or more inspectors, who shall satisfy themselves that only the property stated in the request is to be transferred and that the transport is to be by the approved methods and bears the distinctive emblem. The inspector or inspectors shall accompany the property to its destination.

ARTICLE 18 – TRANSPORT ABROAD

Where the transfer under special protection is to the territory of another country, it shall be governed not only by Article 12 of the Convention and by Article 17 of the present Regulations, but by the following further provisions:

- (a) while the cultural property remains on the territory of another State, that State shall be its depositary and shall extend to it as great a measure of care as that which it bestows upon its own cultural property of comparable importance;

- (b) the depositary State shall return the property only on the cessation of the conflict; such return shall be effected within six months from the date on which it was requested;
- (c) during the various transfer operations, and while it remains on the territory of another State, the cultural property shall be exempt from confiscation and may not be disposed of either by the depositor or by the depositary. Nevertheless, when the safety of the property requires it, the depositary may, with the assent of the depositor, have the property transported to the territory of a third country, under the conditions laid down in the present article;
- (d) the request for special protection shall indicate that the State to whose territory the property is to be transferred accepts the provisions of the present Article.

ARTICLE 19 – OCCUPIED TERRITORY

Whenever a High Contracting Party occupying territory of another High Contracting Party transfers cultural property to a refuge situated elsewhere in that territory, without being able to follow the procedure provided for in Article 17 of the Regulations, the transfer in question shall not be regarded as misappropriation within the meaning of Article 4 of the Convention, provided that the Commissioner-General for Cultural Property certifies in writing, after having consulted the usual custodians, that such transfer was rendered necessary by circumstances.

CHAPTER IV THE DISTINCTIVE EMBLEM


ARTICLE 20 – AFFIXING OF THE EMBLEM

1. The placing of the distinctive emblem and its degree of visibility shall be left to the discretion of the competent authorities of each High Contracting Party. It may be displayed on flags or armlets; it may be painted on an object or represented in any other appropriate form.
2. However, without prejudice to any possible fuller markings, the emblem shall, in the event of armed conflict and in the cases mentioned in Articles 12 and 13 of the Convention, be placed on the vehicles of transport so as to be clearly visible in daylight from the air as well as from the ground. The emblem shall be visible from the ground:

- (a) at regular intervals sufficient to indicate clearly the perimeter of a centre containing monuments under special protection;
- (b) at the entrance to other immovable cultural property under special protection.

ARTICLE 21 – IDENTIFICATION OF PERSONS

1. The persons mentioned in Article 17, paragraph 2 (b) and (c) of the Convention may wear an armlet bearing the distinctive emblem, issued and stamped by the competent authorities.
2. Such persons shall carry a special identity card bearing the distinctive emblem. This card shall mention at least the surname and first names, the date of birth, the title or rank, and the function of the holder. The card shall bear the photograph of the holder as well as his signature or his fingerprints, or both. It shall bear the embossed stamp of the competent authorities.
3. Each High Contracting Party shall make out its own type of identity card, guided by the model annexed, by way of example, to the present Regulations. The High Contracting Parties shall transmit to each other a specimen of the model they are using. Identity cards shall be made out, if possible, at least in duplicate, one copy being kept by the issuing Power.
4. The said persons may not, without legitimate reason, be deprived of their identity card or of the right to wear the armlet.

Front	Reverse side			
<div style="text-align: center;">  <p>IDENTITY CARD for personnel engaged in the protection of cultural property</p> </div> <p> Surname _____ First names _____ Date of Birth _____ Title or Rank _____ Function _____ </p> <p style="text-align: center;">Is the bearer of this card under the terms of the Convention of The Hague, dated 14 May, 1954, for the Protection of Cultural Property in the event of Armed Conflict.</p> <p> Date of issue _____ Number of Card _____ </p>	<div style="text-align: right; padding-right: 10px;"> Signature of bearer or fingerprint or both </div> <div style="border: 1px solid black; width: 60px; height: 40px; margin: 10px auto; text-align: center; font-size: 8px;"> Photo of bearer </div> <div style="border: 1px solid black; width: 60px; height: 40px; margin: 10px auto; text-align: center; font-size: 8px;"> Embossed stamp of authority issuing card </div> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <tr> <td style="width: 33%; text-align: center; font-size: 8px;">Height</td> <td style="width: 33%; text-align: center; font-size: 8px;">Eyes</td> <td style="width: 33%; text-align: center; font-size: 8px;">Hair</td> </tr> </table> <div style="margin-top: 10px;"> <p style="text-align: center; font-size: 8px;">Other distinguishing marks</p> <div style="border: 1px solid black; height: 40px; width: 100%;"></div> </div>	Height	Eyes	Hair
Height	Eyes	Hair		

1954 (FIRST) PROTOCOL

The Hague, 14 May 1954

The High Contracting Parties are agreed as follows :

I

1. Each High Contracting Party undertakes to prevent the exportation, from a territory occupied by it during an armed conflict, of cultural property as defined in Article 1 of the Convention for the Protection of Cultural Property in the Event of Armed Conflict, signed at The Hague on 14 May, 1954.
2. Each High Contracting Party undertakes to take into its custody cultural property imported into its territory either directly or indirectly from any occupied territory. This shall either be effected automatically upon the importation of the property or, failing this, at the request of the authorities of that territory.
3. Each High Contracting Party undertakes to return, at the close of hostilities, to the competent authorities of the territory previously occupied, cultural property which is in its territory, if such property has been exported in contravention of the principle laid down in the first paragraph. Such property shall never be retained as war reparations.
4. The High Contracting Party whose obligation it was to prevent the exportation of cultural property from the territory occupied by it, shall pay an indemnity to the holders in good faith of any cultural property which has to be returned in accordance with the preceding paragraph.

II

5. Cultural property coming from the territory of a High Contracting Party and deposited by it in the territory of another High Contracting Party for the purpose of protecting such property against the dangers of an armed conflict, shall be returned by the latter, at the end of hostilities, to the competent authorities of the territory from which it came.

III

6. The present Protocol shall bear the date of 14 May, 1954 and, until the date of 31 December, 1954, shall remain open for signature by all States invited to the Conference which met at The Hague from 21 April, 1954 to 14 May, 1954.

7. (a) The present Protocol shall be subject to ratification by signatory States in accordance with their respective constitutional procedures.

(b) The instruments of ratification shall be deposited with the Director General of the United Nations Educational, Scientific and Cultural Organization.
8. From the date of its entry into force, the present Protocol shall be open for accession by all States mentioned in paragraph 6 which have not signed it as well as any other State invited to accede by the Executive Board of the United Nations Educational, Scientific and Cultural Organization. Accession shall be effected by the deposit of an instrument of accession with the Director-General of the United Nations Educational, Scientific and Cultural Organization.
9. The States referred to in paragraphs 6 and 8 may declare, at the time of signature, ratification or accession, that they will not be bound by the provisions of Section I or by those of Section II of the present Protocol.
10. (a) The present Protocol shall enter into force three months after five Instruments of ratification have been deposited.

(b) Thereafter, it shall enter into force, for each High Contracting Party, three months after the deposit of its instrument of ratification or accession.

(c) The situations referred to in Articles 18 and 19 of the Convention for the Protection of Cultural Property in the Event of Armed Conflict, signed at The Hague on 14 May, 1954, shall give immediate effect to ratifications and accessions deposited by the Parties to the conflict either before or after the beginning of hostilities or occupation. In such cases, the Director-General of the United Nations Educational, Scientific and Cultural Organization shall transmit the communications referred to in paragraph 14 by the speediest method.
11. (a) Each State Party to the Protocol on the date of its entry into force shall take all necessary measures to ensure its effective application within a period of six months after such entry into force.

(b) This period shall be six months from the date of deposit of the instruments of ratification or accession for any State which deposits its instrument of ratification or accession after the date of the entry into force of the Protocol.
12. Any High Contracting Party may, at the time of ratification or accession, or at any time thereafter, declare by notification addressed to the Director General of the United Nations Educational, Scientific and Cultural Organization, that the present Protocol shall extend to all or any of the territories for whose international

relations it is responsible. The said notification shall take effect three months after the date of its receipt.

13. (a) Each High Contracting Party may denounce the present Protocol, on its own behalf, or on behalf of any territory for whose international relations it is responsible.

(b) The denunciation shall be notified by an instrument in writing, deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

(c) The denunciation shall take effect one year after receipt of the instrument of denunciation. However, if, on the expiry of this period, the denouncing Party is involved in an armed conflict, the denunciation shall not take effect until the end of hostilities, or until the operations of repatriating cultural property are completed, whichever is the later.
14. The Director-General of the United Nations Educational, Scientific and Cultural Organization shall inform the States referred to in paragraphs 6 and 8, as well as the United Nations, of the deposit of all the instruments of ratification, accession or acceptance provided for in paragraphs 7, 8 and 15 and the notifications and denunciations provided for respectively in paragraphs 12 and 13.
15. (a) The present Protocol may be revised if revision is requested by more than one-third of the High Contracting Parties.

(b) The Director-General of the United Nations Educational, Scientific and Cultural Organization shall convene a Conference for this purpose.

(c) Amendments to the present Protocol shall enter into force only after they have been unanimously adopted by the High Contracting Parties represented at the Conference and accepted by each of the High Contracting Parties.

(d) Acceptance by the High Contracting Parties of amendments to the present Protocol, which have been adopted by the Conference mentioned in subparagraphs (b) and (c), shall be effected by the deposit of a formal instrument with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

(e) After the entry into force of amendments to the present Protocol, only the text of the said Protocol thus amended shall remain open for ratification or accession.

1954 (First) Protocol

In accordance with Article 102 of the Charter of the United Nations, the present Protocol shall be registered with the Secretariat of the United Nations at the request of the Director-General of the United Nations Educational, Scientific and Cultural Organization.

In faith whereof the undersigned, duly authorized, have signed the present Protocol.
Done at The Hague, this fourteenth day of May, 1954, in English, French, Russian and Spanish, the four texts being equally authoritative, in a single copy which shall be deposited in the archives of the United Nations Educational, Scientific and Cultural Organization, and certified true copies of which shall be delivered to all the States referred to in paragraphs 6 and 8 as well as to the United Nations.

RESOLUTIONS OF THE 1954 HAGUE CONFERENCE

RESOLUTION I

The Conference expresses the hope that the competent organs of the United Nations should decide, in the event of military action being taken in implementation of the Charter, to ensure application of the provisions of the Convention by the armed forces taking part in such action.

RESOLUTION II

The Conference expresses the hope that each of the High Contracting Parties, on acceding to the Convention, should set up, within the framework of its constitutional and administrative system, a national advisory committee consisting of a small number of distinguished persons: for example, senior officials of archaeological services, museums, etc., a representative of the military general staff, a representative of the Ministry of Foreign Affairs, a specialist in international law and two or three other members whose official duties or specialized knowledge are related to the fields covered by the Convention.

The Committee should be under the authority of the minister of State or senior official responsible for the national service chiefly concerned with the care of cultural property. Its chief functions would be:

- a) to advise the government concerning the measures required for the implementation of the Convention in its legislative, technical or military aspects, both in time of peace and during an armed conflict;
- b) to approach its government in the event of an armed conflict or when such a conflict appears imminent, with a view to ensuring that cultural property situated within its own territory or within that of other countries is known to, and respected and protected by the armed forces of the country, in accordance with the provisions of the Convention;
- c) to arrange, in agreement with its government, for liaison and co-operation with other similar national committees and with any competent international authority.

Resolutions of the 1954 Hague Conference

RESOLUTION III

The Conference expresses the hope that the Director-General of the United Nations Educational, Scientific and Cultural Organization should convene, as soon as possible after the entry into force of the Convention for the Protection of Cultural Property in the Event of Armed Conflict, a meeting of the High Contracting Parties.

Annex 2: Official Khmer Translation of the 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict



United Nations
Educational, Scientific and
Cultural Organization

Organisation
des Nations Unies
pour l'éducation,
la science et la culture

Organización
de las Naciones Unidas
para la Educación,
la Ciencia y la Cultura

Организация
Объединённых Наций по
вопросам образования,
науки и культуры

منظمة الأمم المتحدة
للتربية والعلم والثقافة

联合国教育、
科学及文化组织

CLT/CIH/MCO/2010/PI/144
Paris, 26 Février 2010
Original English

Official Translation of the 1954 Hague Convention for the Protection
of Cultural Property in the Event of Armed Conflict

Submitted by Cambodia

**អនុសញ្ញា ស្តីពី
ការការពារសម្បត្តិវប្បធម៌
ក្នុងក្របខណ្ឌជម្លោះប្រដាប់អាវុធ
(អនុសញ្ញា ១៩៥៤)**

**ក្លាយជាមួយនឹង បទបញ្ជាសម្រាប់ការអនុវត្តអនុសញ្ញា
ក្របខណ្ឌ ពិធីសាររបស់អនុសញ្ញា និងសេចក្តីសម្រេចរបស់សន្និធាន ។**

បុព្វកថា

អនុសញ្ញានេះគឺជាបច្ច័យបន្តមកពីអនុសញ្ញាទី ដែលមានឈ្មោះថា អនុសញ្ញាឆ្នាំ១៩៥៤ ដែលចែងអំពី ច្បាប់ និងទំលាប់នៃសង្គ្រាមនៅលើដីដី ហើយដែលបានបង្កើតជាលើកទីមួយនូវចំណុចដើមដំបូងបំផុតនៃ ការការពារជាអន្តរជាតិ ដល់សំណង់ទាំងឡាយដែលមានតំលៃខាងសិល្បៈ វិទ្យាសាស្ត្រ ក៏ដូចជាវិមាន ប្រវត្តិសាស្ត្រនានា។ អនុសញ្ញានេះបានចែងនូវមាត្រាបញ្ញត្តិទាំងឡាយ ស្តីអំពីការថែរក្សាចរនៈ និង អចលនវត្ថុដែលមានសារសំខាន់បំផុតចំពោះបេតិកភ័ណ្ឌវប្បធម៌របស់ប្រជាជាតិទាំងឡាយ ដោយពុំគិតពី ប្រភពដើម ឬម្ចាស់កម្មសិទ្ធិ ហើយនិងធ្វើអោយកើតមាននូវសេចក្តីគោរពដល់សម្បត្តិដែលត្រូវតែគោរព ដោយខាងតុំបានទាំងនោះ ។

ការការពារសម្បត្តិទាំងនោះមានន័យថា រដ្ឋទាំងឡាយដែលនៅលើដីដីដីខ្លួនមានសម្បត្តិវប្បធម៌តាំងនៅ ចាប់តាំងពីពេលដែលប្រទេសមានសន្តិភាពមកម្ល៉េះ ត្រូវតែចាត់ត្រូវវិធានការចាំបាច់ដើម្បីការពារសម្បត្តិ ទាំងនោះ ។

ការគោរពដល់សម្បត្តិដែលត្រូវការពារ គឺជាកាតព្វកិច្ចដែលត្រូវតែបំពេញ ទាំងនៅលើដីដីរបស់ខ្លួន ផ្ទាល់ ទាំងនៅលើដីដីរបស់ប្រទេសបរិវេណ នៅពេលណាដែលជម្លោះប្រដាប់អាវុធកើតមានឡើង ។ ការគោរពយ៉ាងដូច្នេះដល់សម្បត្តិដែលត្រូវការពារ មានន័យថា សមាជិកទាំងអស់នៃអនុសញ្ញា យល់ ព្រមបញ្ឈប់រាល់សកម្មភាពទាំងឡាយ ដែលអាចបណ្តាលអោយសម្បត្តិវប្បធម៌ធ្លាក់ទៅក្នុងភាពវិនាស អន្តរាយ និងបញ្ឈប់រាល់អំពើអមិត្តសំដៅប្រឆាំងដោយផ្ទាល់ទៅលើសម្បត្តិទាំងនោះ ។ លើសពីនោះ ទៀត គេត្រូវហាមឃាត់ និងប្រសិនបើចាំបាច់ គឺបង្ការកាត់ទុករាល់អំពើច្របូកច្របល់ការប្រើប្រាស់សម្បត្តិ វប្បធម៌ខុសគោលដៅ ។

មាត្រាបញ្ញត្តិមួយ បានត្រូវអោយមានការការពារ ជាពិសេសសំរាប់សម្បត្តិវប្បធម៌ ដែលមាន
សារៈប្រយោជន៍ សំខាន់ និងសំរាប់កន្លែងដែលសង្គមជាតិការពារសម្បត្តិវប្បធម៌ទាំងនោះ ។

បទដ្ឋាននៃការអនុវត្តអនុសញ្ញា បានចែងនៅក្នុងបទបញ្ជាសំរាប់ការអនុវត្តអនុសញ្ញា ដែលតាមគំនិតផ្តួច
ផ្តើមរបស់លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ត្រូវបានគេយកទៅ
អនុវត្តជាលើកដំបូងនៅក្នុងអំឡុងឆ្នាំ១៩៦៧ នៃជំនួញនៅមជ្ឈិមបូព៌ា ។

អនុសញ្ញាដែលផ្តល់ឱកាស ប្រទេសចុះកិច្ចសន្យាទាំងអស់ យ៉ាងហោចណាស់ រៀងរាល់៤ឆ្នាំម្តងត្រូវផ្តល់
ជូនលោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ នូវរបាយការណ៍មួយច្បាប់
ស្តីអំពីបញ្ហាវិធានការដែលកំពុងអនុវត្ត វិធានការដែលបានរៀបចំឡើង ឬដែលត្រូវធ្វើឡើងដើម្បី
អនុវត្តអនុសញ្ញា និងបទបញ្ជាសំរាប់ការអនុវត្តអនុសញ្ញានេះ ។

អនុសញ្ញានេះមានអនុកាតព្វកិច្ច ពីថ្ងៃទី៧ ខែសីហា ឆ្នាំ១៩៥៦ ។

ពិធីសារ ត្រូវបានអនុម័តដោយសន្និសីទមីក្រូឡាអេ នៅពេលព្រមគ្នាដែលគេអនុម័តអនុសញ្ញាឆ្នាំ
១៩៥៤ ក្នុងនោះបានហាមប្រាមដល់ប្រទេសដែលជាភាគីចុះកិច្ចសន្យាទាំងអស់ មិនអោយនាំចេញសម្បត្តិ
វប្បធម៌ក្នុងដែនដីដែលខ្លួនបានចូលទៅកាន់កាប់ ។ លើសពីនេះទៅទៀត ប្រទេសទាំងអស់នោះត្រូវចាត់
ត្រួតពិនិត្យការចាំបាច់ ដើម្បីទប់ស្កាត់រាល់ការនាំចេញសម្បត្តិវប្បធម៌ ទោះជាប្រព្រឹត្តដោយបុគ្គលណា
ក៏ដោយ ។

ទោះបីជាបានចាត់វិធានការហើយក្តី តែបើសិនជាមានសម្បត្តិវប្បធម៌ណាមួយត្រូវបានគេនាំចេញពីក្នុង
ដែនដីដែលត្រូវបានកាត់ម្ខាងទៀតចូលទៅកាន់កាប់ សម្បត្តិនោះត្រូវតែបញ្ជូនទៅអោយរដ្ឋអំណាចមាន
សមត្ថកិច្ចនៃដែនដីនោះវិញនៅពេលបញ្ចប់ជំនួញ ហើយការសងចំពោះអ្នកទិញ ឬជនជាម្ចាស់សុទ្ធិតនៃ
សម្បត្តិនោះ និងត្រូវចំណាយទូទៅដោយប្រទេសដែលបានចូលទៅកាន់កាប់ទីកន្លែងនោះ កាលពីក្នុងអំឡុង
ពេលនៃវិវាទប្រដាប់អាវុធ ។ ពិធីសារបានចែងទៀតថា សម្បត្តិវប្បធម៌ដែលត្រូវបានគេបញ្ជូនចេញមក
អំពីដែនដីដែលត្រូវបានចូលទៅកាន់កាប់នោះ មិនត្រូវប្រកាន់ទុកថាជាសំណងជូនជូលការបង់ខាតដោយ
សារសង្គ្រាមឡើយ ។

ពិធីសារ បានចូលជាធរមាននៅថ្ងៃទី៧ ខែសីហា ឆ្នាំ១៩៥៦ ។

អង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ

អនុសញ្ញា

ស្តីអំពី

ការការពារសម្បត្តិវប្បធម៌

ក្នុងក្របខណ្ឌនៃការប្រដាប់អាវុធ

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

អនុម័តនៅទីក្រុងឡាអេ ថ្ងៃទី១៤ ឧសភា ១៩៥៤

ប្រទេសចុះកិច្ចសន្យាទាំងអស់

ដោយឧទ្ទេសស្គាល់ថា សម្បត្តិវប្បធម៌បានទទួលរងការខូចខាតដ៏ធ្ងន់ធ្ងរក្នុងអំឡុងនៃជម្លោះប្រដាប់អាវុធនាពេលថ្មីៗនេះ និងដោយសារមូលហេតុនៃការអភិវឌ្ឍបច្ចេកទេសនៃការធ្វើសង្គ្រាម សម្បត្តិវប្បធម៌កំពុងស្ថិតនៅក្នុងគ្រោះថ្នាក់នៃការបំផ្លាញដោយផ្ទាល់ដោយសារតែឆ្លងកាត់ទៅៗ ។

ដោយយល់ឃើញថា ការបំផ្លាញសម្បត្តិវប្បធម៌ ទោះជាបស់ជនជាតិណាមួយក៏ដោយ គឺមានន័យថា ជាការបំផ្លាញសម្បត្តិវប្បធម៌របស់មនុស្សជាតិទាំងមូល ពីព្រោះជាតិមួយៗបានផ្តល់នូវវិភាគនានារបស់ខ្លួនដល់វប្បធម៌របស់ពិភពលោក ។

ដោយពិចារណាឃើញថា ការថែរក្សាវប្បធម៌មានសារៈសំខាន់យ៉ាងខ្លាំងសំរាប់ប្រជាជាតិទាំងអស់ក្នុងពិភពលោក ហើយគឺជាការចាំបាច់ណាស់ដែលមរតកនេះត្រូវត្រូវបានទទួលការការពារជាអន្តរជាតិ ។

ដោយអនុវត្តនៅតាម គោលការណ៍នៃការការពារសម្បត្តិវប្បធម៌ក្នុងពេលមានសង្គ្រាម ដូចមានចែងនៅក្នុងអនុសញ្ញាក្រុងឡាអេ ឆ្នាំ១៨៩៩ និងឆ្នាំ១៩០៧ និងនៅក្នុងកកិកាសញ្ញាក្រុងវ៉ាស៊ីនតោន ចុះថ្ងៃទី១៥ មេសា ១៩៣៥ ។

ដោយយល់ឃើញថា ការការពារបែបនេះពុំអាចមានប្រសិទ្ធភាពបានឡើយ ដកបណ្តាវិធានការទាំងកំរិតជាតិ និងអន្តរជាតិមិនត្រូវបានបង្កើតឡើងនៅក្នុងពេលដែលប្រទេសមានសន្តិភាពនោះ ។

ដោយបង្ខំ អនុវត្តគ្រប់វិធានការដែលអាចធ្វើទៅបានដើម្បីការពារសម្បត្តិវប្បធម៌ ។
បានព្រមព្រៀងលើប្រការទាំងឡាយដូចតទៅ៖

ជំពូកទី១

បទបញ្ញត្តិទូទៅស្តីពីកិច្ចការពារ

មាត្រា១៖ ទិសដៅនៃសម្បត្តិវប្បធម៌

សំរាប់គោលបំណងនៃអនុសញ្ញានេះពាក្យថា សម្បត្តិវប្បធម៌ ដោយពុំគិតពីប្រភពដើម ឬម្ចាស់កម្មសិទ្ធិ រួមមាន៖

ក- ចលនៈ ឬអចលនសម្បត្តិដែលមានសារសំខាន់ចំពោះកេរ្តិ៍មរតក វប្បធម៌របស់ប្រជាជាតិមួយៗដូចជា វិមានដែលមានចរិតជាស្ថាបត្យកម្ម សិល្បៈ ឬប្រវត្តិសាស្ត្រ ទោះជាមាន ឬគ្មានលក្ខណៈសាសនា រមណីយដ្ឋានបុរាណវត្ថុ ក្រុមអគារដែលមានសារសំខាន់ផ្នែកប្រវត្តិសាស្ត្រ ឬសិល្បៈ សំណៅរៃនៃស្នាដៃ និពន្ធ សៀវភៅ និងវត្ថុដទៃទៀតដែលមានសារសំខាន់ផ្នែកសិល្បៈ ប្រវត្តិសាស្ត្រ ឬបុរាណវិទ្យា ក៏ដូចជា សម្បត្តិវិទ្យាសាស្ត្រ និងសៀវភៅផ្សេងៗទៀត ឬប័ណ្ណសារសំខាន់ៗ ឬវត្ថុចម្លងឡើងវិញនៃវត្ថុវប្បធម៌ ដែលរៀបរៀងខាងលើ ។

ខ- អគារទាំងឡាយណាដែលគេប្រើប្រាស់សំរាប់ថែរក្សា ឬដាក់តាំងបង្ហាញចលនសម្បត្តិវប្បធម៌ ដែលរៀបរាប់នៅក្នុងអនុកថាខ័ណ្ឌ ក ដូចជា សារមន្ទី បណ្ណាល័យធំៗ និងប័ណ្ណសារដ្ឋានទាំងឡាយ ព្រមទាំង ទីតាំងនានា ដែលក្នុងពេលមានវិវាទប្រដាប់អាវុធបានប្រើប្រាស់ជាជំរកសំរាប់ចលនសម្បត្តិវប្បធម៌ដូចមានរៀបរាប់នៅក្នុងអនុកថាខ័ណ្ឌ ក ។

គ- មជ្ឈមណ្ឌលទាំងឡាយណា ដែលសំបូរទៅដោយសម្បត្តិវប្បធម៌ដូចមានរៀបរាប់កំណត់នៅក្នុងអនុកថាខ័ណ្ឌ ក និងខ ទីនោះត្រូវសំគាល់ថាជា "មជ្ឈមណ្ឌលដែលមានមរតកវប្បធម៌តាំងនៅ" ។

មាត្រា២៖ ការការពារសម្បត្តិវប្បធម៌

សំរាប់គោលបំណងនៃអនុសញ្ញានេះ ការការពារសម្បត្តិវប្បធម៌ រួមមានការថែរក្សា និងការគោរពដល់ សម្បត្តិវប្បធម៌ទាំងនោះ ។

មាត្រា៣៖ ការថែរក្សាសម្បត្តិវប្បធម៌

ប្រទេសចុះកិច្ចសន្យាទាំងអស់ត្រូវដាក់ផែនការគ្រប់គ្រងជាស្រេច ក្នុងពេលប្រទេសមានសន្តិភាព អំពី ការងារការពារសម្បត្តិវប្បធម៌ដែលស្ថិតនៅក្នុងដែនដីរបស់ខ្លួន បង្ការចំពោះផលប៉ះពាល់ដែលអាច ប្រមាណទុកជាមុនបាន កាលណាបើកើតមានអធិការណ៍ប្រដាប់អាវុធ ដោយអនុវត្តនូវត្រួតពិនិត្យការដែល ខ្លួនយល់ថាសមស្រប ។

មាត្រា៤៖ ការគោរពសម្បត្តិវប្បធម៌

១- ប្រទេសចុះកិច្ចសន្យាទាំងអស់ត្រូវគោរពដល់សម្បត្តិវប្បធម៌ដែលស្ថិតនៅក្នុងដែនដីខ្លួនផ្ទាល់ ក៏ដូចជា នៅក្នុងដែនដីរបស់ប្រទេសចុះកិច្ចសន្យាដទៃទៀតដែរ ដោយបញ្ឈប់រាល់ការប្រើប្រាស់សម្បត្តិវប្បធម៌

ក៏ដូចជាតំបន់ដែលស្ថិតនៅជិតជុំវិញតំបន់សម្បត្តិវប្បធម៌ បញ្ឈប់ការប្រើប្រាស់រាល់សំភារៈ ឧបករណ៍ ទាំងឡាយណាដែលគេប្រើប្រាស់សំរាប់រក្សាការពារសម្បត្តិវប្បធម៌ ដែលការប្រើប្រាស់ទាំងនោះអាច បណ្តាលអោយខូចខាត ឬបាត់បង់សម្បត្តិវប្បធម៌ នៅក្នុងពេលមានវិវាទប្រដាប់អាវុធ និងបញ្ឈប់នូវរាល់ សកម្មភាពអវិជ្ជាដែលធ្វើឡើងសំរាប់ប្រឆាំងដោយផ្ទាល់ទៅលើសម្បត្តិវប្បធម៌ ។

២- កាតព្វកិច្ចដែលចែងនៅក្នុងកថាខណ្ឌទី១នៃមាត្រានេះ អាចត្រូវលើកលែងតែនៅក្នុងករណីណាដែល កំរិតចាំបាច់នៃការការពារជាតិមានដាច់ខាតដោយខានពុំបានតែប៉ុណ្ណោះ ។

៣- ប្រទេសចុះកិច្ចសន្យាទាំងអស់ត្រូវហាមឃាត់ ទប់ស្កាត់ និងប្រសិនបើចាំបាច់ បញ្ឈប់គ្រប់រូបភាពនៃ អំពើលួចប្លន់ ការយកទៅប្រើប្រាស់ជាសម្បត្តិផ្ទាល់ខ្លួនដោយខុសច្បាប់ និងរាល់អំពើបំផ្លាញដោយ ផ្ទាល់ទៅលើសម្បត្តិវប្បធម៌ ។ បណ្តាប្រទេសចុះកិច្ចសន្យាទាំងអស់ក៏ត្រូវតែបញ្ឈប់នូវរាល់សកម្មភាពប៉ុន ប៉ងបង្កបង្កើនប្រព័ន្ធសម្បត្តិវប្បធម៌ ដែលស្ថិតនៅលើទឹកដីរបស់ប្រទេសចុះកិច្ចសន្យាមួយទៀតនោះផង ដែរ ។

៤- ប្រទេសចុះកិច្ចសន្យាទាំងអស់នឹងមិនធ្វើរាល់សកម្មភាពក្នុងរបៀបជាអំពើវាយសងសឹក សំដៅទៅ លើសម្បត្តិវប្បធម៌ឡើយ ។

៥- គ្មានប្រទេសចុះកិច្ចសន្យាណាមួយអាចរំលោភបំពានលើកាតព្វកិច្ចដែលខ្លួនទទួលខុសត្រូវ ដូចដែល បានចែងនៅក្នុងមាត្រានេះ ទៅលើប្រទេសចុះកិច្ចសន្យាមួយផ្សេងទៀត ដោយសំអាងមូលហេតុថា ប្រទេសចុះកិច្ចសន្យាមួយទៀតនោះពុំបានអនុវត្តវិធានការរក្សាការពារ ដូចមានចែងក្នុងមាត្រាពានោះ បានឡើយ ។

មាត្រា៥: ការចូលកាន់កាប់ទឹកដី

១- ប្រទេសចុះកិច្ចសន្យាណាមួយដែលបានចូលកាន់កាប់ផែនដីមួយចំណែក ឬទាំងមូលរបស់ប្រទេសចុះ កិច្ចសន្យាមួយផ្សេងទៀតត្រូវគាំទ្រអោយបានខ្លាំងក្លាតាមដែលអាចធ្វើទៅបាន ដល់រដ្ឋអំណាចជាតិមាន សមត្ថកិច្ចរបស់ប្រទេសដែលត្រូវបានប្រទេសខ្លួនចូលទៅកាន់កាប់នោះ នៅក្នុងការថែរក្សា និងការពារ សម្បត្តិវប្បធម៌ ។

២- ប្រសិនបើគេយល់ថាមានការចាំបាច់ ក្នុងការថាតវិធានការថែរក្សាសម្បត្តិវប្បធម៌នៅក្នុងផែនដីដែល គេចូលទៅកាន់កាប់ ហើយដោយហេតុថាសម្បត្តិទាំងនោះបានខូចខាតដោយសារប្រតិបត្តិការសឹក និង ប្រសិនបើរដ្ឋអំណាចជាតិមានសមត្ថកិច្ចពុំមានលទ្ធភាពអនុវត្តវិធានការទាំងនេះទេនោះ ប្រទេសដែល

ចូលទៅកាន់កាប់ដែលដីនោះត្រូវតែផ្តល់អោយកាន់តែច្រើន តាមដែលអាចធ្វើទៅបាន នូវរាល់វិធានការ ដ៏ចាំបាច់បំផុតក្នុងការរក្សាការពារសម្បត្តិវប្បធម៌ ដោយសហការយ៉ាងជិតស្និទ្ធបំផុតជាមួយរដ្ឋអំណាច នៅទីនោះ ។

៣- ប្រទេសចុះកិច្ចសន្យាណាក៏ដោយ ដែលរដ្ឋាភិបាលរបស់ខ្លួនត្រូវបានសមាជិកនៃចលនាប្រឆាំងចាត់ ទុកជាដ្ឋាភិបាលស្របច្បាប់ ប្រសិនបើអាច ត្រូវតែទាក់ទាញការយកចិត្តទុកដាក់របស់ក្រុមប្រឆាំងនោះ អោយអនុវត្តកាតព្វកិច្ច ស្របតាមមាត្រាបញ្ញត្តិទាំងឡាយដែលមានចែងនៅក្នុងអនុសញ្ញានេះ នៅត្រង់ មាត្រាទាំងឡាយណាដែលមានចែងអំពីការគោរពសម្បត្តិវប្បធម៌ ។

មាត្រា៦: កំណត់ចំណាំដោយឡែកនៅលើសម្បត្តិវប្បធម៌

ដោយយោលទៅតាមប្រការទាំងឡាយដែលមានចែងនៅក្នុងមាត្រា១៦ សម្បត្តិវប្បធម៌ត្រូវមានសញ្ញា សំគាល់ដោយឡែកដើម្បីសំរួលអោយងាយចំណាំ ។

មាត្រា៧: វិធានការយោធា

១- ប្រទេសចុះកិច្ចសន្យាទាំងអស់យល់ព្រម ក្នុងពេលមានសន្តិភាព បញ្ចូលទៅក្នុងច្បាប់ ឬវិន័យសំរាប់ យោធា នូវមាត្រាបញ្ញត្តិទាំងនេះដែលអាចធានាដល់ការអនុវត្តអនុសញ្ញានេះ និងយល់ព្រមជួយជំរុញនៅ ក្នុងដូរកងកំលាំងប្រដាប់អាវុធអោយមានស្មារតីគោរពវប្បធម៌ និងសម្បត្តិវប្បធម៌របស់ប្រជាជាតិផង ទាំងពួង ។

២- ប្រទេសចុះកិច្ចសន្យាទាំងអស់យល់ព្រមគ្រោង ឬបង្កើត ក្នុងពេលមានសន្តិភាព នៅក្នុងកងកំលាំង ប្រដាប់អាវុធរបស់ខ្លួន នូវអង្គការសេវាកម្ម ឬបុគ្គលិកឯកទេស ដើម្បីថែរក្សា គោរពដល់សម្បត្តិវប្បធម៌ និងធ្វើកិច្ចសហប្រតិបត្តិការជាមួយរដ្ឋអំណាចស៊ីវិល ដែលទទួលខុសត្រូវខាងកិច្ចការការពារសម្បត្តិ វប្បធម៌ ។

ជំពូកទី២

ការការពារពិសេស

មាត្រា៨: ការផ្តល់សេចក្តីអនុញ្ញាតអោយមានការការពារពិសេស

១- គេអាចដាក់អោយស្ថិតនៅក្រោមការការពារពិសេស នូវទីតាំងទាំងឡាយណាដែលគេមានបំណង ប្រើប្រាស់ជាជំរកការពារចលនសម្បត្តិវប្បធម៌នៅក្នុងត្រាយានអធិការណ៍ប្រដាប់អាវុធ ជាមជ្ឈមណ្ឌល

ដែលមានកេរ្តិ៍ដំណែលវប្បធម៌ និងអចលនសម្បត្តិវប្បធម៌ដទៃទៀតដែលមានសារៈសំខាន់អោយតែទីតាំងទាំងនោះ៖

ក- ស្ថិតនៅឆ្ងាយល្មមពីមជ្ឈមណ្ឌលឧស្សាហកម្មធំៗ ឬឆ្ងាយពីគោលដៅសំខាន់ៗផ្នែកយោធា ដែលជាចំណុចអាចទទួលបានការខូចខាត មានជាអាទិ៍ អាកាសយានដ្ឋាន ស្ថានីយ៍ផ្សាយព័ត៌មាន អគារដែលទាក់ទិនដល់ការងារការពារជាតិ កំពង់ផែ ឬស្ថានីយ៍រថភ្លើង ដែលមានសារៈសំខាន់ ក៏ដូចជាផ្នូរកមនាគមន៍សំខាន់ៗដទៃទៀត ។

ខ- សុទ្ធតែពុំត្រូវបានប្រើប្រាស់សំរាប់គោលដៅយោធា ។

២- ទីជម្រកការពារចលនសម្បត្តិវប្បធម៌ អាចត្រូវបានដាក់អោយស្ថិតនៅក្រោមការការពារពិសេស ទោះស្ថិតនៅទីកន្លែងណាក៏ដោយ ប្រសិនបើទីជម្រកទាំងនោះត្រូវបានគេសាងសង់ឡើងនៅលើទីតាំងដែលមានស្ថានភាពដូចបានរៀបរាប់ពីខាងលើ និងនៅគ្រប់ករណីនិយ័ត ទីជម្រកទាំងនោះនឹងពុំត្រូវបានធ្វើអោយខូចខាតដោយអវុធគ្រាប់រំសេវឡើយ ។

៣- មជ្ឈមណ្ឌលដែលមានមរតកវប្បធម៌ នឹងត្រូវចាត់ទុកថាត្រូវបានគេប្រើប្រាស់សំរាប់គោលដៅយោធា គឺនៅរាល់ពេលណាដែលមជ្ឈមណ្ឌលទាំងនោះត្រូវបានប្រើប្រាស់សំរាប់ការធ្វើសកម្មភាព ចុះឡើងរបស់បុគ្គលិក ឬសំភារៈយោធា ទោះបីគ្រាន់តែជាការផ្លាស់ប្តូរទីកន្លែង ឬការឈប់សំចៃបណ្តោះអាសន្នក្តី ។ ស្ថិតក្នុងន័យដូចគ្នានេះដែរ គឺនៅរាល់ពេលដែលមានសកម្មភាពទាក់ទិនដោយផ្ទាល់ជាមួយប្រតិបត្តិការសឹក ការបោះទីតាំងនៃបុគ្គលិកយោធា ឬការផលិតសំភារៈសឹក ត្រូវបានគេអនុវត្តឡើងនៅក្នុងមជ្ឈមណ្ឌល ។

៤- ការការពារសម្បត្តិវប្បធម៌ដូចបានពណ៌នាកំណត់នៅក្នុងកថាខ័ណ្ឌទី១ខាងលើ ដែលអនុវត្តដោយឆ្នាំប្រដាប់អាវុធដែលត្រូវបានផ្តល់សិទ្ធិអំណាចពិសេសអោយធ្វើការងារនេះ ឬវត្តមានរបស់កងកម្លាំងឆតរបាលនៅតាមទីជិតខាងនៃតំបន់សម្បត្តិវប្បធម៌ទាំងនោះ ដែលមានការកិច្ចទទួលខុសត្រូវជាប្រចាំដើម្បីថែរក្សាសណ្តាប់ធ្នាប់សាធារណៈ ពុំត្រូវចាត់ទុកថាជាការប្រើប្រាស់សំរាប់គោលដៅយោធាឡើយ ។

៥- ប្រសិនបើសម្បត្តិវប្បធម៌ណាមួយ ដូចបានពណ៌នាកំណត់នៅក្នុងកថាខ័ណ្ឌទី១នៃមាត្រានេះស្ថិតនៅក្បែរគោលដៅយោធាសំខាន់ៗដូចបានបញ្ជាក់នៅក្នុងកថាខ័ណ្ឌទី១៨ដែលនេះ គេអាចដាក់សម្បត្តិវប្បធម៌ទាំងនោះអោយស្ថិតនៅក្រោមការការពារពិសេស បើសិនជាប្រមូលចុះកិច្ចសន្យាដែលសំណូមពរអោយមានការការពារបែបនេះយល់ព្រម ក្នុងពេលកើតមានជម្លោះប្រដាប់អាវុធ ពុំប្រើប្រាស់គោលដៅទាំង

នោះ និងជាពិសេសគឺ កំពង់ផែ អាកាសយានដ្ឋាន ឬស្ថានីយ៍ថតភ្លើង ត្រូវតែបញ្ចូលការធ្វើការចេញពីទីនោះ។ ក្នុងករណីនេះ ការបង្ក្រាបទាំងអស់នោះ គួរតែត្រូវបានប្រើប្រាស់ដើម្បីឱ្យមានការកែលម្អប្រទេសមានសន្តិភាព។

៦- គេអាចអនុញ្ញាតិអោយមានការការពារពិសេស ចំពោះសម្បត្តិវប្បធម៌ទាំងឡាយណាដែលមានឈ្មោះនៅក្នុង “បញ្ជីអន្តរជាតិនៃសម្បត្តិវប្បធម៌ដែលដាក់អោយស្ថិតនៅក្រោមការការពារពិសេស”។ ការបញ្ចូលទៅក្នុងបញ្ជីនឹងត្រូវធ្វើឡើង ដោយអនុលោមទៅតាមមាត្រាបញ្ញត្តិទាំងឡាយដែលមានចែងនៅក្នុងអនុសញ្ញានេះ និងនៅក្នុងកិច្ចខ័ណ្ឌដែលមានចែងនៅក្នុងបទបញ្ជាសម្រាប់ការអនុវត្តអនុសញ្ញានេះ។

មាត្រា៩: អត្ថបទសិទ្ធិនៃសម្បត្តិវប្បធម៌ដែលដាក់អោយស្ថិតនៅក្រោមការការពារពិសេស

ប្រទេសចុះកិច្ចសន្យាទាំងអស់ យល់ព្រមធានាដល់អភិរក្សសិទ្ធិនៃសម្បត្តិវប្បធម៌ដែលដាក់អោយស្ថិតនៅក្រោមការការពារពិសេស ដោយបញ្ឈប់ ចាប់តាំងពីពេលបញ្ចូលទៅក្នុងបញ្ជីអន្តរជាតិ នូវរាល់សកម្មភាពទាំងឡាយដែលប្រឆាំងនឹងសម្បត្តិវប្បធម៌ទាំងនោះ ហើយលើកលែងតែក្នុងករណីដែលមានចែងក្នុងកថាខ័ណ្ឌទី៥ នៃមាត្រា៨ បញ្ឈប់រាល់ការប្រើប្រាស់សម្បត្តិវប្បធម៌ ឬក៏តំបន់ជិតខាងនៃសម្បត្តិវប្បធម៌ទាំងនោះដើម្បីបំបែកការយោធា។

មាត្រា១០: ការសម្រាប់ និងការត្រួតពិនិត្យ

ក្នុងកំឡុងពេលកើតមានអវិបាកប្រដាប់អាវុធ សម្បត្តិវប្បធម៌ដែលដាក់អោយស្ថិតនៅក្រោមការការពារពិសេស នឹងត្រូវបានដាក់សញ្ញាជាចំណាំដែលនឹងមានអធិប្បាយនៅក្នុងមាត្រា១៦ ហើយនឹងបើកចំហចំពោះការត្រួតពិនិត្យជាអន្តរជាតិ ដូចសេចក្តីមានចែងនៅក្នុងបទបញ្ជាសម្រាប់ការអនុវត្តអនុសញ្ញានេះ។

មាត្រា១១: ការរុបចោលអត្ថបទសិទ្ធិ

១- ប្រសិនបើប្រទេសមួយក្នុងចំណោមប្រទេសចុះកិច្ចសន្យា ល្មើសទៅនឹងបញ្ញត្តិដែលចែងអំពីការគោរពចំពោះសម្បត្តិវប្បធម៌ដែលដាក់អោយស្ថិតនៅក្រោមការការពារពិសេស ដោយរំលោភទៅលើកាតព្វកិច្ចដែលមានចែងនៅក្នុងមាត្រា៨ ហើយក្នុងករណីដែលអំពើរំលោភនេះតែបន្ត ប្រទេសបដិបក្សមួយទៀតនឹងត្រូវលើកលែងចេញពីកាតព្វកិច្ចក្នុងការធានាដល់អភិរក្សសិទ្ធិនៃសម្បត្តិវប្បធម៌ដែលទាក់

ទិន្ន ។ លើសពីនេះទៀត ពេលណាដែលអាចធ្វើបាន ភាគីខាងក្រោយនេះ នឹងធ្វើសំណូមពរមុន អោយបញ្ឈប់អំពើរំលោភទាំងនោះ ក្នុងរយៈពេលសមស្រប ។

២- ក្រៅពីករណីដែលចែងនៅក្នុងកថាខ័ណ្ឌទី១ នៃមាត្រានេះ អភ័យឯកសិទ្ធិនឹងត្រូវគេលុបចេញពីសម្បត្តិវប្បធម៌ស្ថិតក្រោមការការពារពិសេស តែក្នុងករណីពិសេសចាំបាច់ខាងពុំបានខាងវិស័យយោធា និងសំរាប់រយៈពេលដែលការចាំបាច់នេះចេះតែបន្តទៅទៀត ។ ការចាំបាច់នេះអាចស្ទើរឡើងតែដោយឆាប់ ទាហានដែលបញ្ជាអង្គភាពមួយមានមុំប្រហាក់ប្រហែលនឹងកងពល ឬផ្ទាំងនេះ ។ ពេលណាដែលកាលៈទេសៈអនុញ្ញាត និងក្នុងកំឡុងពេលសមរម្យទុកជាមុន ប្រទេសបដិបក្ខ នឹងត្រូវបានគេផ្តល់ព័ត៌មានស្តីពីការលុបចោលអភ័យឯកសិទ្ធិ ។

៣- ប្រទេសដែលលុបចោលអភ័យឯកសិទ្ធិ យ៉ាងដាច់ខាតដែលអាចធ្វើបាន ត្រូវផ្តល់ព័ត៌មានដល់លោកប្រធានអគ្គនាយកដ្ឋានការទទួលបន្ទុកការងារសម្បត្តិវប្បធម៌ ដូចសេចក្តីដែលមានអធិប្បាយនៅក្នុងបទបញ្ជាសំរាប់ការអនុវត្តអនុសញ្ញានេះ ជាលាយលក្ខណ៍អក្សរ ដោយមានការបញ្ជាក់ពីមូលហេតុផង ។

ជំពូកទី៣

ការដឹកជញ្ជូនសម្បត្តិវប្បធម៌

មាត្រា១២: ការដឹកជញ្ជូនក្រោមការការពារពិសេស

១- ការដឹកជញ្ជូនដែលទាក់ទងដល់ការផ្លាស់ប្តូរទីកន្លែងសម្បត្តិវប្បធម៌ ទាំងនៅក្នុងរង្វង់ដែនដីណាមួយ ឬចេញពីដែនដីមួយចូលទៅកាន់ដែនដីមួយផ្សេងទៀត តាមសំណូមពរបស់ប្រទេសចុះកិច្ចសន្យាដែលទាក់ទង អាចធ្វើឡើងក្រោមការការពារពិសេស ស្របទៅតាមលក្ខខ័ណ្ឌដែលបានកំណត់នៅក្នុងបទបញ្ជាសំរាប់ការអនុវត្តអនុសញ្ញានេះ ។

២- ការដឹកជញ្ជូនក្រោមការការពារពិសេសនឹងធ្វើឡើងក្រោមការត្រួតពិនិត្យជាអន្តរជាតិ ដូចមានអធិប្បាយនៅក្នុងបទបញ្ជាសំរាប់ការអនុវត្តអនុសញ្ញានេះ ហើយនឹងមានបង្ហាញនូវសញ្ញាសំគាល់ពិសេស ដូចមានអធិប្បាយកំណត់នៅក្នុងមាត្រា១៦ ។

៣- ប្រទេសចុះកិច្ចសន្យាទាំងអស់ ត្រូវបញ្ឈប់រាល់សកម្មភាពអមិត្តសំដៅប្រឆាំងនឹងការដឹកជញ្ជូនសម្បត្តិវប្បធម៌ដែលជាក់អោយស្ថិតនៅក្រោមការការពារពិសេស ។

មាត្រា១៣: ការដឹកជញ្ជូនក្នុងករណីបន្ទាន់

- ១- បើប្រទេសចុះកិច្ចសន្យាមួយយល់ឃើញថា សន្តិសុខរបស់សម្បត្តិវប្បធម៌ណាមួយទាមទារអោយមានការផ្លាស់ប្តូរទីតាំងនៅកន្លែងដទៃ ហើយបញ្ហានោះជាការងារបន្ទាន់ដែលពុំអាចអោយគេអនុវត្តតាមកម្មវិធីដែលមានចែងនៅក្នុងមាត្រា១២ បាន ជាពិសេសគឺនៅក្រោយបង្កើនដំបូងនៃវិវាទប្រដាប់អាវុធ ការដឹកជញ្ជូនសម្បត្តិទាំងនោះនឹងត្រូវបង្ហាញដោយផ្ទាល់សញ្ញាសំគាល់ពិសេស ដូចមានអធិប្បាយកំណត់នៅក្នុងមាត្រា១៦ អោយតែលក្ខខណ្ឌដែលពាក្យសុំអោយមានអភ័យឯកសិទ្ធិដែលបាននិយាយយោងនៅមាត្រា១២ ពុំទាន់ត្រូវបានធ្វើ និងបដិសេធទេនោះ។ ការផ្តល់ព័ត៌មានស្តីពីការដឹកជញ្ជូនសម្បត្តិវប្បធម៌ តប្បីប្រកាសអោយដឹងជាមុនតាមដែលអាចធ្វើបាន ដល់ទៅភាគីបដិបក្ខ។ លើសពីនេះទៀត ការដឹកជញ្ជូនសម្បត្តិវប្បធម៌ទៅកាន់ដែនដីនៃប្រទេសមួយផ្សេងទៀត មិនអាចបង្ហាញសញ្ញាសំគាល់បានទេ បើសិនជាសម្បត្តិវប្បធម៌ទាំងនោះពុំទាន់ត្រូវបានផ្តល់អភ័យឯកសិទ្ធិអោយទេនោះ។
- ២- ប្រទេសចុះកិច្ចសន្យាទាំងអស់ តាមដែលអាចធ្វើទៅបាន តប្បីប្រកាសយកការបង្ការទុកជាចាំបាច់ទាំងឡាយសំរាប់ធានាដល់ការអភិរក្សសម្បត្តិ ដូចមានចែងនៅក្នុងកថាខណ្ឌ១១នៃមាត្រានេះ និងដាក់បង្ហាញផ្ទាល់សញ្ញាសំគាល់ ដើម្បីប្រឆាំងទល់នឹងរាល់សកម្មភាពអមិត្តដែលត្រូវបានធ្វើឡើងសំដៅទៅលើការដឹកជញ្ជូនទាំងនោះ។

មាត្រា១៤: ការលើកលែងរួចពីការរឹបអូស ការចាប់ និងការចាប់យកជាជំនួយកំណត់

- ១- ការលើកលែងអោយរួចពីការរឹបអូស ការចាប់ ឬការចាប់យកជាជំនួយកំណត់ នឹងត្រូវបានផ្តល់ដល់៖
- ក- សម្បត្តិវប្បធម៌ដែលបានទទួលការការពារដូចមានចែងទុកក្នុងមាត្រា១២ ឬមាត្រា១៣
- ខ- មធ្យោបាយដឹកនាំដែលប្រើប្រាស់ផ្តាច់មុខដើម្បីដឹកជញ្ជូនសម្បត្តិវប្បធម៌ទាំងនោះ។
- ២- គ្មានហេតុផលណាមួយនៅក្នុងមាត្រានេះ និងតម្រូវដាក់កំហិតវិចិត្រទៅលើសិទ្ធិនៃការធ្វើសន្ទនាសុខសន្តិសុខ និងសិទ្ធិក្នុងការស្រាវជ្រាវឡើយ។

ជំពូកទី៤

បុគ្គលិក

មាត្រា១៥: បុគ្គលិក

អាស្រ័យដោយសារសំខាន់នៃសន្តិសុខ បុគ្គលិកដែលមានភារកិច្ចការពារសម្បត្តិវប្បធម៌ដើម្បីផលប្រយោជន៍នៃសម្បត្តិវប្បធម៌ទាំងនេះនឹងត្រូវបានទទួលការគោរព ហើយប្រសិនបើបុគ្គលិកទាំងនេះត្រូវធ្លាក់ទៅក្នុងកណ្តាប់ដៃភាគីបដិបក្ខ ពួកគេនឹងត្រូវបានការពារអនុញ្ញាតិអោយបន្តអនុវត្តភារកិច្ចរបស់គេ

នៅគ្រប់ពេលវេលាដែលសម្បត្តិវប្បធម៌ដែលបុគ្គលិកទាំងនេះទទួលខុសត្រូវ ក៏ត្រូវធ្លាក់ទៅក្នុងកណ្តាប់ដៃនៃ
បដិភាគដែរនោះ ។

ជំពូកទី៥

ផ្នែកសញ្ញាសំគាល់

មាត្រា១៦: ផ្នែកសញ្ញាសំគាល់របស់អនុសញ្ញា

១- ផ្នែកសញ្ញាសំគាល់នៃអនុសញ្ញានេះមានរាងជាខ្សែស្រឡៅចុងខាងក្រោម និងត្រូវផ្តាច់គ្នាដោយពណ៌
ផ្ទៃមេឃ និងពណ៌ស (គឺជាខ្សែស្រឡៅមានរាងចតុកោណកែងស្មើពណ៌ផ្ទៃមេឃ ដែលមុំមួយក្នុងចំណោម
មុំនៃចតុកោណកែងស្មើនោះ ហើយវាត្រូវតែត្រូវបានពណ៌ផ្ទៃមេឃ ដែលមុំមួយក្នុងចំណោម
ដែលនៅទល់កំពូលគ្នាជាមួយមុំមួយនៃចតុកោណកែងស្មើ គឺត្រូវបានពណ៌សពីរ បានបំពេញផ្ទៃនៅសល់
ទាំងសង្វាងនោះ) ។

២- ផ្នែកសញ្ញាសំគាល់ត្រូវតែប្រើតែមួយ ឬក៏ប្រើម្តងបី ក្នុងពេលជាមួយគ្នា ដោយតំរូវបំប៉នជាមុនត្រូវបាន
(ខ្សែស្រឡៅនៅក្រោម) ក្រោមលក្ខខណ្ឌដែលមានចែងនៅក្នុងមាត្រា១៧ ។

មាត្រា១៧: ការប្រើប្រាស់ផ្នែកសញ្ញាសំគាល់

១- ផ្នែកសញ្ញាសំគាល់ដែលតែងតាំងមុន អាចត្រូវបានប្រើប្រាស់ដើម្បីសំគាល់:

ក- អចលនសម្បត្តិវប្បធម៌ស្ថិតក្រោមការការពារពិសេស

ខ- ការដឹកនាំសម្បត្តិវប្បធម៌នៅក្រោមការការពារពិសេស ដូចមានចែងក្នុងមាត្រា១២ និង១៣

គ- អគារទាំងឡាយណាដែលប្រើសំរាប់ការការពារសម្បត្តិវប្បធម៌ ក្រោមលក្ខខណ្ឌដូចមានចែងក្នុងបទ
បញ្ជាសំរាប់អនុវត្តអនុសញ្ញា ។

២- គេអាចប្រើប្រាស់ផ្នែកសញ្ញាសំគាល់តែមួយ ដើម្បីសំគាល់:

ក- សម្បត្តិវប្បធម៌ដែលស្ថិតនៅក្រោមការការពារពិសេស

ខ- បុគ្គលទទួលខុសត្រូវការងារត្រួតពិនិត្យ អនុលោមតាមបទបញ្ជាសំរាប់ការអនុវត្តអនុសញ្ញា

គ- បុគ្គលិកដែលជាប់ទាក់ទងក្នុងការងារការពារសម្បត្តិវប្បធម៌

ឃ- អគារសញ្ញាណប័ណ្ណដែលមានអចិន្ត្រៃយ៍នៅក្នុងបទបញ្ជាសំរាប់ការអនុវត្តអនុសញ្ញា ។

៣- ក្នុងកំឡុងពេលនៃវិវាទប្រដាប់អាវុធ ការប្រើប្រាស់ផ្ទះសញ្ញាក្នុងករណីណាមួយក្រៅពីករណីដែលមានចែងនៅក្នុងបណ្តាញថាខ័ណ្ឌខាងលើនៃមាត្រានេះ ហើយនិងការប្រើប្រាស់សំរាប់គោលដៅណាមួយដែលប្រើសញ្ញាប្រហាក់ប្រហែលនឹងផ្ទះសញ្ញានេះ គឺត្រូវហាមឃាត់ ។

៤- គេពុំអាចដាក់ផ្ទះសញ្ញាទៅលើអចលនវត្ថុវប្បធម៌ណាមួយបានទេ លុះត្រាតែក្នុងពេលជាមួយគ្នានោះ គេត្រូវដាក់បង្ហាញផងដែរនូវច្បាប់អនុញ្ញាតដែលមានចុះកាលបរិច្ឆេទ និងហត្ថលេខាយ៉ាងត្រឹមត្រូវរបស់អាជ្ញាធរមានសមត្ថកិច្ចនៃប្រទេសចុះកិច្ចសន្យានោះ ។

ជំពូកទី៦

ផែនការអនុវត្តអនុសញ្ញា

មាត្រា១៨៖ ការអនុវត្តអនុសញ្ញា

១- ក្រៅពីមាត្រាបញ្ញត្តិទាំងឡាយដែលនឹងមានប្រសិទ្ធភាពក្នុងពេលមានសន្តិភាព អនុសញ្ញានេះអោយកម្រិតប្រើប្រាស់បាននៅក្នុងករណីមានការប្រកាសសង្គ្រាម ឬក្នុងពេលមានជម្លោះប្រដាប់អាវុធដ៏ទៀត ដែលអាចនឹងកើតឡើងរវាងប្រទេសចុះកិច្ចសន្យាពីរ ឬច្រើន ទោះបីជាស្ថានភាពសង្គ្រាមពុំត្រូវបានទទួលស្គាល់ដោយប្រទេសណាមួយក្នុងចំណោមប្រទេសទាំងនោះក៏ដោយ ។

២- អនុសញ្ញានេះក៏មានប្រសិទ្ធភាពផងដែរ ចំពោះគ្រប់ករណីទាំងអស់នៃការចូលកាន់កាប់ទឹកដីមួយផ្នែក ឬទាំងមូល របស់ប្រទេសចុះកិច្ចសន្យាមួយ ទោះបីជាការចូលកាន់នោះពុំបានទទួលការប្រឆាំងដោយអាវុធគ្រឹក្សា ។

៣- ទោះបីជាមានប្រទេសណាមួយ ក្នុងចំណោមប្រទេសដែលចូលរួមក្នុងជំនួញ ពុំមែនជាសមាជិកនៃអនុសញ្ញានេះក៏ដោយ ក៏បណ្តាប្រទេសដែលជាសមាជិកនៅតែអនុវត្តអនុសញ្ញានេះ នៅក្នុងចំណងទាក់ទងជាបំណងដែរ ។ លើសពីនេះទៅទៀត ប្រទេសជាសមាជិកក៏នឹងត្រូវតែអនុវត្តអនុសញ្ញានេះដែរ នៅក្នុងទំនាក់ទំនងជាមួយប្រទេសមួយទៀតដែលពុំមែនជាសមាជិកអនុសញ្ញានេះ ប្រសិនបើប្រទេសក្រោយនេះយល់ព្រមទទួលយកនូវបញ្ញត្តិទាំងឡាយនៃអនុសញ្ញា ហើយថែមទាំងអនុវត្តតាមទៀតនោះ ។

មាត្រា១៩៖ ជំនួញដែលពុំមែនជាជំនួញអន្តរជាតិ

១- ចំពោះវិវាទប្រដាប់អាវុធណាមួយដែលពុំមានចរិតជាជំនួញអន្តរជាតិ និងដែលកើតមានឡើងនៅលើទឹកដីនៃប្រទេសចុះកិច្ចសន្យាមួយ ភាគីទីមួយៗដែលចូលរួមនៅក្នុងជំនួញនោះនឹងនៅតែរក្សាបំណង

អនុវត្តជាធិប្ប យ៉ាងហោចណាស់ គឺមាត្រាបញ្ញត្តិទាំងឡាយនៃអនុសញ្ញានេះដែលពាក់ព័ន្ធទៅនឹងការ
គោរពសម្បត្តិវប្បធម៌ដែរ ។

២- បណ្តាភាគីក្នុងជំនាវ មិនខិតខំដាក់អោយចូលជាធរមាន តាមរយៈកិច្ចសន្យាព្រមព្រៀងពិសេស
ទាំងឡាយ នូវបញ្ញត្តិទាំងអស់ ឬផ្នែកខ្លះៗនៃអនុសញ្ញានេះ ។

៣- អង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ អាចជួយជ្រោមជ្រែងសំរួលការផ្តល់
បណ្តាភាគីដែលពាក់ព័ន្ធក្នុងជំនាវ ។

៤- ការអនុវត្តមាត្រាបញ្ញត្តិទាំងឡាយដែលបានរៀបរាប់ពីខាងដើមមកនេះ មិនពុំជះឥទ្ធិពលទៅលើស្ថាន
ភាពផ្លូវច្បាប់របស់ភាគីដែលពាក់ព័ន្ធក្នុងវិវាទឡើយ ។

ជំពូកទី៧

ការអនុវត្តអនុសញ្ញា

មាត្រា២០: បទបញ្ជាសំរាប់អនុវត្តអនុសញ្ញា

បទដ្ឋានដែលប្រើប្រាស់ដើម្បីអនុវត្តអនុសញ្ញានេះ ត្រូវបានបញ្ជាក់ច្បាស់នៅក្នុងបទបញ្ជាសំរាប់ការ
អនុវត្ត ដែលនឹងរួមបញ្ចូលគ្នាទៅក្នុងផ្នែកទាំងមូលនៃអនុសញ្ញានេះ ។

មាត្រា២១: អាជ្ញាធរការពារ

អនុសញ្ញានេះរួមជាមួយបទបញ្ជាសំរាប់ការអនុវត្ត និងត្រូវតែអនុវត្តឡើងដោយមានកិច្ចសហប្រតិបត្តិ
ការពីសំណាក់អាជ្ញាធរការពារ ដែលទទួលខុសត្រូវថែរក្សាផលប្រយោជន៍របស់ប្រទេសដែលពាក់ព័ន្ធក្នុង
ជំនាវ ។

មាត្រា២២: វិធីសាស្ត្រសុំសុំសំរួល

១- អាជ្ញាធរការពារ និងផ្តល់ការឧបត្ថម្ភរបស់ខ្លួនក្នុងគ្រប់ករណីទាំងអស់ដែលខ្លួនយល់ថាជាការចាំបាច់
និងមានប្រយោជន៍ដល់សម្បត្តិវប្បធម៌ ជាពិសេសប្រសិនបើមានការខ្វះគំនិតគ្នារវាងបណ្តាប្រទេសក្នុង
ជំនាវ លើការអនុវត្ត ឬការបកស្រាយមាត្រាបញ្ញត្តិទាំងឡាយនៃអនុសញ្ញា ឬមាត្រាបញ្ញត្តិទាំងឡាយ
របស់បទបញ្ជាសំរាប់ការអនុវត្តអនុសញ្ញានេះ ។

២- សំរាប់គោលបំណងនេះ អាជ្ញាធរការពារនីមួយៗ តាមរយៈការអញ្ជើញរបស់ភាគីមួយ ឬរបស់លោក
អគ្គនាយកអង្គការ អប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ឬតាមគំនិតផ្តួចផ្តើមរបស់ខ្លួនផ្ទាល់
អាចស្នើដល់បណ្តាប្រទេសក្នុងជំនាវអោយមានការជួបប្រជុំនូវតំណាងរបស់ខ្លួន និងជាពិសេសការជួប

ប្រជុំនៃអាជ្ញាធរដែលទទួលខុសត្រូវក្នុងការការពារសម្បត្តិវប្បធម៌ ប្រសិនបើគេចាត់ទុកថាជាការសមរម្យ នៅលើទឹកដីអព្យាក្រឹតមួយដែលត្រូវបានជ្រើសរើសយ៉ាងសមស្រប។ បណ្តាប្រទេសក្នុងដំណោះត្រូវតែផ្តល់ការយល់ព្រម ចំពោះករណីមានការស្នើសុំអោយមានការជួបប្រជុំ ដែលគេរំពឹងថាឡើងចំពោះខ្លួន។ អាជ្ញាធរការពារនិងដាក់សំណើសុំសេចក្តីយល់ព្រមពីសំណាក់ប្រទេសក្នុងដំណោះ សុំតែងតាំងបុគ្គលម្នាក់ដែលមកពីប្រទេសអព្យាក្រឹត ឬក៏ជាបុគ្គលដែលតែងតាំងឡើងដោយលោកអគ្គនាយកអង្គការ អប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ដែលនឹងត្រូវអញ្ជើញអោយចូលរួមក្នុងកិច្ចប្រជុំ ក្នុងឋានៈជាប្រធាន។

**មាត្រា២៣: សមាប្រតិបត្តិការរបស់អង្គការ អប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌
នៃសហប្រជាជាតិ**

- ១- ប្រទេសចុះកិច្ចសន្យាទាំងអស់អាចស្នើសុំអង្គការ អប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ នូវជំនួយផ្នែកបច្ចេកទេសនៅក្នុងការរៀបចំការការពារសម្បត្តិវប្បធម៌របស់ខ្លួន ឬទាក់ទងអំពីបញ្ហាដទៃទៀតដែលកើតចេញពីការអនុវត្តអនុសញ្ញា ឬក៏ការអនុវត្តបទបញ្ជាសំរាប់ការអនុវត្តអនុសញ្ញានេះ។ អង្គការនឹងយល់ព្រមផ្តល់ជំនួយក្នុងកិច្ចការដែលកំណត់ដោយកម្មវិធី និងប្រភពថវិការបស់ខ្លួន។
- ២- អង្គការ អប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌នៃសហប្រជាជាតិ មានសិទ្ធិធ្វើការសំណើតាមគំនិតផ្តួចផ្តើមរបស់ខ្លួន នៅលើបញ្ហាទាំងនេះជូនប្រទេសចុះកិច្ចសន្យា។

មាត្រា២៤: កិច្ចព្រមព្រៀងពិសេស

- ១- ប្រទេសចុះកិច្ចសន្យាទាំងអស់ អាចធ្វើកិច្ចព្រមព្រៀងពិសេសសំរាប់បញ្ហាទាំងអស់ដែលទាក់ទង ហើយដែលគេចាត់ទុកថាមានលក្ខណៈសមស្របក្នុងការបង្កើតបញ្ញត្តិពិសេសដោយឡែក។
- ២- គេពុំអាចធ្វើកិច្ចព្រមព្រៀងពិសេសណាមួយ ដែលប្រែទៅជាកាត់បន្ថយកិច្ចការពារដែលបានប្រឹងប្រែងធ្វើឡើងដោយអនុសញ្ញានេះចំពោះសម្បត្តិវប្បធម៌ និងចំពោះបុគ្គលិកដែលពាក់ព័ន្ធក្នុងការងារការពារសម្បត្តិវប្បធម៌បានឡើយ។

មាត្រា២៥: ការផ្សព្វផ្សាយអនុសញ្ញា

ប្រទេសចុះកិច្ចសន្យាទាំងអស់យល់ព្រម ទាំងក្នុងពេលមានសន្តិភាព ទាំងក្នុងពេលមានវិវាទប្រដាប់អាវុធ ផ្សព្វផ្សាយអត្ថបទនៃអនុសញ្ញា និងបទបញ្ជាសំរាប់ការអនុវត្តអនុសញ្ញានេះអោយបានទូលំទូលាយ តាមដែលអាចធ្វើទៅបាន នៅក្នុងប្រទេសរបស់ខ្លួន។ ប្រទេសចុះកិច្ចសន្យាទាំងអស់យល់ព្រម ជាពិសេស

បញ្ចូលការសិក្សាលើបញ្ហានេះ ចូលទៅក្នុងកម្មវិធីហ្វឹកហ្វឺនយោធា និងប្រសិនបើអាច គឺនៅក្នុងកម្មវិធី
បណ្តុះបណ្តាលស៊ីវិល ដើម្បីអោយគោលការណ៍របស់អនុសញ្ញាត្រូវបានទទួលស្គាល់ដឹងព្រំដែនស្រប
មហាជនទាំងមូល ជាពិសេសក្នុងជួរកងកម្លាំងប្រដាប់អាវុធ និងបុគ្គលិកដែលពាក់ព័ន្ធដល់ការងារការពារ
សម្បត្តិវប្បធម៌។

មាត្រា ២៦៖ ការបញ្ជូនសារ និងរបាយការណ៍

១- ប្រទេសចុះកិច្ចសន្យាទាំងអស់នឹងទាក់ទងគ្នាទៅវិញទៅមក តាមរយៈលោកអគ្គនាយកអង្គការអប់រំ
វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ នូវឯកសារជូនដំណឹងផ្លូវការដែលពាក់ព័ន្ធទៅនឹងការអនុវត្ត
អនុសញ្ញា និងបទបញ្ជាសំរាប់ការអនុវត្តអនុសញ្ញានេះ។

២- លើសពីនេះទៀត យ៉ាងហោចណាស់ក្នុងរយៈពេលបួនឆ្នាំម្តង ប្រទេសចុះកិច្ចសន្យាទាំងអស់នឹង
បញ្ជូនទៅលោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ នូវរបាយការណ៍
មួយច្បាប់ ស្តីអំពីព័ត៌មាននានាដែលគេគិតថាសមស្រប ទាក់ទងនឹងវិធានការទាំងឡាយដែលកំពុងតែ
អនុវត្ត ដែលបានរៀបចំ ឬដែលត្រូវនឹងអនុវត្ត ដោយស្ថាប័នជំនាញនីមួយៗរបស់ប្រទេសខ្លួន ជាកិច្ច
ដើម្បីបំពេញតាមអនុសញ្ញា និងបទបញ្ជាសំរាប់ការអនុវត្តអនុសញ្ញានេះ។

មាត្រា ២៧៖ ការជួបប្រជុំ

១- លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ដោយមានការយល់ព្រម
ពីគណៈកម្មាធិការប្រតិបត្តិអាចកោះប្រជុំពិសេសនៃបណ្តាប្រទេសចុះកិច្ចសន្យា។ លោកអគ្គនាយកត្រូវ
កោះប្រជុំបែបនេះ ប្រសិនបើយ៉ាងហោចណាស់មានប្រទេសចំនួនមួយភាគបួន នៃបណ្តាប្រទេសចុះកិច្ច
សន្យាលើកសំណូមពរឡើង។

២- ដោយគ្មានលំអៀងចំពោះតួនាទីណាមួយដែលផ្តល់អោយដោយអនុសញ្ញា ឬបទបញ្ជាសំរាប់ការ
អនុវត្ត គោលបំណងនៃការជួបប្រជុំគឺ សិក្សាលើបញ្ហាដែលទាក់ទងនឹងការអនុវត្តអនុសញ្ញា និងការ
អនុវត្តបទបញ្ជាសំរាប់ការអនុវត្តអនុសញ្ញា ហើយនិងដើម្បីដាក់ចុះនូវអនុសាសន៍នានា ដែលសមស្រប
ទៅនឹងរាល់បញ្ហាទាំងនោះ។

៣- លើសពីនេះទៀត ការប្រជុំអាចធ្វើការពិនិត្យឡើងវិញលើអនុសញ្ញា ឬបទបញ្ជាសំរាប់ការអនុវត្ត
អនុសញ្ញា ប្រសិនបើមានប្រទេសចុះកិច្ចសន្យាភាគច្រើនលើកសំណើសុំ ហើយដែលសមស្របទៅតាម
បញ្ញត្តិទាំងឡាយដែលមានចែងនៅក្នុងមាត្រា ៣៩។

មាត្រា ២៨: នេសាទបណ្ណត្តិ

ប្រទេសចុះកិច្ចសន្យាទាំងអស់យល់ព្រមអនុវត្ត នៅក្នុងរង្វង់នៃប្រព័ន្ធយុត្តាធិការព្រហ្មទណ្ឌរបស់ខ្លួន នូវ រាល់វិធានការដើម្បីដាក់ទណ្ឌកម្មព្រហ្មទណ្ឌ ឬទណ្ឌកម្មជាតិដ៏ធ្ងន់ធ្ងរទៀត ទៅលើបុគ្គលទាំងឡាយ ណា ដោយមិនរាប់ថាជាសញ្ជាតិណាឡើយ ដែលបានប្រព្រឹត្ត ឬដែលបានចាត់បញ្ជាអោយគេប្រព្រឹត្តអំពើ រំលោភបំពានលើអនុសញ្ញានេះ ។

អនុសាសនាបណ្ណត្តិ

មាត្រា ២៩: កាសា

- ១- អត្ថបទនៃអនុសញ្ញានេះត្រូវបានកាត់តែងឡើងជាភាសាអង់គ្លេស បារាំង រុស្ស៊ី និងអេស្ប៉ាញ៉ុល ហើយអត្ថបទទាំងបួនភាសានេះមានតម្លៃស្មើគ្នាតាមផ្លូវច្បាប់ ។
- ២- អង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ នឹងរៀបចំអោយមានការបកប្រែអនុសញ្ញា នេះជាភាសាផ្លូវការដទៃទៀតរបស់មហាសន្និបាតរបស់ខ្លួន ។

មាត្រា ៣០: ការចុះហត្ថលេខា

អនុសញ្ញានេះ នឹងចុះកាលបរិច្ឆេទនៅថ្ងៃទី១៤ ខែឧសភា ឆ្នាំ១៩៥៤ និងហូតដល់ថ្ងៃទី៣១ ខែធ្នូ ឆ្នាំ១៩៥៤ នឹងស្ថិតនៅជាចំហសំរាប់ការចុះហត្ថលេខាលើសំណាក់ប្រទេសទាំងអស់ដែលត្រូវបានអញ្ជើញ អោយចូលរួមក្នុងកិច្ចប្រជុំនៅទីក្រុងឡាអេ ពីថ្ងៃទី២១ ខែមេសា ឆ្នាំ១៩៥៤ ដល់ថ្ងៃទី១៤ ខែឧសភា ឆ្នាំ ១៩៥៤ ។

មាត្រា ៣១: ការផ្តល់សច្ចានុម័ត

- ១- អនុសញ្ញានេះនឹងត្រូវបានទទួលការផ្តល់សច្ចានុម័តពីសំណាក់រដ្ឋហត្ថលេខី ស្របទៅតាមទម្រង់ការ នៃរដ្ឋធម្មនុញ្ញរបស់ប្រទេសគេផ្ទាល់ ។
- ២- ឯកសារផ្លូវការនៃការផ្តល់សច្ចានុម័ត នឹងត្រូវប្រគល់ជូនទៅលោកអគ្គនាយកអង្គការអប់រំ វិទ្យា សាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ។

មាត្រា ៣២: ការចូលជាសមាជិក

គិតចាប់ពីកាលបរិច្ឆេទដែលចូលជាធរមាន អនុសញ្ញានេះនឹងស្ថិតនៅជាចំហសំរាប់ការសុំចូលបន្ថែមជា សមាជិកពីសំណាក់ប្រទេសទាំងឡាយ ដូចមានអធិប្បាយយោងក្នុងមាត្រា៣០ ដែលពុំទាន់បានចុះហត្ថ លេខាលើអនុសញ្ញានេះ ក៏ដូចជាបណ្តាប្រទេសដទៃទៀត ដែលបានទទួលការអញ្ជើញអោយចូលជា

សមាជិក ពិសោធកត្តាអន្តរជាតិ របស់អង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ។ ការសុំចូលជាសមាជិក ត្រូវធ្វើឡើងដោយការផ្តល់ឯកសារផ្លូវការនៃការសុំចូលជាសមាជិក ដល់លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ។

មាត្រា ៣៣៖ ការចូលជាធរមាន

- ១- អនុសញ្ញានេះនឹងចូលជាធរមាននៅរយៈពេលបីខែ បន្ទាប់ពីឯកសារផ្លូវការនៃការផ្តល់សច្ចាប័នចំនួនប្រាំបួន ត្រូវបានផ្តល់ជូន។
- ២- បន្ទាប់ពីនេះ វានឹងចូលជាធរមានសំរាប់ប្រទេសចុះកិច្ចសន្យាសិបបួន នៅរយៈពេលបីខែ បន្ទាប់ពីប្រទេសនោះផ្តល់ឯកសារផ្លូវការនៃការផ្តល់សច្ចាប័ន ឬឯកសារផ្លូវការនៃការសុំចូលជាសមាជិក។
- ៣- ស្ថានភាពដែលមានចែងនៅក្នុងមាត្រា១៨ និង១៩ នឹងផ្តល់អនុភាពភ្លាមដល់សច្ចាប័ន ឬការសុំចូលជាសមាជិក ដែលដាក់ឡើងដោយប្រទេសពាក់ព័ន្ធក្នុងជំនោះ ទាំងមុនឬក្រោយការចាប់ផ្តើមនៃអវិភាព ឬការចូលកាន់កាប់ទឹកដី។ ក្នុងករណីចែងនេះ លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ត្រូវបញ្ជូនព័ត៌មានដែលមានចែងនៅក្នុងមាត្រា៣៨ តាមវិធីយ៉ាងឆាប់បំផុត។

មាត្រា ៣៤៖ ការអនុវត្តមានប្រសិទ្ធភាព

- ១- ប្រទេសចុះកិច្ចសន្យាសិបបួននៃអនុសញ្ញា នៅពេលដែលអនុសញ្ញាចូលជាធរមាន ត្រូវចាត់ត្រូវវិធានការចាំបាច់ទាំងឡាយ ដើម្បីធានាដល់ការអនុវត្តន៍មានប្រសិទ្ធភាពក្នុងរយៈពេលប្រាំមួយខែ បន្ទាប់ពីអនុសញ្ញាចូលជាធរមាន។
- ២- រយៈពេលនេះគឺ៦ខែ គឺរាប់ចាប់ពីកាលបរិច្ឆេទនៃការផ្តល់ឯកសារផ្លូវការនៃការផ្តល់សច្ចាប័ន ឬឯកសារផ្លូវការនៃការសុំចូលជាសមាជិក សំរាប់ប្រទេសទាំងអស់ដែលផ្តល់ឯកសារផ្លូវការនៃការផ្តល់សច្ចាប័ន ឬឯកសារផ្លូវការនៃការសុំចូលជាសមាជិករបស់ខ្លួន ក្រោយពេលអនុសញ្ញាបានចូលជាធរមានទៅហើយនោះ។

មាត្រា ៣៥៖ ការផ្សព្វផ្សាយអនុសញ្ញានេះទូទាំងប្រទេស

ប្រទេសចុះកិច្ចសន្យាសិបបួន នៅពេលចុះហត្ថលេខាផ្តល់សច្ចាប័ន ឬសុំចូលជាសមាជិក ឬនៅពេលណាមួយក្រោយពីពេលនោះ អាចប្រកាសដោយផ្តល់ព័ត៌មានដល់លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ថា អនុសញ្ញានេះនឹងត្រូវផ្សព្វផ្សាយនៅទូទាំងដែនដី ឬទូទាំងដែនដីណា

មួយដែលប្រទេសខ្លួនទទួលខុសត្រូវផ្នែកទំនាក់ទំនងអន្តរជាតិ។ ការផ្តល់ព័ត៌មានដូចមានអធិប្បាយខាង
ដើមនេះ និងមានប្រសិទ្ធភាពបន្ទាប់ពីរយៈពេលបីខែ ក្រោយកាលបរិច្ឆេទនៃការទទួល។

មាត្រា ៣៦: ទំនាក់ទំនងចំពោះបណ្តាអនុសញ្ញាពិសេស

១- ក្នុងទំនាក់ទំនងរវាងមហាអំណាចទាំងឡាយ ដែលជាប់សន្យានៅក្នុងបណ្តាអនុសញ្ញាពិសេសក្រុងឡាអេ
ស្ទីអ៊ីតឡាប់និងទំនៀមទំលាប់នៃសង្គ្រាមលើដី (iv) និងអនុសញ្ញាដែលស្តីអំពី ការព្យាបាលភ្នែកនៃកង
ទាហានជើងទឹកក្នុងពេលមានសង្គ្រាម (ix) ទោះជាអនុសញ្ញាដែលចុះកាលបរិច្ឆេទថ្ងៃទី២៩ កក្កដា ឆ្នាំ
១៨៩៩ ឬក៏អនុសញ្ញាដែលចុះកាលបរិច្ឆេទថ្ងៃទី១៨ តុលា ឆ្នាំ១៩០៧ ក៏ដោយ ហើយដែលបានក្លាយជា
សមាជិកអនុសញ្ញានេះក្តី អនុសញ្ញាចុងក្រោយនេះនឹងបានជាការបំពេញបន្ថែមទៅលើអនុសញ្ញាដូចបាន
ចែងពីខាងលើនេះ (ix) និងទៅលើបទបញ្ជាដែលជាឧបសម្ព័ន្ធរបស់អនុសញ្ញាដូចបានចែងពីខាងលើ
(iv) ហើយ នឹងជំនួសអោយផ្ទៃកសិកសញ្ញាដូចមានអធិប្បាយក្នុងមាត្រា ៥ នៃអនុសញ្ញាដែលបានចែងពីខាង
លើ (ix) ដោយផ្ទៃកសិកសញ្ញាដែលបានអធិប្បាយនៅក្នុងមាត្រា ១៦ នៃអនុសញ្ញានេះ ក្នុងករណីដែល
អនុសញ្ញា និងបទបញ្ជាសំរាប់ការអនុវត្តអនុសញ្ញាចុងក្រោយនេះ ផ្តល់អោយមានការប្រើប្រាស់ផ្ទៃកសិកស
សញ្ញានេះ។

២- ក្នុងទំនាក់ទំនងរវាងមហាអំណាចទាំងឡាយដែលជាប់សន្យានឹងកតិកាសញ្ញាភីស៊ីងតោន ចុះថ្ងៃទី
១៩ ខែមករា ឆ្នាំ១៩៣៥ ស្តីពីការការពារបណ្តាវិមានសិល្បៈ និងវិទ្យាសាស្ត្រ និងសំណង់ប្រវត្តិសាស្ត្រ
(កតិកាសញ្ញា ROERICH) និងដែលជាសមាជិកនៃអនុសញ្ញានេះ អនុសញ្ញាក្រោយនេះនឹងបានជាការ
បំពេញបន្ថែមទៅលើកតិកាសញ្ញា ROERICH ហើយនឹងជំនួសអោយទង់ដែលមានអធិប្បាយនៅក្នុង
មាត្រា ៣ នៃកតិកាសញ្ញា នូវផ្ទៃកសិកសញ្ញាដែលមានរៀបរាប់ក្នុងមាត្រា ១៦ នៃអនុសញ្ញានេះ ក្នុងករណី
ដែលអនុសញ្ញា និងបទបញ្ជាសំរាប់ការអនុវត្តអនុសញ្ញានេះ ផ្តល់អោយមានការប្រើប្រាស់ផ្ទៃកសិកស
នេះ។

មាត្រា ៣៧: ការប្រកាសបដិសេធន៍

១- ប្រទេសចុះកិច្ចសន្យានីមួយៗ អាចប្រកាសបដិសេធថាបច្ចេកវិទ្យាអនុសញ្ញានេះវិញបានដោយតាងនាម
ខ្លួនផ្ទាល់ ឬតាងនាមអោយដៃនីមួយៗដែលប្រទេសនោះទទួលខុសត្រូវផ្នែកទំនាក់ទំនងអន្តរជាតិ។

២- ការប្រកាសបដិសេធ នឹងត្រូវធ្វើឡើងជាឯកសារផ្លូវការដោយលាយលក្ខណ៍អក្សរ ដែលត្រូវបញ្ជូន
ទៅលោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ។

៣- ការប្រកាសបដិសេធ នឹងបានទទួលអនុភាពគតិយុត្តិធម៌នោះពេលមួយឆ្នាំ ក្រោយពីគេបានទទួល
ឯកសារផ្លូវការនៃការប្រកាសបដិសេធ។ យ៉ាងណាក្តី ប្រសិនបើនៅពេលផុតកំណត់នៃពេលនេះ
ប្រទេសដែលប្រកាសបដិសេធមិនទាក់ទិននៅក្នុងវិវាទប្រដាប់អាវុធឈាមួយនោះ ការប្រកាសបដិសេធ
នោះនឹងពុំបានទទួលប្រសិទ្ធិភាពឡើយ រហូតទាល់តែសកម្មភាពអវិជ្ជមានត្រូវបានបញ្ចប់ ឬរហូត
ទាល់តែប្រតិបត្តិការនៃការបញ្ជូនសម្បត្តិវប្បធម៌ត្រូវបានទៅកន្លែងដើមវិញ ត្រូវបានបញ្ចេញច្បាស់
ហើយសិន ទើបការប្រកាសបដិសេធគ្រប់លើនឹងបានចូលជាធរមានជាក្រោយ។

មាត្រា៣៨៖ ការផ្តល់ព័ត៌មាន

លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ត្រូវផ្តល់ព័ត៌មានដល់បណ្តា
ប្រទេសទាំងឡាយដែលមានអធិប្បាយនៅក្នុងមាត្រា៣០ និង៣២ ក៏ដូចជាដល់អង្គការសហប្រជាជាតិ
ដែរ ស្តីអំពីការផ្តល់ឯកសារផ្លូវការនៃការផ្តល់សច្ចៈម៉ឺន ការផ្តល់ឯកសារផ្លូវការនៃការដាក់ពាក្យសុំចូល
ជាសមាជិក ឬការផ្តល់ព័ត៌មានដែលមានចែងនៅក្នុងមាត្រា៣១ ៣២ និង៣៩ និងស្តីអំពីការផ្តល់ព័ត៌មាន
និងការប្រកាសបដិសេធដែលមានអធិប្បាយនៅក្នុងមាត្រា៣៥ ៣៧ និង៣៩។

មាត្រា៣៩៖ វិសោធនកម្មនៃអនុសញ្ញា និងបទបញ្ជាសំរាប់ការអនុវត្តអនុសញ្ញា

១- ប្រទេសចុះកិច្ចសន្យាណាក៏ដោយ ក៏សុទ្ធតែអាចលើកសំណើសុំធ្វើវិសោធនកម្មលើអនុសញ្ញា ឬលើ
បទបញ្ជាសំរាប់ការអនុវត្តអនុសញ្ញានេះ។ អត្ថបទនៃវិសោធនកម្មដែលគេស្នើសុំ នឹងត្រូវផ្តល់ជូនដល់
លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ដែលលោកត្រូវបញ្ជូនសំណើ
នោះដល់ប្រទេសចុះកិច្ចសន្យាទាំងអស់។ ជាមួយនឹងសំណូមពរអោយប្រទេសទាំងនោះឆ្លើយតបមកវិញក្នុង
កំឡុងពេល៤ខែ ដោយបញ្ជាក់ថាខ្លួន៖

- ក- មានបំណងអោយកោះបើកសន្និសីទមួយ ដើម្បីពិចារណានូវវិសោធនកម្មដែលស្នើឡើង
- ខ- មានបំណងទទួលយកនូវវិសោធនកម្មដែលស្នើឡើង ដោយពុំចាំបាច់មានសន្និសីទ ឬ
- គ- មានបំណងបដិសេធសំណើវិសោធនកម្មដោយពុំចាំបាច់បើកសន្និសីទ។

២- លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ត្រូវបញ្ជូនចំណើយដែល
បានទទួលដូចបានរៀបរាប់ក្នុងកថាខ័ណ្ឌទី១ នៃមាត្រានេះ ទៅអោយប្រទេសចុះកិច្ចសន្យាទាំងអស់។

៣- ប្រសិនបើប្រទេសចុះកិច្ចសន្យាទាំងអស់ ក្នុងកំឡុងពេលកំណត់ បានបញ្ជាក់នូវទស្សនៈរបស់ខ្លួនជូន
ដល់លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ស្របទៅតាមកថាខ័ណ្ឌ

២១ ខ នៃមាត្រានេះ ជាខ្លួនមានបំណងទទួលយកវិសោធនកម្មដោយគ្មានសន្និសីទការផ្តល់ព័ត៌មានស្តីពីការសម្រេចចិត្តរបស់គេនឹងត្រូវធ្វើឡើងដោយលោកអគ្គនាយក ដោយអនុលោមទៅតាមមាត្រា៣៨ វិសោធនកម្ម និងមានអនុភាពគតិយុត្តិសាស្ត្រសំរាប់ប្រទេសចុះកិច្ចសន្យាទាំងអស់ នៅក្រោយ៥០ ថ្ងៃ រាប់ពីកាលបរិច្ឆេទនៃការផ្តល់ព័ត៌មាននេះ ។

៤- លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ត្រូវកោះបើកសន្និសីទនៃបណ្តាប្រទេសចុះកិច្ចសន្យាដើម្បីពិនិត្យពិចារណាលើសំណើសុំធ្វើវិសោធនកម្ម ប្រសិនបើមានលើសពីមួយភាគពីរ នៃប្រទេសចុះកិច្ចសន្យាស្នើសុំដូច្នេះ ។

៥- វិសោធនកម្មលើអនុសញ្ញា ឬលើបទបញ្ជាសំរាប់ការអនុវត្តអនុសញ្ញាដែលបានដាក់អោយស្ថិតនៅក្រោមបែបបទដូចបាននិយាយយោងក្នុងកថាខ័ណ្ឌមុននេះ នឹងចូលជាធរមាន តែនៅក្រោយពេលដែលប្រទេសចុះកិច្ចសន្យាទាំងអស់បានអនុម័តជាងកម្រិតនៅក្នុងសន្និសីទ និងត្រូវបានយល់ព្រមទទួលយកដោយប្រទេសចុះកិច្ចសន្យាទាំងអស់តែប៉ុណ្ណោះ ។

៦- ការយល់ព្រមទទួលយកដោយប្រទេសចុះកិច្ចសន្យាទាំងអស់ នូវវិសោធនកម្មនៃអនុសញ្ញា ឬវិសោធនកម្មនៃបទបញ្ជាសំរាប់ការអនុវត្តអនុសញ្ញា ដែលបានអនុម័តដោយសន្និសីទ ដូចមានអធិប្បាយនៅក្នុងកថាខ័ណ្ឌ២៤ និង២៥ នៃមាត្រានេះ នឹងចូលជាធរមានដោយការផ្តល់ឯកសារផ្លូវការ ជូនចំពោះលោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ។

៧- បន្ទាប់ពីការចូលជាធរមានរបស់វិសោធនកម្មនៃអនុសញ្ញា ឬវិសោធនកម្មនៃបទបញ្ជាសំរាប់ការអនុវត្តអនុសញ្ញា គឺមានតែអត្ថបទនៃអនុសញ្ញា ឬបទបញ្ជាសំរាប់ការអនុវត្តអនុសញ្ញាដែលបានធ្វើវិសោធនកម្មនេះទេ ដែលនឹងស្ថិតនៅជាចំណាស់សំរាប់ការផ្តល់សក្ខីភាព ឬការសុំចូលជាសមាជិក ។

មាត្រា៤០: ការចុះបញ្ជី

អនុលោមតាមមាត្រា១០២ នៃចម្លងបញ្ជីរបស់អង្គការសហប្រជាជាតិ អនុសញ្ញានេះនឹងត្រូវចុះបញ្ជីនៅនឹងលេខាធិការដ្ឋានរបស់អង្គការសហប្រជាជាតិ តាមសំណើរបស់លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ។

នៅក្នុងកត្តិភាព និងសមត្ថកិច្ចដ៏បរិបូណ៌ ហត្ថលេខីទាំងអស់ បានចុះហត្ថលេខាលើអនុសញ្ញានេះ ។ ធ្វើនៅទីក្រុងឡាអេ ថ្ងៃទី១៤ ខែឧសភា ឆ្នាំ១៩៥៤ ជាច្បាប់តែមួយគត់ដែលនឹងត្រូវពិភពលោកនៅក្នុងប័ណ្ណសារដ្ឋានរបស់អង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ហើយច្បាប់ចម្លងដែល

បញ្ជាក់ថាត្រឹមត្រូវ និងត្រូវធ្វើជូនដល់ប្រទេសទាំងអស់ដូចបាននិយាយយោងនៅក្នុងមាត្រា៣០ និង៣២ រួមទាំងអង្គការសហប្រជាជាតិផងដែរ ។

បទបញ្ជាសម្រាប់ការអនុវត្ត

អនុសញ្ញាស្តីពីការការពារសម្បត្តិវប្បធម៌

ក្នុងក្របខណ្ឌនៃការប្រដាប់អាវុធ

ជំពូកទី១

ការត្រួតពិនិត្យ

មាត្រា១: បញ្ជីអន្តរជាតិរាយឈាមបុគ្គល

នៅពេលអនុសញ្ញាចូលជាធរមាន លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ត្រូវបង្កើតបញ្ជីអន្តរជាតិមួយ ដែលរួមមានឈ្មោះបុគ្គលទាំងអស់ដែលប្រទេសចុះកិច្ចសន្យាទាំងអស់ចាត់តាំងឡើង ថាជាអ្នកមានសមត្ថភាពក្នុងការអនុវត្តតួនាទីជាប្រធានអគ្គស្នងការទទួលបន្ទុកសម្បត្តិវប្បធម៌។ តាមគំនិតផ្តួចផ្តើមរបស់លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ បញ្ជីឈ្មោះនឹងត្រូវតែកែប្រែដោយទៀងទាត់ ដោយឈរលើមូលដ្ឋាននៃសំណើដែលបណ្តាប្រទេសចុះកិច្ចសន្យាលើកឡើង។

មាត្រា២: អង្គការត្រួតពិនិត្យ

បន្ទាប់ពីពេលដែលប្រទេសចុះកិច្ចសន្យាណាមួយ មានជាប់ទាក់ទិនក្នុងវិវាទប្រដាប់អាវុធហ្មាម ដូចសេចក្តីដែលបានចែងក្នុងមាត្រា១៨ នៃអនុសញ្ញា:

- ក- ប្រទេសនោះ ត្រូវតែងតាំងតំណាងម្នាក់អោយទទួលខុសត្រូវខាងការងារសម្បត្តិវប្បធម៌ដែលស្ថិតនៅក្នុងដែនដីរបស់ខ្លួន។ ប្រសិនបើប្រទេសនោះបានចូលទៅកាន់កាប់ប្រទេសមួយផ្សេងទៀត ប្រទេសនោះត្រូវតែងតាំងអ្នកតំណាងពិសេសម្នាក់ អោយទទួលខុសត្រូវសម្បត្តិវប្បធម៌ ដែលស្ថិតនៅក្នុងដែនដីរបស់ប្រទេសមួយទៀតនោះ។
- ខ- អាជ្ញាធរការពារ ដែលជាតំណាងភាគីនីមួយៗដែលមានជំនឿជាមួយប្រទេសចុះកិច្ចសន្យា ត្រូវតែងតាំងគណៈប្រតិភូផ្ទៃក្នុងទៅកាន់ប្រទេសខាងក្រោយនេះ ដោយអនុលោមតាមមាត្រា៣ ខាងក្រោម
- គ- ប្រធានអគ្គស្នងការទទួលបន្ទុកសម្បត្តិវប្បធម៌ នឹងត្រូវតែងតាំងអោយទៅកាន់ប្រទេសចុះកិច្ចសន្យានោះ អនុលោមតាមមាត្រា៤ ខាងក្រោមនេះ។

មាត្រា៣៖ ការគោរពវិន័យប្រតិបត្តិរបស់អាជ្ញាធរការពារ

អាជ្ញាធរការពារ ត្រូវតែងតាំងគណៈប្រតិភូរបស់ខ្លួន ដែលត្រូវបានជ្រើសរើសយកពីក្នុងសមាជិកបុគ្គលិក ការទូត ឬស្ថានកុងស៊ុល ឬបុគ្គលដទៃទៀត ដោយមានការយល់ព្រមពីសំណាក់ភាគីដែលគណៈប្រតិភូនេះ នឹងត្រូវបានគេទទួលស្គាល់ ។

មាត្រា៤៖ ការគោរពវិន័យប្រធានអគ្គស្នងការ

- ១- ប្រធានអគ្គស្នងការទទួលបន្ទុកការងារសម្បត្តិវប្បធម៌ នឹងត្រូវគេជ្រើសរើសពីក្នុងបញ្ជីអន្តរជាតិនៃ ឈ្មោះបុគ្គល តាមរយៈកិច្ចព្រមព្រៀងរួម រវាងភាគីដែលប្រធានអគ្គស្នងការរូបនោះនឹងត្រូវបានទទួល ស្គាល់ ជាមួយនិងអាជ្ញាធរការពារដែលធ្វើសកម្មភាពតំណាងអោយបណ្តាភាគីបឋម ។
- ២- ប្រសិនបើភាគីទាំងនោះពុំអាចឈានដល់កិច្ចព្រមព្រៀងបានទេ ក្នុងរយៈពេលពេលប្រាំបី គិតចាប់ពី ពេលចាប់ផ្តើមការពិភាក្សាលើជំនុំនេះ ភាគីទាំងនោះត្រូវស្វ័យប្រវត្តិប្រធានតុលាការអន្តរជាតិអោយ ជួយតែងតាំងប្រធានអគ្គស្នងការ ហើយបន្តបន្ទាប់នឹងពុំទាមទារកាន់តំណែងឡើយ រហូតទាល់តែភាគី ដែលនឹងត្រូវទទួលស្គាល់រូបលោក បានយល់ព្រមជាផ្លូវការទទួលយកការតែងតាំងនោះ ។

មាត្រា៥៖ គុណវិបសន្និប្បធានអគ្គស្នងការ

គណៈប្រតិភូរបស់អាជ្ញាធរការពារ ត្រូវកត់ត្រានូវការរំលោភលើអនុសញ្ញា ស៊ើបអង្កេតដោយមានការ ទទួលស្គាល់ពីសំណាក់ភាគីដែលបានទទួលស្គាល់ខ្លួន នូវសភាពការណ៍ដែលគេបានឃើញ ។ គណៈប្រតិភូ នេះត្រូវដោះស្រាយរាល់ការងារចំពោះមុខជាក់ស្តែងដទៃទៀតដែរ ដើម្បីធានាដល់ការបញ្ចប់សកម្ម ភាពរំលោភធានា និងប្រសិនបើចាំបាច់ ត្រូវផ្តល់ព័ត៌មានដល់លោកប្រធានអគ្គស្នងការស្តីពីការរំលោភ ទាំងនេះ ។ គណៈប្រតិភូត្រូវផ្តល់ព័ត៌មានជានិច្ចជាកាលដល់លោកប្រធានអគ្គស្នងការ ស្តីពីសកម្មភាព របស់ខ្លួន ។

មាត្រា៦៖ គុណវិបសន្និប្បធានអគ្គស្នងការ

- ១- ប្រធានអគ្គស្នងការទទួលបន្ទុកការងារសម្បត្តិវប្បធម៌ ត្រូវចាត់ចែងលើគ្រប់បញ្ហាដែលកើតឡើង ទាក់ទងដល់ការអនុវត្តអនុសញ្ញា ដោយសហការជាមួយតំណាងនៃភាគីដែលរូបលោកត្រូវបានគេទទួល ស្គាល់ ព្រមទាំងជាមួយបណ្តាគណៈប្រតិភូពាក់ព័ន្ធផងដែរ ។
- ២- លោកប្រធានអគ្គស្នងការត្រូវមានអំណាចជាអ្នកសម្រេច និងតែងតាំង ក្នុងរាល់ករណីដូចមានចែង បញ្ជាក់នៅក្នុងបទបញ្ជាសំរាប់ការអនុវត្តអនុសញ្ញានេះ ។

៣- ដោយមានការយល់ព្រមពីសំណាក់ភាគីដែលទទួលស្គាល់រូបលោក លោកប្រធានអគ្គស្នងការនិងមានសិទ្ធិបង្គាប់ដោយមានការស៊ើបអង្កេត ឬក៏ធ្វើការស៊ើបអង្កេតនោះដោយខ្លួនលោកផ្ទាល់ ។

៤- លោកប្រធានអគ្គស្នងការនិងតំណាងអោយបណ្តាភាគី ឬតំណាងអោយបណ្តាអាជ្ញាធរការពាររបស់ភាគីក្នុងជំនាវ ធ្វើរាល់សកម្មភាពដែលលោកចាត់ទុកជាការមានប្រយោជន៍ដល់ការអនុវត្តអនុសញ្ញា ។

៥- លោកប្រធានអគ្គស្នងការត្រូវធ្វើរបាយការណ៍ ដែលអាចមានលក្ខណៈចាំបាច់ស្តីពីការអនុវត្តអនុសញ្ញា ហើយផ្សព្វផ្សាយរបាយការណ៍នោះដល់ប្រទេសទាំងឡាយដែលទាក់ទិន និងដល់អាជ្ញាធរការពារ ។ លោកប្រធានអគ្គស្នងការត្រូវធ្វើរបាយការណ៍ទាំងនោះ ជូនលោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ដែលពិភពលោករបាយការណ៍នោះ លោកអគ្គនាយក អាចដកស្រង់យកទៅប្រើប្រាស់បានតែព័ត៌មានខាងបច្ចេកទេសតែប៉ុណ្ណោះ ។

៦- ប្រសិនបើមានអាជ្ញាធរការពារទេ ប្រធានអគ្គស្នងការនិងអនុវត្តន៍នាមីជាអាជ្ញាធរការពារ ដូចសេចក្តីដែលបានចែងនៅក្នុងមាត្រា២១ និង២២ នៃអនុសញ្ញា ។

មាត្រា៧: អ្នកអធិការ និងអ្នកឯកទេស

១- ពេលណាដែលលោកប្រធានអគ្គស្នងការទទួលបន្ទុកការងារសម្បត្តិវប្បធម៌ យល់ថាចាំបាច់ដោយយោលទៅតាមសំណូមពររបស់គណៈប្រតិភូពាក់ព័ន្ធ ឬបន្ទាប់ពីការពិគ្រោះយោបល់ជាមួយប្រតិភូទាំងនោះរួចមក លោកប្រធានអគ្គស្នងការត្រូវលើកសំណើសុំ ដោយមានការយល់ព្រមពីភាគីដែលទទួលស្គាល់រូបលោកផង អោយមានអធិការមួយនាក់សំរាប់ការងារសម្បត្តិវប្បធម៌ ដើម្បីបំពេញបេសកកម្មពិសេសណាមួយ ។ លោកអធិការរូបនោះនឹងទទួលខុសត្រូវតែចំពោះលោកប្រធានអគ្គស្នងការម្នាក់គត់ ។

២- លោកប្រធានអគ្គស្នងការ គណៈប្រតិភូ និងលោកអធិការ អាចពឹងពាក់ទៅលើជំនួយពីសំណាក់បណ្តាអ្នកឯកទេស ដែលអ្នកឯកទេសនោះក៏ត្រូវតែបានគេស្នើតែងតាំង និងបានទទួលការយល់ព្រមទទួលស្គាល់ផងដែរពីសំណាក់ភាគីដូចបាននិយាយយោងនៅក្នុងកថាខ័ណ្ឌមុននេះ ។

មាត្រា៨: ការបំពេញបេសកកម្មត្រួតពិនិត្យ

ប្រធានអគ្គស្នងការទទួលបន្ទុកការងារសម្បត្តិវប្បធម៌ គណៈប្រតិភូរបស់អាជ្ញាធរការពារ អ្នកអធិការ និងអ្នកឯកទេស នឹងមិនធ្វើអ្វីអោយលើសពីអាណត្តិរបស់ខ្លួនទេ ទោះក្នុងករណីណាក៏ដោយ ។ ជាពិសេសពួកគេត្រូវយកចិត្តទុកដាក់ដល់សេចក្តីត្រូវការផ្នែកសន្តិសុខរបស់ប្រទេសចុះកិច្ចសន្យា ដែលខ្លួនកំពុង

បំពេញបេសកកម្មនៅទីនោះ ហើយត្រូវធ្វើសកម្មភាពគ្រប់កាលៈទេសៈទាំងអស់ស្របទៅតាមស្ថានភាព
ចាំបាច់នៃស្ថានភាពសឹក ដូចដែលប្រទេសចុះកិច្ចសន្យាចង្អុលបង្ហាញ។

មាត្រា៩: អ្នកជំនួយអាជ្ញាធរការពារ

ប្រសិនបើភាគីមួយក្នុងចំណោមពុំបានទទួលផលប្រយោជន៍ ឬត្រូវគេបំប្លែងមិនអោយទទួលបានប្រយោជន៍
ពីសកម្មភាពរបស់អាជ្ញាធរការពារ ប្រទេសអព្យាក្រឹតមួយអាចត្រូវបានអោយមានតួនាទី ជាអាជ្ញាធរ
ការពារ ដែលមានភារកិច្ចតែងតាំងប្រធានអគ្គស្នងការទទួលបន្ទុកការងារសម្បត្តិវប្បធម៌ ស្របទៅតាម
បែបបទដូចមានចែងនៅក្នុងមាត្រា៤៦ខាងលើ។ ប្រធានអគ្គស្នងការដែលត្រូវបានតែងតាំងឡើងនេះ
បើចាំបាច់ និងប្រគល់ជូនលោកអធិការ នូវតួនាទីជាប្រតិភូនៃអាជ្ញាធរការពារ ដូចសេចក្តីដែលបានចែង
កំណត់នៅក្នុងបទបញ្ជានេះ។

មាត្រា១០: ការចំណាយ

ការទូទាត់ និងការចំណាយរបស់ប្រធានអគ្គស្នងការទទួលបន្ទុកការងារសម្បត្តិវប្បធម៌ អ្នកអធិការ
និងអ្នកឯកទេស ត្រូវរ៉ាប់រងដោយប្រទេសដែលគេកំពុងបំពេញភារកិច្ច។ ការទូទាត់ និងការចំណាយទៅ
លើគណៈប្រតិភូនៃអាជ្ញាធរការពារ នឹងអាស្រ័យដោយការព្រមព្រៀងរវាងប្រទេស និងអាជ្ញាធរទាំង
នោះ ដោយឈរនៅលើមូលដ្ឋាននៃការការពារផលប្រយោជន៍រួមគ្នា។

ជំពូកទី២

ការការពារពិសេស

មាត្រា១១: ជំរករក្សាសម្បត្តិវប្បធម៌ជាបន្ទាន់

១- ក្នុងក្រាមមានអធិករណ៍ប្រដាប់អាវុធ ប្រសិនបើប្រទេសចុះកិច្ចសន្យាណាមួយ ជួបប្រទះស្ថានភាព
ដែលពុំបានព្រៀងទុកជាមុនក្នុងការបង្កើតទីកន្លែងរក្សាសម្បត្តិវប្បធម៌ ហើយមានបំណងដាក់ទីកន្លែង
នោះអោយស្ថិតនៅក្រោមការការពារពិសេស ប្រទេសនោះត្រូវទាក់ទងបញ្ហានេះជាមួយលោកប្រធាន
អគ្គស្នងការ ដែលប្រទេសនោះបានទទួលស្គាល់។

២- បើសិនជា លោកប្រធានអគ្គស្នងការយល់ថា វិធានការបែបនេះសមស្របទៅនឹងស្ថានភាពហើយ
ក៏ដោយសារសារៈសំខាន់នៃសម្បត្តិវប្បធម៌ត្រូវការពារ ដែលមាននៅក្នុងទីរក្សាជាបន្ទាន់នោះ លោកអាច
អនុញ្ញាតិអោយប្រទេសចុះកិច្ចសន្យានោះដាក់បង្ហាញនៅទីកន្លែងរក្សានោះ នូវផ្ទាំងសញ្ញាដូចមាន
ពណ៌នៅក្នុងមាត្រា១៦នៃអនុសញ្ញា។ ប្រធានអគ្គស្នងការត្រូវផ្សព្វផ្សាយសេចក្តីសម្រេចរបស់លោក

ដោយគ្មានបង្គាប់បញ្ជាប្រតិបត្តិរបស់អាជ្ញាធរការពារដែលទាក់ទង ប៉ុន្តែប្រតិបត្តិផ្ទាល់ៗ ក្នុងចំណោម ប្រតិបត្តិទាំងនេះ ក្នុងកំឡុងកំណត់ពេលវេលា ក៏អាចចេញបញ្ជាអោយដកថ្នាក់សព្វាវុធនោះចេញជាបន្ទាន់បាន ដែរ ។

៣- ជាបន្ទាន់ បន្ទាប់ពីបណ្តាប្រតិបត្តិបានចុះហត្ថលេខាព្រមព្រៀងរបស់ខ្លួន ឬបើក្នុងរយៈពេល៣០ថ្ងៃ គ្មាន ប្រតិបត្តិដែលពាក់ព័ន្ធណាមួយសំដែងការជំទាស់ទេនោះ និងប្រសិនបើតាមទស្សនៈរបស់ប្រធានអគ្គស្នងការ វិជ្ជាជីវៈនោះបានបំពេញតាមលក្ខខណ្ឌដូចមានចែងនៅក្នុងមាត្រា៨ នៃអនុសញ្ញា លោកប្រធានអគ្គ ស្នងការត្រូវលើកសំណើជូនទៅលោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌នៃសហប្រជាជាតិ អោយបញ្ជូនវិជ្ជាជីវៈនោះបញ្ជូនទៅក្នុងបញ្ជីសម្បត្តិវប្បធម៌ដែលស្ថិតនៅក្រោមការការពារពិសេស ។

មាត្រា២៖ ការចុះបញ្ជីអន្តរជាតិនៃសម្បត្តិវប្បធម៌ដែលដាក់អោយស្ថិតនៅក្រោម ការការពារពិសេស

- ១- គេនឹងរៀបចំបញ្ជីអន្តរជាតិមួយស្តីអំពី "សម្បត្តិវប្បធម៌ដែលត្រូវដាក់អោយស្ថិតនៅក្រោមការការ ពារពិសេស" ។
- ២- លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ត្រូវរក្សាទុកបញ្ជីនោះ ។ លោកត្រូវបញ្ជូនច្បាប់ចម្លងនៃបញ្ជីនោះ ជូនទៅលោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ និងជូនទៅបណ្តាប្រទេសចុះកិច្ចសន្យា ។
- ៣- បញ្ជីនោះនឹងមានច្រើនជំពូក ហើយជំពូកនីមួយៗត្រូវចុះនូវព័ត៌មានរបស់ប្រទេសចុះកិច្ចសន្យា នីមួយៗ ។ ជំពូកទាំងនោះត្រូវចែកជា៣ផ្នែកទៀត ដែលផ្នែកនីមួយៗមានចំណងជើងថា៖ ជំរករក្សា សម្បត្តិវប្បធម៌ មជ្ឈមណ្ឌលដែលមានកេរ្តិ៍តំណែងវប្បធម៌ និងអចលនសម្បត្តិវប្បធម៌ដទៃទៀត ។ លោកអគ្គនាយកនឹងកំណត់ថា តើខ្លឹមសារលំអិតអ្វីខ្លះដែលនឹងត្រូវរៀបរាប់នៅក្នុងជំពូកនីមួយៗនោះ ។

មាត្រា៣៖ សំណើសុំដាក់អន្តរជាតិ

- ១- ប្រទេសចុះកិច្ចសន្យានីមួយៗ អាចដាក់ជូនលោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ នូវពាក្យសុំបញ្ជូនទៅក្នុងបញ្ជី នូវវិធីជំរករក្សាសម្បត្តិវប្បធម៌ មជ្ឈមណ្ឌលដែលមាន មរតកវប្បធម៌ ឬអចលនសម្បត្តិវប្បធម៌ដទៃទៀត ដែលមាននៅក្នុងដែនដីរបស់ខ្លួន ។ ពាក្យសុំបែបនេះ ត្រូវរួមមានការពិពណ៌នាអំពីទីកន្លែងរបស់សម្បត្តិវប្បធម៌នោះតាំងនៅ ហើយនិងមានបញ្ជាក់ថា សម្បត្តិ វប្បធម៌នោះមានលក្ខណៈស្របទៅតាមប្រការដែលមានចែងនៅក្នុងមាត្រា៨ នៃអនុសញ្ញា ។

- ២- ក្នុងករណីមានការចូលកាន់កាប់ទឹកដី ប្រទេសដែលចូលកាន់កាប់ ត្រូវមានសមត្ថកិច្ចធ្វើពាក្យសុំនេះ ។
- ៣- លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ដោយគ្មានបង្ខំ ត្រូវធ្វើពាក្យសុំចុះបញ្ជី ទៅដល់ប្រទេសចុះកិច្ចសន្យានីមួយៗ ។

មាត្រា ១៤៖ ការជំនាស់

- ១- ប្រទេសចុះកិច្ចសន្យានីមួយៗអាចតាមរយៈលិខិត ធ្វើជូនទៅលោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ដើម្បីធ្វើការជំនាស់បដិសេធចំពោះការចុះបញ្ជីនៃសម្បត្តិវប្បធម៌ ។ លោកអគ្គនាយក ត្រូវតែបានទទួលលិខិតថ្លែងការជំនាស់នោះក្នុងអំឡុងពេល៤ខែ គិតចាប់ពីថ្ងៃដែលលោកបានផ្សព្វផ្សាយពាក្យស្នើសុំចុះបញ្ជី ។
- ២- រាល់ការជំនាស់ទាំងឡាយ ត្រូវប្រកាសបញ្ជាក់ពីមូលហេតុដែលនាំអោយមានការជំនាស់ ហើយចំនុចដែលអាចជាបុព្វហេតុជំនាស់បាននោះគឺ៖
 - ក- សម្បត្តិនោះពុំមែនជាសម្បត្តិវប្បធម៌
 - ខ- សម្បត្តិនោះគ្មានលក្ខណសម្បត្តិស្របទៅនឹងលក្ខខណ្ឌដូចមានចែងនៅក្នុងមាត្រា ៨ នៃអនុសញ្ញាឡើយ ។
 - ៣- លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ដោយគ្មានបង្ខំនឹងធ្វើលិខិតជំនាស់មួយច្បាប់ទៅប្រទេសចុះកិច្ចសន្យានីមួយៗ ។ ប្រសិនបើចាំបាច់ លោកនឹងស្នើសុំយោបល់ពីសំណាក់គណៈកម្មការអន្តរជាតិទទួលបន្ទុកប្រុងប្រយោជន៍ លានដ្ឋានប្រវត្តិសាស្ត្រនិងសិល្បៈ និងកិច្ចការកំណាយបុរាណវត្ថុ ហើយនិង បើសិនលោកគិតថាសមស្រប គឺពីសំណាក់អង្គការ ឬបុគ្គលមានសមត្ថកិច្ចដទៃទៀតផងដែរ ។
 - ៤- លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ឬប្រទេសដែលធ្វើសំណើចុះបញ្ជី ត្រូវបំភ្លឺយ៉ាងណាដើម្បីធ្វើអោយប្រទេសចុះកិច្ចសន្យាដែលបានធ្វើលិខិតសុំជំនាស់នោះ យល់ថាចាំបាច់ត្រូវលុបចោលការជំនាស់នោះវិញ ។
 - ៥- ប្រសិនបើប្រទេសចុះកិច្ចសន្យាមួយ ដែលបានដាក់ពាក្យសុំចុះបញ្ជីនៅពេលប្រទេសខ្លួនមានសន្តិភាព ហើយស្រាប់តែចូលប្រឡូកទៅក្នុងវិវាទប្រដាប់អាវុធមួយ មុនការចុះទៅក្នុងបញ្ជីនៃសម្បត្តិវប្បធម៌ដែលត្រូវបានស្នើសុំនោះ សម្បត្តិដែលមានពាក់ព័ន្ធនោះនឹងត្រូវបានបញ្ចូលភ្លាម និងជាបណ្តោះអាសន្នទៅក្នុង

បញ្ជី ដោយលោកអគ្គនាយក នៅក្នុងពេលរងការបញ្ជាក់បន្ថែមអំពីការដែលត្រូវដកចេញ ឬលុបចោល ទៅវិញនូវសំណើជំនាញណាមួយ ដែលអាចនឹង ឬដែលបានត្រូវបានធ្វើឡើងនោះ ។

៦- បើសិនជាក្នុងរយៈពេល៦ខែ គិតចាប់ពីកាលបរិច្ឆេទដែលគេទទួលបានលិខិតជំនាញ លោកអគ្គនាយកពុំ បានទទួលពីប្រទេសដែលសុំជំនាញនូវលិខិតលុបចោលការជំនាញនោះ ប្រទេសដែលបានដាក់ពាក្យ ស្នើសុំចុះបញ្ជីអាចធ្វើសំណើអោយមានការសម្រេចនៃអាជ្ញាកណ្តាល ស្របទៅតាមបែបបទដូចមានចែង នៅក្នុងកថាខ័ណ្ឌខាងក្រោយនេះ ។

៧- សំណើសុំអោយមានការសម្រេចពីអាជ្ញាកណ្តាលពុំអាចធ្វើឡើងលើសពីរយៈពេល១ឆ្នាំ បន្ទាប់ពីលោក អគ្គនាយកបានទទួលលិខិតជំនាញឡើយ ។ ប្រទេសនីមួយៗ ក្នុងចំណោមប្រទេសទាំងពីរដែលមានជំនាញ នឹងគ្នា ត្រូវតែងតាំងអាជ្ញាកណ្តាលម្នាក់មួយ ។ កាលណាមានការជំនាញលើសពីមួយធ្វើឡើងប្រឆាំង សំណើសុំចុះបញ្ជីមួយ បណ្តាប្រទេសដែលសុំជំនាញនឹងព្រមព្រៀងគ្នាតែងតាំងអាជ្ញាកណ្តាលតែមួយនាក់ គត់ ។ អាជ្ញាកណ្តាលទាំងពីររូប នឹងជ្រើសរើសប្រធានអាជ្ញាកណ្តាលម្នាក់ពីក្នុងបញ្ជីអន្តរជាតិដែលបាន ចែងកំណត់នៅក្នុងមាត្រា១នៃបទបញ្ជានេះ ។ ប្រសិនបើអាជ្ញាកណ្តាលទាំងនេះពុំអាចព្រមព្រៀងគ្នាលើ ការជ្រើសរើសរបស់គេនោះ គេនឹងស្នើដល់ប្រធានតុលាការអន្តរជាតិអោយជួយតែងតាំងប្រធានអាជ្ញា កណ្តាល ដែលគេពុំប៉ាន់ជ្រើសរើសចេញពីក្នុងបញ្ជីអន្តរជាតិនោះទេ ។ តុលាការកាត់ក្តីដែលបង្កើតនេះ នឹងបង្កើតវិធីធ្វើការងារផ្ទាល់របស់គេ ។ តុលាការនេះនឹងដាក់ចេញនូវសេចក្តីសម្រេចដោយបិទផ្លូវគាំទ្រទាំង អស់ ។

៨- ប្រទេសចុះកិច្ចសន្យានីមួយៗអាចប្រកាស នៅពេលកើតមានជំនាញហើយដែលប្រទេសខ្លួន គឺជាកាតិ មួយដែរនោះ ថាខ្លួនពុំមានបំណងអនុវត្តវិធីធ្វើការងារដើម្បីដំណើរការកាត់ក្តីដូចមានចែងក្នុងកថាខ័ណ្ឌ ខាងលើនេះទេ ។ ក្នុងករណីបែបនេះ ការជំនាញចំពោះពាក្យសុំចុះបញ្ជី នឹងត្រូវលោកអគ្គនាយកបញ្ជូន ទៅគ្រប់ប្រទេសចុះកិច្ចសន្យាទាំងអស់ ។ គេនឹងយល់ព្រមទទួលយកសំណើជំនាញនេះត្រាតែមានចំនួនពីរ ភាគបីនៃប្រទេសចុះកិច្ចសន្យាសម្រេចចិត្តដូចគ្នាតាមរយៈការបោះឆ្នោត ។ ការបោះឆ្នោតនឹងប្រព្រឹត្តទៅ តាមរយៈលិខិតឆ្លើយឆ្លង លើកលែងតែលោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហ ប្រជាជាតិ យល់ថាជាការចាំបាច់ត្រូវកោះអញ្ជើញអោយមានការប្រជុំ ដែលជាសិទ្ធិដែលបានផ្តល់ជូន លោក ដូចសេចក្តីមានចែងនៅក្នុងមាត្រា២៧ នៃអនុសញ្ញា ។ ប្រសិនបើលោកអគ្គនាយកសម្រេចធ្វើការ បោះឆ្នោតដោយលិខិតឆ្លើយឆ្លង លោកនឹងស្នើសុំអោយបណ្តាប្រទេសចុះកិច្ចសន្យាធ្វើឆ្នោតរបស់គេជា

លិខិតផ្លូវការមានបោះត្រា ក្នុងអំឡុងពេល៦ខែ គិតចាប់ពីថ្ងៃដែលប្រទេសទាំងនោះបានទទួលលិខិតស្នើ
អោយបោះឆ្នោត ។

មាត្រា១៥: ការចុះបញ្ជី

១- លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ត្រូវផ្តល់អោយមានការ
បញ្ចូលក្នុងបញ្ជី តាមលេខរៀងត្រឹមត្រូវ នូវវត្ថុនីមួយៗនៃសម្បត្តិវប្បធម៌ដែលត្រូវបានគេស្នើសុំបញ្ចូល
វត្ថុទាំងនោះទៅក្នុងបញ្ជី អោយតែលោកពុំបានទទួលការជំទាស់ណាមួយ ក្នុងរយៈពេលកំណត់ដូចមាន
ចែងនៅក្នុងកថាខ័ណ្ឌទី១នៃមាត្រា១៤ ។

២- បើសិនជាមានសំណើជំទាស់ និងដោយគ្មានការលំអៀងចំពោះប្រការដែលមានចែងនៅក្នុងកថាខ័ណ្ឌ
ទី៥នៃមាត្រា១៤ លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិនឹងបញ្ចូល
សម្បត្តិវប្បធម៌ដែលគេស្នើនោះទៅក្នុងបញ្ជី តែក្នុងករណីណាដែលពាក្យសុំជំទាស់នោះត្រូវបានគេលុប
ចោលវិញ ឬពាក្យសុំជំទាស់នោះពុំបានទទួលការយល់ព្រម ពីព្រោះតែដំណើរការដូចបានរៀបរាប់នៅក្នុង
កថាខ័ណ្ឌទី៧ ឬទី៨ នៃមាត្រា១៤ ។

៣- កាលណាករណីនៅក្នុងកថាខ័ណ្ឌទី៣ នៃមាត្រា១១ បានកើតមាន លោកអគ្គនាយកអង្គការអប់រំ
វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ត្រូវបញ្ចូលសម្បត្តិវប្បធម៌នោះទៅក្នុងបញ្ជី ប្រសិនបើ
ប្រធានអគ្គស្នងការទទួលបន្ទុកការងារសម្បត្តិវប្បធម៌ស្នើសុំ ។

៤- លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ត្រូវបញ្ជូនដោយគ្មាន
បង្គង់ ដល់លោកអគ្គលេខាធិការអង្គការសហប្រជាជាតិ ដល់បណ្តាប្រទេសចុះកិច្ចសន្យា និងយោងតាម
សំណើរបស់ប្រទេសដែលដាក់ពាក្យសុំចុះបញ្ជី បញ្ជូនទៅប្រទេសដទៃទៀតដូចមានអធិប្បាយនៅក្នុង
មាត្រា៣០ និង៣២ នៃអនុសញ្ញា នូវច្បាប់ចម្លងបញ្ជាក់មួយស្តីពីការបញ្ចូលសម្បត្តិវប្បធម៌នីមួយៗទៅ
ក្នុងបញ្ជី ។ ការចូលទៅក្នុងបញ្ជី នឹងមានអនុភាពក្រោយ៣០ថ្ងៃ បន្ទាប់ពីការបញ្ជូនច្បាប់ចម្លងទាំងនោះ
ទៅគ្រប់ទីកន្លែង ។

មាត្រា១៦: ការលុបចោលសំណើសុំចុះបញ្ជី

១- លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ នឹងលុបចោលការចុះបញ្ជី
នូវសម្បត្តិវប្បធម៌ណាមួយ:

ក- តាមសំណើរបស់ប្រទេសចុះកិច្ចសន្យាដែលសម្បត្តិវប្បធម៌នោះតាំងនៅ

- ខ- ប្រសិនបើប្រទេសចុះកិច្ចសន្យាដែលស្នើសុំអោយមានការចុះបញ្ជី បានប្រកាសបដិសេធសុបចោល អនុសញ្ញាវិញ និងនៅពេលដែលការប្រកាសបដិសេធវិញនោះបានចូលជាធរមានហើយ
- គ- ក្នុងករណីពិសេសដូចមានចែងក្នុងកថាខ័ណ្ឌទី៥ មាត្រា១៤ ពេលដែលពាក្យសុំជំទាស់ បានទទួលការ យល់ព្រមដោយឆ្លងកាត់ដំណើរការដូចមានចែងក្នុងកថាខ័ណ្ឌទី៧ ឬទី៨ នៃមាត្រា១៤ ។
- ២- លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ត្រូវធ្វើដោយគ្មានបង្កង់ ជូនទៅលោកអគ្គលេខាធិការអង្គការសហប្រជាជាតិ និងជូនដល់ប្រទេសទាំងអស់ដែលបានទទួលលិខិត ចម្លងមួយច្បាប់ស្តីពីការបញ្ចូលទៅក្នុងបញ្ជី នូវលិខិតបញ្ជាក់មួយច្បាប់ស្តីពីការលុបចោលការចុះបញ្ជី នោះវិញ។ ការលុបចោលនឹងចូលជាធរមានក្រោយ៣០ថ្ងៃ បន្ទាប់ពីការចែកចាយលិខិតទាំងនោះទៅ កាន់គ្រប់ទីកន្លែង ។

ជំពូកទី៣

ការដឹកជញ្ជូនសម្បត្តិវប្បធម៌

មាត្រា១៧: បែបបទដឹកជញ្ជូនទទួលបានអត្ថប្រយោជន៍

- ១- សំណើដូចមានចែងនៅក្នុងកថាខ័ណ្ឌទី១ មាត្រា១២ នៃអនុសញ្ញា ដឹងត្រូវគេបញ្ជូនទៅលោកប្រធាន អគ្គនាយកការទទួលបន្ទុកការងារសម្បត្តិវប្បធម៌។ សំណើនោះត្រូវបង្ហាញពីមូលហេតុដែលគំរូរអោយមាន ការផ្លាស់ប្តូរទីកន្លែងសម្បត្តិវប្បធម៌នោះ និងបញ្ជាក់នូវចំនួនប្រហាក់ប្រហែល និងអំពីសារៈសំខាន់នៃវត្ថុ ដែលត្រូវដឹកជញ្ជូន ទីកន្លែងបច្ចុប្បន្នរបស់វា ទីកន្លែងដែលគ្រោងនឹងបញ្ជូនវត្ថុនោះទៅទុកមធ្យោបាយ ដឹកជញ្ជូនដែលត្រូវប្រើ ផ្លូវដែលត្រូវឆ្លងកាត់ កាលបរិច្ឆេទសំរាប់ការដឹកជញ្ជូន និងព័ត៌មានទាក់ទងដទៃ ទៀត។
- ២- ប្រសិនបើលោកប្រធានអគ្គនាយកការ បន្ទាប់ពីបានគិតពិភាក្សាដែលយល់ថាសមស្រប យល់ថាការដឹក ជញ្ជូនផ្លាស់ប្តូរទីកន្លែងនេះមានហេតុផលសមស្រប លោកនឹងពិគ្រោះយោបល់ជាមួយគណៈប្រតិភូនៃ អាជ្ញាធរការពារដែលទាក់ទង ទៅលើវិធានការដែលលើកឡើងសំរាប់អនុវត្តការងារដឹកជញ្ជូន។ បន្ទាប់ ពីការពិគ្រោះយោបល់នោះមក លោកប្រធានអគ្គនាយកការត្រូវផ្តល់ព័ត៌មានដល់បណ្តាភាគីក្នុងជំនោះ អំពី ការដឹកជញ្ជូន រួមទាំងព័ត៌មានសមស្របដទៃទៀតផងដែរ។
- ៣- លោកប្រធានអគ្គនាយកការត្រូវតែងតាំង អធិការម្នាក់ ឬច្រើននាក់ ដែលជាអ្នកធានាថាត្រូវដឹកជញ្ជូន តែវត្ថុដែលមានបញ្ជាក់ក្នុងសំណើ ហើយការដឹកជញ្ជូនត្រូវតែប្រព្រឹត្តទៅតាមចំណងការដែលបានព្រម

ព្រៀងរួចហើយ ហើយត្រូវមានភ្ជាប់ទាំងផ្នែកសញ្ញាផងដែរ។ អធិការទាំងនេះនឹងត្រូវទៅតាមវត្តមាន
ជញ្ជូននោះជាប់រហូត ទាល់តែវត្តនោះបានទៅដល់គោលដៅរបស់វា។

មាត្រា១៤: ការដឹកជញ្ជូននៅក្រៅប្រទេស

ពេលដែលការដឹកនាំស្ថិតនៅក្រោមការការពារពិសេស ត្រូវបានប្រព្រឹត្តទៅពីប្រទេសមួយចូលទៅកាន់
ដែនដីនៃប្រទេសមួយទៀត វានឹងត្រូវប្រព្រឹត្តទៅដោយមិនត្រឹមតែអនុលោមទៅតាមមាត្រា១២ នៃ
អនុសញ្ញា និងមាត្រា១៧ នៃបទបញ្ជានេះប៉ុណ្ណោះទេ តែត្រូវតែប្រព្រឹត្តទៅតាមចំណុចបន្ថែមដូចតទៅ
នេះ៖

- ក- ពេលដែលសម្បត្តិវប្បធម៌ស្ថិតនៅលើទឹកដីប្រទេសមួយផ្សេងទៀត ប្រទេសនោះនឹងក្លាយទៅជា
កន្លែងទទួលថែរក្សាសម្បត្តិទាំងនោះ ហើយប្រទេសនោះត្រូវតែយកចិត្តទុកដាក់ថែទាំដោយប្រុងប្រយ័ត្ន
នូវសម្បត្តិទាំងនោះ ហាក់បីដូចជាខ្លួនយកចិត្តទុកដាក់ថែរក្សាសម្បត្តិវប្បធម៌មានតម្លៃខ្ពស់ដូចគ្នា
ដែរ
- ខ- ប្រទេសដែលទទួលថែរក្សា នឹងបញ្ជូនសម្បត្តិនោះសងមកវិញ តែនៅពេលបញ្ចប់ជំនួយ ហើយការ
បញ្ជូនត្រឡប់មកវិញនោះនឹងមានអនុភាពនៅរយៈពេល៦ខែ បន្ទាប់ពីកាលបរិច្ឆេទដែលគេស្នើឡើង
- គ- ក្នុងរយៈពេលនៃប្រតិបត្តិការដឹកជញ្ជូនផ្សេងៗ និងនៅពេលដែលស្ថិតនៅលើដែនដីនៃប្រទេសមួយ
ទៀត សម្បត្តិវប្បធម៌នឹងត្រូវបានរួមផ្តុំពីគ្រប់ការប្រឆាំងបរិបូរស និងពុំអាចត្រូវបានចាត់ចែង បែងចែក
ដោយអ្នកថែទាំ ឬដោយកន្លែងទទួលថែទាំសម្បត្តិនោះបានឡើយ។ លើសពីនេះទៀត នៅពេលដែល
សភាពការណ៍សន្តិសុខសំរាប់សម្បត្តិនោះស្ថិតនៅប្រទេសដែលទទួលថែរក្សា ដោយមានការយល់ព្រមពីអ្នក
ថែទាំផង អាចបញ្ជូនសម្បត្តិនោះទៅកាន់ដែនដីនៃប្រទេសទីបីទៀត ដោយត្រូវគោរពតាមលក្ខខណ្ឌដូច
មានអធិប្បាយនៅក្នុងមាត្រានេះ
- ឃ- សំណើសុំការការពារពិសេសត្រូវបញ្ជាក់អោយច្បាស់ថា ប្រទេសដែលគេបំប្លែងជាកន្លែងបញ្ជូនសម្បត្តិ
វប្បធម៌ទៅនោះ ពិតជាទទួលយកបញ្ញត្តិទាំងឡាយដែលបានចែងនៅក្នុងមាត្រានេះ។

មាត្រា១៥: ដែនដីដែលគេចូលទៅកាន់កាប់

នៅពេលណាដែលប្រទេសចុះកិច្ចសន្យាមួយ ចូលទៅកាន់កាប់ទឹកដីរបស់ប្រទេសចុះកិច្ចសន្យាមួយទៀត
ហើយបានបញ្ជូនសម្បត្តិវប្បធម៌ទៅកាន់កន្លែងថែរក្សាដែលស្ថិតនៅទីណាមួយក្នុងទឹកដីនោះ ដោយពុំ
អាចអនុវត្តតាមបែបបទដូចមានចែងនៅក្នុងមាត្រា១៧ នៃបទបញ្ជានេះ ការដឹកជញ្ជូនផ្លាស់ប្តូរទីកន្លែង

នោះ និងពុំត្រូវតែចាត់ទុកថាជាការយកទៅធ្វើជាកម្មសិទ្ធិរបស់ខ្លួនដោយខុសច្បាប់ ដូចសេចក្តីដែលមាន ចែងនៅក្នុងមាត្រា៤នៃអនុសញ្ញាទេ ប្រសិនបើប្រធានអគ្គស្នងការទទួលបន្ទុកការងារសម្បត្តិវប្បធម៌ បានបញ្ជាក់ជាលាយលក្ខណ៍អក្សរ បន្ទាប់ពីបានពិគ្រោះយោបល់ជាមួយអង្គការការពារជា ការដឹកជញ្ជូនបុរេវិ កន្លែងនេះ ប្រព្រឹត្តទៅក្រោមការលះខេសៈដ៏ចាំបាច់នោះ ។

ជំពូកទី៤

ផ្លាស់ប្តូរស្ថាប័ន

មាត្រា២០៖ ការលើកផ្លាស់ប្តូរ

១- ការដាក់ភ្ជាប់នូវផ្លាស់ប្តូរ ហើយនិងកិច្ចការបញ្ចេញអោយឃើញផ្លាស់ប្តូរ និងត្រូវសំរេច ដោយរដ្ឋអំណាចមានសមត្ថកិច្ចនៃប្រទេសចុះកិច្ចសន្យានីមួយៗ។ គេអាចលើកបង្ហាញផ្លាស់ប្តូរនៅលើ ទង់ ឬនៅលើប្រឡងដៃ។ គេក៏អាចត្រូវវាទៅលើវត្ថុអ្វីមួយ ឬបង្ហាញតាមទំរង់សមស្របដទៃទៀតបាន ដែរ។

២- យ៉ាងណាក្តី ដោយពុំអោយច្រឡំទៅនឹងផ្លាស់ប្តូរដ៏ដទៃទៀតដែលអាចមាន ផ្លាស់ប្តូរនេះក្នុងករណី មានជំនឿប្រដាប់អាវុធ ឬក្នុងករណីដូចមានអធិប្បាយក្នុងមាត្រា១២ និង១៣ នៃអនុសញ្ញានិងត្រូវបាន គេដាក់បង្ហាញនៅលើយានដឹកជញ្ជូន ដើម្បីអោយគេអាចមើលវាឃើញច្បាស់ នៅពេលថ្ងៃពីលើអាកាស ក៏ដូចជានៅនឹងដី។ គេអាចមើលឃើញផ្លាស់ប្តូរនៅនឹងដីដោយៈ

ក- ក្នុងតំណាងគ្នាទៀងទាត់ ដែលគ្រប់គ្រាន់ដើម្បីបង្ហាញយ៉ាងច្បាស់នូវបរិវេណ មជ្ឈមណ្ឌលដែលមាន មរតកវប្បធម៌ស្ថិតក្រោមការការពារពិសេស

ខ- នាមាត់ច្រកចូលទៅកាន់អចលនសម្បត្តិវប្បធម៌ដទៃទៀត ដែលស្ថិតនៅក្រោមការការពារពិសេស ។

មាត្រា២១៖ អត្តសញ្ញាណប័ណ្ណរបស់បុគ្គលិក

១- បុគ្គលដូចមានរៀបរាប់នៅក្នុងមាត្រា១៧ កថាខណ្ឌ២ ក និងគ នៃអនុសញ្ញា អាចពាក់ប្រឡងដៃ ដែលមានផ្លាស់ប្តូរដែលចារ និងបោះត្រាដោយរដ្ឋអំណាចមានសមត្ថកិច្ច។

២- បុគ្គលបែបនេះអាចកាន់អត្តសញ្ញាណប័ណ្ណពិសេសដែលមានផ្លាស់ប្តូរសំគាល់។ អត្តសញ្ញាណប័ណ្ណ នេះត្រូវអធិប្បាយយ៉ាងហោចណាស់គឺ គោត្តនាម និងនាម កាលបរិច្ឆេទកំណើត មុខងារឬឋានៈ និង តួនាទីរបស់អ្នកកាន់អត្តសញ្ញាណប័ណ្ណ។ អត្តសញ្ញាណប័ណ្ណនេះនឹងមានចំនុចត្រួតពិនិត្យសំគាល់អ្នកកាន់ រួម

ទាំងហត្ថលេខា ឬស្នាមផ្ដិតម្រាមដៃ ឬទាំងពីរមុខ។ អត្តសញ្ញាណប័ណ្ណនេះត្រូវមានបោះត្រាផុសរបស់រដ្ឋ
អំណាចមានសមត្ថកិច្ច។

៣- ប្រទេសចុះកិច្ចសន្យានីមួយៗ នឹងបង្កើតនូវប្រភេទអត្តសញ្ញាណប័ណ្ណរបស់ប្រទេសខ្លួនស្របទៅតាម
តំរូវដែលភ្ជាប់ជាមួយទុកជាឧទាហរណ៍នៅក្នុងបទបញ្ជានេះ។ ប្រទេសចុះកិច្ចសន្យានីមួយៗនឹងធ្វើអោយ
គ្នាទៅវិញទៅមកនូវតំរូវអត្តសញ្ញាណប័ណ្ណដែលប្រទេសគេប្រើប្រាស់។ អត្តសញ្ញាណប័ណ្ណនឹងត្រូវធ្វើឡើង
ប្រសិនបើអាច យ៉ាងហោចណាស់ជាពីរច្បាប់ មួយច្បាប់ត្រូវរក្សាទុកដោយរដ្ឋអំណាច ដែលជាអ្នកចេញ
អត្តសញ្ញាណប័ណ្ណនេះ។

៤- បុគ្គលដូចជាណាមកនេះ បើគ្មានមូលហេតុត្រឹមត្រូវតាមច្បាប់ ពុំអាចត្រូវបានដកហូតអត្តសញ្ញាណ
ប័ណ្ណ ឬសិទ្ធិពាក់ប្រឡងដៃរបស់គេឡើយ។

ពិរិទ្ធសា

បណ្តាប្រទេសចុះកិច្ចសន្យា បានព្រមព្រៀងដូចតទៅ៖

១-

១០- ប្រទេសចុះកិច្ចសន្យានីមួយៗ យល់ព្រមទប់ស្កាត់ការនាំចេញពីដែនដីរបស់ប្រទេសមួយដែលខ្លួន
ចូលទៅកាន់កាប់ក្នុងពេលមានវិវាទប្រដាប់អាវុធ នូវសម្បត្តិវប្បធម៌ដូចមានចែងនៅក្នុងមាត្រា១ នៃ
អនុសញ្ញាស្តីពីការការពារសម្បត្តិវប្បធម៌ក្នុងពេលមានជម្លោះប្រដាប់អាវុធ ដែលបានចុះហត្ថលេខានៅ
ទីក្រុងឡាអេ នាថ្ងៃទី១៤ ខែឧសភា ឆ្នាំ១៩៥៤។

២- ប្រទេសចុះកិច្ចសន្យានីមួយៗ យល់ព្រមថែរក្សាការពារសម្បត្តិវប្បធម៌ទាំងឡាយណាដែលគេបាននាំ
ចូលមកក្នុងដែនដីរបស់ខ្លួនដោយផ្ទាល់ ឬដោយប្រយោល ចេញពីដែនដីណាមួយដែលត្រូវបានចូលទៅកាន់
កាប់។ ការថែរក្សានេះនឹងត្រូវធ្វើឡើងដោយស្វ័យប្រវត្តិបន្ទាប់ពីសម្បត្តិវប្បធម៌នោះត្រូវបានគេនាំចូល
មក ឬបើពុំដូច្នោះទេ ក៏តាមសំណើរបស់រដ្ឋអំណាចនៃប្រទេសម្ចាស់ទ្រព្យនេះដែរ។

៣- ប្រទេសចុះកិច្ចសន្យានីមួយៗយល់ព្រមសងទៅវិញ នៅពេលបញ្ចប់អវិភាព ដល់រដ្ឋអំណាចមាន
សមត្ថកិច្ចនៃទឹកដីដែលខ្លួនកាន់កាប់ពីមុន នូវសម្បត្តិវប្បធម៌ដែលស្ថិតនៅក្នុងដែនដីរបស់ខ្លួនប្រសិនបើ
សម្បត្តិនោះបានត្រូវនាំចេញមកពីក្នុងទឹកដីនោះ ដែលវាផ្ទុយទៅនឹងគោលការណ៍ដែលមានចែងនៅក្នុង
កថាខ័ណ្ឌទី១។ សម្បត្តិដែលត្រូវបានគេនាំចេញពីក្នុងដែនដីដែលគេចូលទៅកាន់កាប់បែបនេះ ពុំអាចចាត់
ទុកជាថ្នូរដើម្បីជួសជុលការបង់ខាតដោយសារសង្គ្រាមនោះឡើយ។

៤- ប្រទេសចុះកិច្ចសន្យា ដែលមានកាតព្វកិច្ចបំបាត់ការនាំចេញសម្បត្តិវប្បធម៌ក្នុងដែនដីដែលខ្លួនបាន ចូលទៅកាន់កាប់ ត្រូវទូទាត់សងទៅម្ចាស់ទ្រព្យណាដែលបានចិញ្ចឹមសម្បត្តិនោះដោយសុចរិត នៅពេល ដែលសម្បត្តិនោះត្រូវសងត្រឡប់ទៅម្ចាស់ដើមវិញ ស្របទៅតាមអត្ថន័យដូចមានចែងនៅក្នុងកថាខ័ណ្ឌ មុននេះ ។

២-

៥- សម្បត្តិវប្បធម៌ដែលបាននាំចេញពីដែនដីនៃប្រទេសចុះកិច្ចសន្យាមួយ ហើយដែលបានចុះដាក់នៅក្នុង ប្រទេសចុះកិច្ចសន្យាមួយទៀត ក្នុងគោលបំណងថែរក្សាការពារទ្រព្យនោះឲ្យស្ងៀមស្ងៀមពីគ្រោះថ្នាក់ផ្សេងៗ ដែលបណ្តាលមកពីជំនឿប្រដាប់អាវុធ និងត្រូវបញ្ជូនត្រឡប់ទៅវិញដោយប្រទេសខាងក្រោយនេះ ទៅអោយរដ្ឋណាមានសមត្ថកិច្ចនៃប្រទេសម្ចាស់ទ្រព្យនៅពេលបញ្ចប់អវិភាព ។

៣-

៦- ពិធីសារនេះនឹងចុះកាលបរិច្ឆេទថ្ងៃទី១៤ ឧសភា ឆ្នាំ១៩៥៤ ហើយរហូតដល់ថ្ងៃទី៣១ ខែធ្នូ ឆ្នាំ ១៩៥៤ និងស្ថិតនៅជាចំណាត់ការចុះហត្ថលេខាពីសំណាក់ប្រទេសទាំងឡាយ ដែលត្រូវបានអញ្ជើញ អោយចូលរួមក្នុងសន្និសីទដែលប្រារព្ធឡើងនៅទីក្រុងឡាអេ ពីថ្ងៃទី២១ ខែមេសា ឆ្នាំ១៩៥៤ ដល់ថ្ងៃ ទី១៤ ខែឧសភា ឆ្នាំ១៩៥៤ ។

៧-

ក) ពិធីសារនេះនឹងត្រូវទទួលការផ្តល់សច្ចានុម័តពីសំណាក់ប្រទេសហត្ថលេខី ស្របទៅតាមរដ្ឋធម្មនុញ្ញ របស់ប្រទេសនីមួយៗទាំងនោះ ។

ខ) ឯកសារផ្លូវការនៃការផ្តល់សច្ចានុម័ត និងត្រូវបញ្ជូនដល់លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ។

៨- ចាប់តាំងពីថ្ងៃចូលជាធរមាន ពិធីសារនេះនឹងស្ថិតនៅជាចំណាត់ការសុំចូលជាសមាជិក ពីសំណាក់ ប្រទេសទាំងអស់ ដូចមានអធិប្បាយនៅក្នុងកថាខ័ណ្ឌទី៦ ដែលពុំទាន់បានចុះហត្ថលេខាលើឯកសារនេះ ព្រមទាំងប្រទេសដទៃទៀតដែលត្រូវអញ្ជើញអោយចូលជាសមាជិក ពីសំណាក់គណៈកម្មាធិការប្រតិបត្តិ របស់អង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ។ ការសុំចូលជាសមាជិក និងត្រូវធ្វើឡើង ដោយការផ្តល់ឯកសារផ្លូវការនៃការសុំចូលជាសមាជិកជូនចំពោះលោកអគ្គនាយក អង្គការ អប់រំ វិទ្យា- សាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ។

៩- បណ្តាប្រទេសទាំងឡាយដូចបាននិយាយយោងនៅក្នុងកថាខ័ណ្ឌទី៦ និងទី៨ អាចប្រកាសក្នុងពេលចុះហត្ថលេខាផ្តល់សច្ចានុម័ត ឬពេលចុះហត្ថលេខាលើសន្ធិសញ្ញាជាសមាជិក ជាខ្លួននិងមិនអនុវត្តតាមបញ្ញត្តិទាំងឡាយនៃផ្នែកទី១ និងទី២ នៃពិធីសារនេះបាន ។

១០-

ក) ពិធីសារនេះនឹងចូលជាធរមាននៅរយៈពេល៣ខែ បន្ទាប់ពីគេបានទទួលឯកសារផ្លូវការនៃការផ្តល់សច្ចានុម័តចំនួន៥ច្បាប់ រួមមកនោះ ។

ខ) ចាប់ពីពេលនោះទៅ វានឹងចូលជាធរមានសំរាប់ប្រទេសចុះកិច្ចសន្យាស្តីមួយៗនៅរយៈពេល៣ខែ បន្ទាប់ពីពេលដែលប្រទេសនោះផ្តល់ឯកសារនៃការផ្តល់សច្ចានុម័ត ឬឯកសារផ្លូវការនៃការសុំចូលជាសមាជិក ។

គ) ស្ថានភាពដូចមានចែងនៅក្នុងមាត្រា១៨ និង១៩ នៃអនុសញ្ញា ស្តីពីការការពារសម្បត្តិវប្បធម៌ក្នុងគ្រាមានជម្លោះប្រដាប់អាវុធ ដែលបានចុះហត្ថលេខានៅទីក្រុងឡាអេ ថ្ងៃទី១៤ ឧសភា ឆ្នាំ១៩៥៤ និងផ្តល់អនុភាពភ្លាមដល់សច្ចានុម័ត និងពាក្យសុំចូលជាសមាជិកដែលស្នើឡើងដោយប្រទេសទាំងឡាយក្នុងដំណោះ ទាំងមុន ឬក្រោយការចាប់ផ្តើមនៃជម្លោះ ឬការចូលកាន់កាប់ទឹកដី ។ ក្នុងករណីបែបនេះ លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ត្រូវបញ្ជូនព័ត៌មានដូចមានចែងក្នុងកថាខ័ណ្ឌទី១៤ ដោយវិធីណាមួយយ៉ាងឆាប់រហ័សបំផុត ។

១១-

ក) ប្រទេសស្តីមួយៗដែលជាសមាជិកនៃពិធីសារនេះ នាពេលដែលពិធីសារចូលជាធរមាន ត្រូវចាត់ត្រូវវិធានការចាំបាច់នានាដើម្បីធានាការអនុវត្តអោយមានប្រសិទ្ធិភាព ក្នុងរយៈពេល ៦ខែ គិតចាប់ពីថ្ងៃពិធីសារចូលជាធរមាន ។

ខ) រយៈពេល៦ខែនេះ គឺគិតចាប់ពីថ្ងៃផ្តល់ឯកសារផ្លូវការនៃការផ្តល់សច្ចានុម័ត ឬការសុំចូលជាសមាជិក សំរាប់ប្រទេសណាដែលផ្តល់ឯកសារផ្លូវការនៃការផ្តល់សច្ចានុម័ត ឬ ឯកសារផ្លូវការនៃការសុំចូលជាសមាជិក ក្រោយពេលដែលពិធីសារចូលជាធរមានរួចមក ។

១២- ប្រទេសចុះកិច្ចសន្យាស្តីមួយៗអាចប្រកាស ក្នុងពេលផ្តល់សច្ចានុម័ត ឬក្នុងពេលសុំចូលជាសមាជិក ឬពេលណាមួយក៏បានបន្ទាប់ពីនោះ ដោយផ្តល់ព័ត៌មានដូចចំពោះលោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ថាពិធីសារនេះនឹងត្រូវផ្សព្វផ្សាយនៅទូទាំងប្រទេស ឬទូទាំងដែន

ដំណាច់ដែលខ្លួនទទួលបានត្រូវផ្អែកទៅលើការសម្រេចចិត្តរបស់គេ។ ការផ្តល់ព័ត៌មាននេះនឹងមានអនុភាពក្នុង
រយៈពេល៣ខែ បន្ទាប់ពីពេលដែលលោកអគ្គនាយកបានទទួល។

១៣-

ក) ប្រទេសចុះកិច្ចសន្យានីមួយៗ អាចប្រកាសបដិសេធបែលពិធីសារនៃវិញ្ញាបន ដោយតាមនាម
ខ្លួនផ្ទាល់ ឬតាមនាមអោយដៃនៃដំណាច់ដែលខ្លួនទទួលបានត្រូវផ្អែកទៅលើការសម្រេចចិត្តរបស់គេ។

ខ) ការប្រកាសបដិសេធវិញនេះនឹងត្រូវធ្វើឡើងដោយឯកសារផ្លូវការ ជាលាយលក្ខណ៍អក្សរបញ្ជូនទៅ
លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ។

គ) ការប្រកាសបដិសេធវិញ នឹងមានអនុភាពក្រោយរយៈពេលមួយឆ្នាំបន្ទាប់ពីគេបានទទួលឯកសារផ្លូវ
ការប្រកាសបដិសេធនោះ។ ទោះយ៉ាងណាក្តី ក្នុងពេលផុតកំណត់រយៈពេលនេះ ប្រសិនបើប្រទេសដែល
ប្រកាសបដិសេធ មានជាប់ទាក់ទងនៅក្នុងវិវាទប្រដាប់អាវុធដោយវិញ្ញាបននោះការប្រកាសបដិសេធនេះ
នឹងពុំបានទទួលប្រសិទ្ធភាពទេ រហូតទាល់តែជំនោះនោះបានត្រូវបញ្ចប់ ឬរហូតទាល់តែប្រតិបត្តិការ
បញ្ជូនសម្បត្តិវប្បធម៌សង្គ្រាមទៅវិញត្រូវបានបញ្ចប់រាល់សិន ទើបការប្រកាសបដិសេធនោះនឹង
បានចូលជាធរមានជាក្រោយ។

១៤- លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ត្រូវផ្តល់ព័ត៌មានដល់
ប្រទេសទាំងឡាយដូចមានចែងនៅក្នុងកថាខណ្ឌទី៦ និងទី៨ ព្រមទាំងជូនដល់អង្គការសហប្រជាជាតិផង
ដែរ ស្តីអំពីការផ្តល់ឯកសារផ្លូវការនៃការផ្តល់សច្ចាភ័យ ការសុំចូលជាសមាជិក ឬការទទួលស្គាល់ ដូច
មានចែងនៅក្នុងកថាខណ្ឌទី៧ ៨ និង១៥ ហើយនិងការផ្តល់ឯកសារផ្លូវការនៃការផ្តល់ព័ត៌មាន និងការ
ប្រកាសបដិសេធវិញ ដូចមានចែងនៅក្នុងកថាខណ្ឌទី១២ និង១៣។

១៥-

ក) ពិធីសារនេះអាចនឹងត្រូវកែសម្រួលឡើងវិញ ប្រសិនបើមាន លើសពីមួយភាគបីនៃប្រទេសចុះ
កិច្ចសន្យាស្នើសុំអោយធ្វើវិសោធនកម្ម។

ខ) លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ត្រូវកោះបើកសន្និសីទ
សំរាប់គោលបំណងនេះ។

គ) វិសោធនកម្មនៃពិធីសារនេះនឹងចូលជាធរមានបាន លុះត្រាតែប្រទេសទាំងអស់ដែលចូលរួមក្នុង
សន្និសីទ បានអនុម័តជាឯកច័ន្ទ នឹងទទួលយកដោយភាគីនីមួយៗនៃប្រទេសចុះកិច្ចសន្យា។

ឃ) ការទទួលយក ព័ត៌មានពាក់ប្រទេសចុះកិច្ចសន្យាទាំងអស់នូវវិសោធនកម្មលើពិធីសារនេះដែលបាន
អនុម័តដោយសន្និសីទ ដូចមានរៀបរាប់នៅក្នុងអនុកថាខ័ណ្ឌ ខ និងគ និងទទួលបានអនុភាពដោយការ
ផ្តល់ឯកសារផ្លូវការជូនទៅលោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ។

ង) បន្ទាប់ពីវិសោធនកម្មនៃពិធីសារចូលជាធរមានរួចមក គឺមានតែអត្ថបទនៃពិធីសារដែលបានធ្វើ
វិសោធនកម្មនេះទេដែលនឹងស្ថិតនៅជាចំណាត់ការផ្តល់សច្ចាប័ន ឬការសុំចូលជាសមាជិក ។

អនុលោមទៅតាមមាត្រា១០២ នៃធម្មនុញ្ញរបស់អង្គការសហប្រជាជាតិ ពិធីសារនេះនឹងត្រូវចុះបញ្ជីនៅ
លេខាធិការដ្ឋានរបស់អង្គការសហប្រជាជាតិ តាមសំណើរបស់លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ
និងវប្បធម៌ នៃសហប្រជាជាតិ ។

នៅក្នុងភក្តីភាព និងសមត្ថកិច្ចដ៏បរិបូណ៌ ហត្ថលេខីទាំងអស់បានចុះហត្ថលេខាលើឯកសារពិធីសារនេះ ។
ធ្វើនៅទីក្រុងឡាអេ ថ្ងៃទី១៤ ឧសភា ឆ្នាំ១៩៥៤ ជាភាសាអង់គ្លេស បារាំង រុស្ស៊ី និងអេស្ប៉ាញ៉ុល ។
អត្ថបទទាំង ៤ភាសា មានតំលៃស្មើគ្នាតាមផ្លូវច្បាប់ ជាច្បាប់តែមួយគត់ដែលត្រូវតែអនុវត្តនៅនឹងប័ណ្ណ
សារដ្ឋានរបស់អង្គការ អប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ និងបញ្ជាក់ថាច្បាប់ចំណង
ត្រឹមត្រូវនិងត្រូវតែចម្លងដល់ប្រទេសទាំងអស់ ដូចមានអធិប្បាយនៅក្នុងកថាខ័ណ្ឌទី៦ និងទី៨ ព្រមទាំង
ជូនទៅអង្គការសហប្រជាជាតិផងដែរ ។

សេចក្តីសម្រេច

សេចក្តីសម្រេចទី១

សន្និសីទសំដែងនូវសេចក្តីសង្ឃឹមថា អង្គការមានសមត្ថកិច្ចធានារបស់អង្គការសហប្រជាជាតិនឹងធ្វើការ
សំរេចចិត្ត ក្នុងករណីកើតមានប្រតិបត្តិការយោធានៅក្នុងពេលអនុវត្តអនុសញ្ញា គឺតំរូវអោយកងយោធា
ដែលកំពុងធ្វើសកម្មភាពប្រដាប់អាវុធទាំងនោះ ត្រូវតែឆោតអនុវត្តតាមមាត្រាបញ្ញត្តិទាំងឡាយរបស់
អនុសញ្ញា ។

សេចក្តីសម្រេចទី២

សន្និសីទសំដែងនូវសេចក្តីសង្ឃឹមថា ប្រទេសចុះកិច្ចសន្យានីមួយៗ ពេលក្លាយទៅជាសមាជិកអនុសញ្ញា
តប្បិបដ្ឋើតឡើង នៅក្នុងក្របខ័ណ្ឌនៃប្រព័ន្ធចម្មនុញ្ញនិងរដ្ឋាភិបាលរបស់ខ្លួននូវគណៈកម្មាធិការពិគ្រោះ
យោបល់ជាតិមួយ ដែលរួមមានបុគ្គលល្បីឈ្មោះមួយចំនួន ជាឧទាហរណ៍មាន មន្ត្រីជាតំណាងមួយចំនួននៃ
អង្គការសេវាកម្មផ្នែកបុរាណវត្ថុ ផ្នែកសារមន្ទីរ ។ល។ ប្រតិភូយោធាម្នាក់ ប្រតិភូក្រសួងការបរទេសម្នាក់

អ្នកឯកទេសច្បាប់អន្តរជាតិម្នាក់ និងសមាជិកមួយចំនួនទៀតដែលមានភារកិច្ច ឬមានឯកទេសលើវិស័យ ទាំងឡាយដែលបាននិយាយយោងនៅក្នុងអនុសញ្ញា ។

គណៈកម្មាធិការនេះគប្បីស្ថិតនៅក្រោមឱវាទរបស់ទេសរដ្ឋមន្ត្រី ឬមន្ត្រីជាន់ខ្ពស់ដែលទទួលខុសត្រូវក្នុង វិស័យសេវាកម្មជាតិ ដែលទាក់ទងជាពិសេសទៅនឹងការងាររក្សាការពារសម្បត្តិវប្បធម៌ ។ តួនាទីសំខាន់ៗ របស់គណៈកម្មាធិការនេះគឺ៖

ក) ផ្តល់យោបល់ដល់ដូនត្រីបាលរដ្ឋាភិបាលអំពីបណ្តាវិធានការចាំបាច់សំរាប់ការអនុវត្តអនុសញ្ញា លើវិស័យច្បាប់ បច្ចេកទេស ឬយោធា ទាំងក្នុងពេលដែលប្រទេសជាតិមានសន្តិភាព និងទាំងក្នុងពេលមានសង្គ្រាម ។

ខ) ផ្តល់ដូនត្រីបាល នៅត្រាមានកើតវិវាទប្រដាប់អាវុធ ឬនៅពេលដែលអធិការណ៍ហៀបនឹងផ្ទុះឡើង ឬវិវាទក្នុងការធានាថា សម្បត្តិវប្បធម៌ដែលស្ថិតនៅក្នុងដែនដីរបស់ប្រទេសខ្លួន ឬនៅក្នុងដែនដីរបស់ ប្រទេសដទៃទៀត ត្រូវបានទទួលស្គាល់ គោរព និងការពារ ពីសំណាក់កងកម្លាំងប្រដាប់អាវុធរបស់ ប្រទេសខ្លួន ស្របទៅតាមមាត្រាបញ្ញត្តិទាំងឡាយរបស់អនុសញ្ញា ។

គ) រៀបចំចាត់ចែង ដោយព្រមព្រៀងជាមួយរដ្ឋាភិបាលរបស់ខ្លួន អោយមានសន្តិភាព និងសហ ប្រតិបត្តិការជាមួយគណៈកម្មាធិការជាតិស្រដៀងគ្នានេះដទៃទៀត និងជាមួយអាជ្ញាធរអន្តរជាតិមាន សមត្ថកិច្ចណាមួយ ។

សេចក្តីសម្រេចទី៣៖

សន្និសីទសំដែងនូវសេចក្តីសង្ឃឹមថា លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ ខែសហ ប្រជាជាតិ និងកោះប្រជុំប្រទេសចុះកិច្ចសន្យាទាំងអស់ អោយបានឆាប់តាមដែលអាចធ្វើទៅបានបន្ទាប់ ពីអនុសញ្ញាស្តីពីការការពារសម្បត្តិវប្បធម៌ក្នុងក្រាមនជំលោះប្រដាប់អាវុធ បានប្តូរជាធរមានរួចហើយ នោះ ។

Annex 3: National Law on the Protection of Cultural Heritage

KRAM DATED JANUARY 25, 1996

ON THE PROTECTION OF CULTURAL HERITAGE

We,

Preahbath Samdech Preah Norodom Sihanouk Varaman Reachharivong Uphatosucheat Vithipong
Akamohaborasari Nikarodom Thamik Mohareachea Threach Borommaneat Rorombopit Preah Chau
Krong Kampuchear Thipdey,

- Having seen the Constitution of the Kingdom of Cambodia,
- Having seen the Kret of His majesty the King of Cambodia Samdech Preah Norodom Sihanouk Varman dated November 01, 1993 on the Appointment of the Royal Government,
- Having seen the Kret dated September 24, 1993 on the Appointment of the First and Second Prime Ministers,
- Having seen the Law on the Organization and Functioning of the Council of Ministers promulgated by Kram No 02/94 dated July 20, 1994,
- Having seen the Kret No 93 dated October 24, 1994 on the Reorganization of the Composition of the Royal Government of Cambodia,
- Having seen the Kram No 04/NS/94 of August 10, 1994 on the Land Use Planning, Urbanization and Construction,
- Having seen the Kret No. NS/RKT/0295 of February 19, 1995 redefining of the Supreme Council on National Culture,
- Having seen the Kret of February 19, 1995 establishing the Authority for the Protection and Management of Angkor and the Region of Siem Reap (APSARA),
- Having seen the Kret No. 001/NS of May 28, 1994 concerning the zoning and management of the region of Siem Reap/Angkor,

Upon proposal of the two Prime Ministers, and the Minister of State for Culture and Fine Arts, Land Use Planning, Urbanization and Construction,

hereby promulgate,

the Law on the Protection of Cultural Heritage adopted by the National Assembly during the fifth session of its first legislature, which reads as follows

CHAPTER 1:

GENERAL PROVISIONS

Article 1:

The purpose of this law is to protect national cultural heritage and cultural property in general against illegal destruction, modification, alteration, excavation, alienation, exportation or importation

Article 2:

The national cultural heritage comprises cultural property created or discovered on national territory

Article 3:

This law shall apply to movable and immovable cultural property, whether publicly or privately owned, whose protection is in the public interest

Except as otherwise provided elsewhere in this law, it shall apply only to cultural property that forms part of the national cultural heritage

Article 4:

For the purposes of this law, cultural property is considered to be any work produced by human agency and any natural phenomenon of a scientific, historic, artistic or religious nature which bears witness to a certain stage in the development of a civilization or of the natural world and whose protection is in the public interest

Specific cultural property is to be registered by *Anukret*

CHAPTER II:

SPECIAL PROVISIONS

Section I: Institutions Responsible for Management and Implementation

Article 5:

The Supreme Council on National Culture is responsible for policy formulation in the domain of national cultural property, in particular in view of protecting and enhancing the national cultural heritage. The Ministry of Culture and Fine Arts is responsible for policy implementation

However in the Angkor/Siem Reap region, the Authority for the Protection and Management of Angkor and the Region of Siem Reap, called APSARA, is responsible for the protection, the preservation and the enhancement of the national cultural heritage.

Coordination of work carried out jointly by the Ministry of Culture and Fine Arts and concerned institutions is to be defined by *Anukret*.

Section 2: Protected Sites

Article 6:

Protected sites containing archaeological reserves or other sites of archaeological, anthropological or historic interest may be established.

The boundaries of such protected sites shall be defined by *kret* at the proposal of the SCNC

Section 3: Inventory

Article 7:

Listing in the inventory consists of keeping a record of public and private cultural property which, while not necessarily requiring immediate classification, is nonetheless of some importance from a scientific, historical, artistic or religious point of view.

Article 8:

Inscription in the inventory shall be made by a decision of the competent authority according to Article 5

Article 9:

Inscription in the inventory shall place an obligation on the owner or holder of the property to inform the competent authority one month prior to taking any action to alienate, move, destroy, modify, alter, repair or restore the property. The competent authority may oppose such action only by initiating the procedure for classification.

Article 10:

Inscription in the inventory shall be null and void unless it is followed by a proposal for classification in the six months following notification thereof

Section 4: Classification

Article 11:

Classification is the registration of public or private cultural property which has already been inventoried and whose protection is in the public interest from a scientific, historical, artistic or religious point of view

Article 12:

A proposal for classification shall be made by the competent authority, which shall duly notify the owner or holder of the property.

Article 13:

The proposal for classification shall be null and void unless it is followed by a decision to classify in the twelve months following notification.

Article 14:

Classification shall be made by a decision of the competent authority. The competent authority must take a decision within three months after having notified the owner or holder of the property of the proposal to do so

Article 15:

The owner or holder of the property shall be notified of the classification and, where appropriate, the Land Conservation Department (the department responsible for managing the Land Register) shall also be notified

Article 16:

In the absence of the owner's consent, the classification shall be made automatically

Article 17:

Classification may give rise to the payment of an indemnity in order to compensate for any loss likely to be caused. The request must be submitted to the competent authority within three months of the notification of the classification decision. The amount of the indemnity shall be set by the competent authority. Any

objections concerning the decision as to entitlement or as to the amount of the indemnity shall be brought before the appropriate judicial authorities

Article 18:

The competent authority shall draw up a list of cultural property classified at the end of each year

That list, organized by Province and published in an official Gazette, shall indicate

- The nature of the cultural property classified,
- The place where it is located,
- The surnames and first names of its owner,
- The date of classification

Article 19:

Classified cultural property is imprescriptible

Article 20:

Any classified cultural property of public ownership or belonging to public legal entities is inalienable

Article 21:

Anyone who alienates private cultural property proposed for classification or already classified shall, on pain of nullity of the act of alienation

- Inform the beneficiary of the status of the property before completion of the act of alienation,
- Inform the competent authority within fifteen days of the act of alienation by communicating to it the surname, first name and domicile of the person to whom ownership of the property has been transferred, as well as the date of the alienation

Article 22:

The alienation of materials or fragments illegally removed from cultural property that has been classified or proposed for classification, and likewise any act resulting in the transfer of possession or control of such materials or fragments to a third party, shall be null and void. Any such third parties jointly responsible with the owners for returning the materials or fragments conveyed to them to their place of origin shall not be entitled to compensation from public entities

Article 23:

No cultural property that has been proposed for classification or classified may be moved, destroyed, modified, altered, or subjected to repair or restoration work without the authorization of the competent authority, who shall lay down the conditions for such work and monitor its progress.

Article 24:

Any owner who requests authorization to alter, repair or restore cultural property that has been proposed for classification or classified must submit to the competent authority all the relevant plans, projects and documents

Article 25:

The owner of a classified cultural property shall be responsible for ensuring its protection.

Any expenses resulting from the restoration, repair or maintenance of the property shall be borne by the owner. Such expenses may be reimbursed in part, by the competent authorities. Full reimbursement is subject to decision of the Council of Ministers.

Article 26:

The competent authority shall examine any urgent repair or restoration proposed on classified cultural property. Final decision on such work will be made by the Council of Ministers. The owner of the said property may not oppose the execution of such work.

Article 27:

The consequences of classification shall take full effect from the date of notification of the proposal for classification. The consequences shall apply to the property notwithstanding any change of ownership.

Section 5: Rights of Pre-Emotion and Expropriation

Article 28:

The competent authority may exercise a right of pre-emotion over the sale of any cultural property that has been inscribed in the inventory, proposed for classification or classified. Any person intending to sell a property mentioned in the previous paragraph must inform the competent authority thereof thirty days in advance.

Article 29:

Within thirty days from the date of reception of the information mentioned in Article 28, paragraph 2, the competent authority shall notify the owner of its decision to purchase the property offered for sale on the conditions and at the prices set or to renounce acquisition.

The absence of a reply on expiration of the aforementioned thirty days period is deemed to imply that the use of the right of pre-emotion has been relinquished.

Article 30:

Immovable cultural property that is inscribed in the inventory, proposed for classification or classified may be expropriated by the competent authority in the manner provided by the law on expropriation in the public interest.

Section 6: Trade in Antiquities

Article 31:

Trade in antiquities shall be authorized, on the conditions stipulated in this law after approval by the competent authority. Procedures concerning this trade are to be defined by *Anukret*.

Article 32:

Trading permits shall include the surname, first name and residence of the dealer, his or her qualifications, the types of object subject to trade, and shall state precisely where the dealer wishes to trade. This permit is valid for one year, renewable annually, and is inalienable

Article 33:

All authorized dealers shall be bound by the following obligations

- a to display a notice at the entrance to their sales premises stating they are authorized to sell cultural property,
- b not to place any cultural property intended for sale outside the premises in which they are authorized to conduct their activity,
- c to keep detailed records of the cultural property that they possess, and of day-to-day sales and purchases,
- d to make the records mentioned in (c) available to inspectors whenever requested to do so,
- e to display in a prominent position on the sales premises the provisions of this law concerning the export of cultural objects,
- f to show any cultural property in their possession to inspectors during an inspection,
- g to provide inspectors with a photograph of any cultural object in their possession, or to allow them to photograph the cultural object if they so wish,
- h to assist inspectors and facilitate their work during an inspection;
- i to inform the competent authority of any removal of sales premises to another site.

Article 34:

Inspectors may, whenever they deem inspection to be appropriate, enter and inspect the sales premises, examine and itemize the cultural objects located there and consult the records. They also have the right to inspect the residence of the dealer if this is used for storage or as sales premises under the terms of the permit issued to the dealer

Article 35:

The competent authority may withdraw the permit to deal in cultural property if it becomes apparent that the holder thereof is neglecting or violating any one of the holder's obligations, or if the holder has been sentenced by the relevant court for breach of the provisions of this law

Article 36:

Following withdrawal of the permit in accordance with the provisions of Article 35, the dealer must cease purchasing cultural objects

The dealer shall be authorized to sell cultural property still in the possession of the dealer for a further period not exceeding six months

Section 7: Chance Discoveries

Article 37:

When construction work or any other activity bring to light cultural property such as monuments, ruins, ancient objects, remains of inhabited sites, ancient burial sites, engravings or any property likely to be of interest in the study of prehistory, history, archaeology, ethnology, paleontology or other branches of science dealing with the past or of human sciences in general, the person finding the property and the owner of the site where it was discovered are obliged to stop the construction work and immediately make a declaration to the local police, who shall transmit it to the Governor of the province without delay. The Governor shall in turn inform the competent authority and shall take the measures necessary to ensure the protection of the objects and the site.

Article 38:

The competent authority shall, within thirty days of the declaration mentioned in Article 37, announce the temporary suspension of the work and the safeguarding measures to be taken. If no such measures are announced within that time limit, the effects of temporary suspension shall no longer apply. The competent authority shall decide on the permanent measures to be taken concerning chance discoveries.

Article 39:

Movable cultural property found by chance is public property. The competent authority shall provide within three weeks a reward to the finder of the discovery, the amount of which is to be fixed by agreement or by expert opinion.

Section 8: Archaeological Excavations

Article 40:

No one may carry out excavations or surveys, on land or under water, for the purpose of bringing to light cultural property likely to be of relevance to the study of prehistory, history, archaeology, ethnology, paleontology or other branches of science dealing with the past or of human sciences in general, without the prior authorization of the competent authority.

Article 41:

Only scientific institutions whose expertise is recognized and which have the necessary experience and financial resources may be empowered to carry out excavations. Foreign scientific institutions that have been granted excavation authorization must associate national scientific institutions in their work.

Article 42:

Any scientific institution that has been granted authorization for excavation must

- a. Record the cultural objects discovered in a special register to be handed to the competent authority at the end of each field season.
- b. Protect the excavated site and the cultural objects found there, and take all necessary conservation measures.
- c. Inform the competent authority regularly of the progress of the excavation work.

- d. Submit a summary report, accompanied by an album containing photographs of all cultural objects discovered, at the end of each field season campaign
- e. Submit a detailed scientific report on the findings of the excavations within a period not exceeding one year from the end of each field season.
- f. Allow inspectors to visit the excavations whenever they so wish and to consult the special register mentioned in paragraph (a)
- g. Grant interested researchers access to the excavations, on condition that they respect the scientific ownership rights of the excavator
- h. Train national technicians and researchers
- i. Publish the scientific findings of the excavations within five years of completion of the work

Article 43:

Any scientific institution in possession of an authorization to carry out excavation shall be entitled to

- a. scientific ownership of its discoveries.
- b. ownership of the cultural objects granted to it under the terms of Article 44, paragraph 2
- c. first publication of the scientific findings of the excavations, on condition that those findings are published within the time limit specified in Article 42, paragraph (i)

Article 44:

Immovable and movable cultural property discovered by scientific institutions shall be the property of the State. The competent Authority may donate to those institutions any object of which duplicates have been found and any object that is not indispensable to public collections owing to the fact that these collections already contain objects of the same type, style, material, method of production and scientific or artistic value. Any such donation can be made only on the condition that concerned objects be displayed in a scientific institution accessible to the public

Article 45:

The competent authority shall be responsible for the inspection of excavations and the monitoring of sites, and shall assist in establishing measures to protect sites under excavation

Article 46:

The competent authority may authorize excavations on privately owned land, after prior notification to the owner. An inventory of the site approved by all parties must be made at the beginning of the excavator's occupation of the site. The excavator may occupy the site for a renewable period of two years

Article 47:

The owner of land covered by Article 46 shall be entitled to return to the site, and to compensation for deprivation of use of the land and for damage caused if any.

Article 48:

In the event of discovery of cultural immovables whose protection is in the public interest, the competent authority may exercise its right of expropriation in accordance with the legislation on expropriation in the public interest.

Article 49:

If the authorized excavator fails to respect any one of its obligations as set out in Article 42, the competent authority may decide to withdraw authorization and/or scientific rights.

Excavations shall be suspended from the day that the holder is notified of the withdrawal of authorization.

Article 50:

Once an excavation authorization has been withdrawn, the concerned party may not claim any compensation for eviction from the site or for any expenses incurred.

Section 9: Export of Cultural Property

Article 51:

The export of any cultural object from Cambodia is prohibited, unless the competent authority has granted a special export license for the purpose.

Article 52:

The competent authority must announce its decision within three months of the declaration made to the competent authorities by the exporter.

Article 53:

The export of cultural objects shall be subject to duties and fees. The amount of those export duties and fees shall be set by law.

Article 54:

Before granting an export license, the competent authority must ascertain that:

- a. the proposed export will not result in the impoverishment of the national cultural heritage
 - b. public collections contain a cultural object similar to the one for which an export license has been requested.
 - c. the cultural object to be exported is not of irreplaceable importance for a study of a particular branch of study of the sciences of the past or of the human sciences in general.
- Procedures for export of cultural property, types of cultural property authorized for

export, as well as types of cultural property of which export is prohibited shall be defined by *Anukret*.

Article 55:

The competent authority is required to grant a license for the exportation of cultural objects in the following cases.

- objects donated to a foreign scientific institution which holds an excavation permit in accordance with Article 44, paragraph 2,
- objects sent abroad temporarily for exhibition or for other scientific purposes,
- objects exchanged for other objects obtained from museums or similar foreign institutions,
- objects legally imported into Cambodia

However, in a case provided for in paragraph 1 (point 2) of this article, the temporary export shall be submitted to appropriate conditions that guarantee the conservation and the return of these objects

Article 56:

Any attempt to export cultural objects without a license shall entail the seizure and confiscation of these objects for the public collections.

Article 57:

The competent authority may claim, in behalf of the public collections for the payment of a fair price decided by mutual agreement or fixed by an expert, any cultural object for which an export license has been denied, provided that there are strong indications that the cultural object may be the subject of a fraudulent export attempt

Section 10: Import of Cultural Property

Article 58:

The import of cultural objects exported in contravention of the national legislation of their country of origin is forbidden. Procedures for the importation of cultural property shall be defined by *anukret*.

Article 59:

Cultural objects imported illegally shall be seized, placed under the protection of the competent authority and, on condition of reciprocity, the Royal Government may take the decision to return such objects to their country of origin in accordance with international standards and agreements

Article 60:

Costs incurred by returning such objects are payable by the State requesting their return

Article 61:

Costs incurred by returning such objects are payable by the State requesting their return.

Section 11: Legal Protection and Penal Clauses

Article 62:

Decisions made by the competent authority in accordance with this law may be contested by recourse to the relevant legal authority

Article 63:

a. A sentence of imprisonment of a minimum of five years and a fine equal to the value of the cultural object in question, to be determined by expert opinion, shall be imposed on anyone who, through negligence.

- Alienates, moves, destroys, modifies, alters, repairs or restores a registered cultural object inscribed in the inventory without respecting the obligation to inform the authorities in accordance with Article 9, paragraph 1.
- Alienates cultural property proposed for classification or classified without respecting the obligations entailed by Article 21 and Article 28, paragraph 2.
- Moves, destroys, alters, modifies, repairs or restores, without authorization, cultural property proposed for classification or classified (Article 23, paragraph 1).
- Fails to ensure the protection of classified cultural property of which he or she is the owner (Article 25, paragraph 1)
- carries out or attempts to carry out, without authorization, work subject to the regulations on authorization under the terms of Articles 31 and 40
- Fails to fulfill the obligations entailed by Articles 33 and 42.
- Fails to declare cultural property discovered during construction or other work and fails to stop that work (Article 37)
- Exports or tries to export, without authorization, a cultural object (Article 51 and Article 56)
- Fails to comply with the conditions implied by a temporary export as provided in Article 55 (2)
- Illegally imports a cultural object (Article 58).
- Fails to declare to the Customs authorities the legal importation of a cultural object (Article 61, paragraph 1)

b. The penalty shall be imprisonment for a minimum of two and a maximum of eight years and a fine equal to two times the value of the object in question, to be determined by expert opinion, if the offender was acting intentionally

In certain cases concerned in (a) and (b) above, the offender shall be subject to only one of these types of penalties, either imprisonment or fine

Article 64:

The civil and administrative sanctions provided for in Articles 21, 22, 35, 49, 56, 59, as well as penal sanctions provided for in Article 63, may be applied

Article 65:

Offenses shall be evidenced by reports made by investigators of the Prosecutors Office and by any qualified authorities, especially Customs officials having taken oath and curators or other staff of museums open to the public who have been appointed and have taken oath for that purpose.

CHAPTER 3:

FINAL PROVISIONS

Article 66:

All provisions contrary to the present Law shall be considered null and void

Article 67:

This Law shall be promulgated as urgent.

Phnom Penh, January 25, 1996

Norodom Sihanouk

Annex 4: Sub-Decree Respecting Implementation
of Cultural Heritage Protection



KINGDOM OF CAMBODIA

Nation Religion King

Royal Government
of Cambodia
No.: 98

**SUBDECREE
RESPECTING IMPLEMENTATION OF CULTURAL
HERITAGE PROTECTION**

The Royal Government,

Considering:

- The Constitution of the Kingdom of Cambodia,
- Royal Decree (Preah Reach Kret) No. 1198/72 of November 30, 1998 respecting the Appointment of the Royal Government of Cambodia,
- Royal Decree (Preah Reach Kram) No. 02/NS/94 of July 20, 1994 promulgating the Law on the Organization and Operation of the Council of Ministers,
- Royal Decree (Preah Reach Kram) No. NS/0196/02 of January 24, 1996 on the Establishment of the Ministry of Culture and Fine Arts,
- Royal Decree (Preah Reach Kram) No. 0196/26 of January 25, 1996 promulgating the Law on the Protection of Cultural Heritage,
- Royal Decree No. NS/RKT/0295/11 of February 19, 1995 on the Establishment of the Supreme Council of National Culture,
- Royal Decree No. NS/RKT/0295/12 of February 19, 1995 on the Establishment of a National Public Institution for the Protection of the Site and Management of the Angkor Region, named ASPARA,
- Royal Decree No. NS/RKT/0199/18 of January 22, 1999 on the Harmonization of the Provisions of Royal Decree No. NS/RKT/0295/12 of February 19, 1995 on the Establishment of APSARA,
- Royal Decree No. RS/RKT/1297/91 of December 31, 1997 respecting the Legal Status of Public Administrative Institutions,
- Royal Decree No. 001 NS, of May 28, 1994, on Zoning and Management of the Siem Reap-Angkor Region,
- Subdecree (Anukret) No. 62 of October 14, 1997 respecting the Organization and Operation of the Ministry of Culture and Fine Arts,
- Approval by the Council of Ministers in plenary session of August 9, 2002,

Decrees
Chapter I
General provisions

Article 1

The purport of this subdecree is implementation of cultural heritage protection through definition of cultural property and archaeological excavations.

It is to regulate the trade in cultural property and control the exporting and importing of cultural property.

Chapter II
Cultural property

Article 2

Cultural heritage means the body of tangible cultural property with the exclusion of intangible cultural property.

Article 3

Included in cultural heritage is:

- a. Cultural property born of the individual or collective ingenuity of Cambodian nationals.
- b. Cultural property of a definite cultural, artistic or historical significance, created on national soil by foreign nationals or stateless persons residing on national soil.
- c. Cultural property found on national soil.
- d. Cultural property acquired by Cambodian cultural institutions, with the consent of the competent authorities of the country of origin of such property.
- e. Cultural property dealt in under freely agreed exchanges.
- f. Cultural property received free of charge or in return for payment, legally acquired with the agreement of the competent authorities of the country of origin of such property.

Article 4

Cultural property refers to any artifact, moveable or immovable, belonging to the following categories:

- a. Archaeological material resulting from ground or underwater excavations, legal or illegal, and archaeological discoveries.
- b. Prehistoric and historic property such as monuments, components from the dismantling of a monument, sites, graves, remains of ancient villages, grottos and ancient pagodas.
- c. Properties of antiquity such as tools, pottery items, inscriptions, coins, seals, jewels, weapons and funerary remains.
- d. Sacred cultural property or having certain community significance, belonging to and used by a native or tribal community, for the traditional or ritual use of such community.
- e. Anthropologic and ethnological material.
- f. Property of artistic interest such as:
 1. Paintings and drawings, executed entirely by hand on any medium and in any material, with the exclusion of industrial drawings and hand-decorated manufactured items.
 2. Original rubbings, posters and photographs as a means of original creation.

- 3. Original artistic assemblages and montages, in any material.
- 4. Objects of applied art, in materials such as glass, ceramics, metal or wood.
- g. Manuscripts and incunables, books documents and publications of special interest, notably for science, history, art and literature.
- h. Property of numismatic interest (medallions and coins) or philatelic interest.
- i. Archival documents, including recordings of material, maps and other cartographic material, photographs, motion-picture films, sound recordings and machine-readable documents (diskettes, CDs, etc.).
- j. Furnishings, tapestry, carpets, ancient silk cloth, traditional costumes and musical instruments.
- k. Zoological, botanical and geological specimens.

Chapter III

Trade in Cultural Property

Section 1

Procedure for granting of approval

Article 5

Trade in cultural property means any professional activity of selling or trading cultural property as a main or accessory occupation, on a habitual basis.

Cultural property merchant means any private person or legal entity that carries out the activity referred to in the preceding paragraph regardless of whether such person or entity has a selling establishment or carries out this activity at a domicile, residence or on the public domain.

The following are considered to be merchants: persons who set up in a public place or a place open to the public an event for the sale or exchange of cultural property (fairs, antique shows, bazaars, flea markets or exchanges).

Article 6

Any private person or legal entity who intends to carry out a cultural properties trading activity shall submit an application for approval with the Supreme Council of National Culture, of which the Ministry of Culture and Fine Arts is the executive agency.

Article 7

The application for approval, with a statement of rationale, shall be accompanied by a copy of the license from the register of commerce and any other supporting document.

The form that is used for submission of the application shall be established by order of the Ministry of Culture and Fine Arts.

Article 8

The approval shall be for the person applying only and cannot be transferred to third parties.

It is issued for a one-year period and may be renewed.

Merchants who carry out their activity in compliance with the code of ethics of the profession and who have not come under an administrative or penal sanction for an infraction of the regulations on cultural heritage protection for at least 5 years may have their approval renewed automatically from one year to the next.

However, the administrative procedures must be fulfilled in harmony with the recommendations of the Ministry of Culture and Fine Arts.

Article 9

The merchant in cultural property shall only be authorized to commence his professional occupation after receiving notification of the approval.

Section 2 **Obligations of merchant and register of cultural property**

Article 10

In addition to the obligations provided for under Article 33 of the Law on the Protection of Cultural Heritage, all merchants must also comply with the following obligations:

- a. Keep a daily register of items acquired, exchanged or held for sale or exchange. In the event the merchant has more than one selling establishment, a register is required for each establishment.
- b. Refrain from acquiring for sale or exchange cultural property of which the origin is dubious or of which the owner cannot be identified with certainty.
- c. Refrain from acquiring free of charge or in return for payment cultural property from a minor or from an incompetent person without the consent of his parents or legal representative.
- d. Inform the acquirer of the status of such item, in the event of sale or exchange of a catalogued item, put up for classification or classified, and provide the control authority with the identity and domicile of the acquirer, as well as the date on which ownership was transferred.
- e. Guarantee the specification that he has put forward regarding the nature, composition, origin and age of the item sold or exchanged by providing the acquirer with appropriate certification if so requested.
- f. Declare to the Ministries of Culture and Fine Arts, Commerce and Economy and Finance any change in the location of the selling establishment.

When the professional activity is carried out by a legal entity, the above-mentioned obligations shall be incumbent upon the executive officers of the legal entity.

Article 11

The register of cultural items shall contain the following information:

- a. A full description of each item, specifying its main conspicuous features as well as names, signatures, letters, digits, emblems and signs of any nature that appear on it and that facilitate its identification.
- b. The full name, position and domicile of the seller or depositor in the event of an exchange or a consignment for sale or return, as well as the nature, number and issue date of the

identification document shown by the private person that performed the sale, exchange or deposit, along with indication of the issuing authority.

- c. A serial number to be affixed to each item of cultural property.
- d. The purchase price or estimated price, in case of exchange, consignment for sale or return or free acquisition.
- e. Where applicable, inscription in the inventory or classification.

Article 12

The register shall be serial marked and initialed by a duly empowered officer of the Ministry of Culture and Fine Arts. It may be computerized provided that it is available in a continuous listing (permanent sheets), previously serial numbered and initialed by the said officer.

Article 13

The information appearing in the register shall be written in indelible ink, with no blanks, erasures or abbreviations.

Article 14

The register shall be kept by the merchant for at least 5 years from the time of closing down.

Article 15

A sample register of cultural items purchased, exchanged or held on consignment for exchange or sale is provided in Annex 1 of this subdecree.

Article 16

Auditing of the registers shall be cared for by the Ministry of Culture and Fine Arts.

Chapter IV Archaeological Excavations

Section 1 General provisions for excavations

Article 17

Archaeological excavations means all research work carried out for the purpose of discovering artifacts of an archaeological nature or studying archaeological material or sites, regardless of whether such research includes digging into the soil or exploring systematically the surface of the soil, or whether it is performed on the bed or in the subsoil of inland or territorial waters.

Support posts and shielding needed for the safety of material and persons or for the temporary protection of remains discovered by chance and pending intervention by the departments in

charge of cultural heritage protection are not considered excavations in the meaning of the preceding paragraph.

Article 18

The Royal Government of Cambodia is empowered to grant to national and international institutions a permit to carry out excavations of a methodological and stratigraphic nature anywhere in the Kingdom of Cambodia.

Article 19

Excavation permits shall be granted by:

- a. The Ministry of Culture and Fine Arts on behalf of the Supreme Council of National Culture anywhere on national soil, with the exclusion of the Siem Reap-Angkor region.
- b. The Authority for the Protection of the Site and Management of the Angkor Region (Autorité pour la protection du site et de l'aménagement de la région d'Angkor - A.P.S.A.R.A.) for the region of Siem Reap-Angkor.

Article 20

The excavation permit is non-transferable. It cannot be transferred to any other national or international scientific organization.

Article 21

When an application for an excavation permit for a private piece of land is under review, the competent authority shall be apprised thereof and inform the owner.

Article 22

Religious sites where worship is practiced regularly such as pagodas, stupas, rural Neak Ta mounds or Bodhi trees (*ficus religiosa*) to plumb with its outermost branches are excluded from the scope of this chapter.

Test pits may be put in with the agreement of the religious authorities in a pagoda compound, outside of the sacred sanctuary or when evidence and topographical observations or concordant traditions show that there is the superposition of a modern pagoda on top of an ancient building.

Public or private cemeteries, with the exception of individual graves, are also excluded from the scope of this chapter. In this case, the institution holding the excavation permit (hereinafter referred to as the institution) may come to a mutual agreement with the families or, failing that, with the local authorities, of the procedures governing the excavations and any compensation.

Section 2 Terms and conditions

Article 23

Any excavation permit application must be accompanied, as the case may be, with some or all of the following documents:

- a. The scientific program including a report on the advisability of the operation and the anticipated results.
- b. The detailed excavation project, outlining and giving the rationale for the contemplated research methods.
- c. The budget, showing the overall amount of the operation, sources of funding and relevant guarantees.
- d. The technical description showing the staff involved, material resources to be implemented, what is to become of them at the conclusion of the undertaking, length of the work site.
- e. Measures to ensure safety of the property and persons involved, along with a certificate of third-party liability insurance.
- f. The endorsement of a recognized national or international scientific institution.
- g. A map showing the extent of the area covered by the excavation license with boundaries, cadastral references of the land plots and the names of the owners and occupants.
- h. A layout map showing the area in which test pits and stratigraphic sections may be put in.
- i. A plan showing the work site layout, areas for classification and storage of excavated spoil.

Article 24

The institution may, upon submission of the excavation permit, have issued to it any excerpt of cadastral registration records, landholding maps and certificates of registration from the land register office records for locations where excavations are contemplated.

Article 25

A copy of the excavation permit shall be forwarded for information by the competent authority to the national, provincial and local authorities concerned. The owners, public or private, of the land, shall also be notified by the provincial authority. It shall be published in poster form on the site involved.

The institution shall provide the provincial and local authorities with the regulations governing the work site covered in the excavation permit.

Article 26

Once notification of the permit has been given, private persons or legal entities other than those shown on the permit are prohibited from undertaking any work of any nature whatsoever on the land lots covered in the area shown thereon.

Article 27

The institution is under obligation to fence off the land lots involved in the operations and to have an inventory of fixture made out in the presence of a representative from the provincial land register office.

Article 28

The institution shall be allowed, with the agreement with the competent department of the Ministry of Agriculture, Forestry and Fisheries, to work in the determined area to remove brush, cut down trees and open up forest paths and roadways.

Article 29

The institution is under obligation to complete the excavation campaign and refurbish the land lots within the given time frame.

Article 30

In the event excavations result in the discovery of major remains, these shall be left as they are after the study. One-off consolidation operations shall be taken by the institution prior to review of the protection measures to be taken under the Law on the Protection of Cultural Heritage. The local and provincial authorities along with the owners, public or private, assume responsibility for the conservation of the said remains until the contemplated protection measures have been taken.

Article 31

Any chance discovery of a recent grave must be reported to the local authority where the discovery was made, who shall delegate as soon as possible a police officer to make a report, look for any families concerned and certify the reburial of the remains in a proper grave.

Section 3 Obligations

Article 32

Prior to undertaking excavation operations, the institution shall inquire of the local authorities and take into consideration the traditions and customs relating to certain locations and respect the habits and customs of the Kingdom of Cambodia, more especially those having to do with religion.

The institution is responsible for damage caused to persons and property during the duration of the permit.

The foreign institution shall associate with its work one or more Cambodian scientific institutions. It is under obligation, in the framework of the excavation operations, to train Cambodian technicians and scientists. It is allowed, in agreement with the competent authority, to ask for assistance from other foreign scientific institutions or scientific, administrative or technical staff including assistants, scholarship holders and foreign students.

Article 33

The excavations director shall take responsibility for performance of the excavations according to good practices and see to the decorum of the staff under his authority. He shall exercise unique, direct authority over all of his subordinates and shall be allowed to delegate his jurisdiction of authority only to a member of the institution's scientific staff.

The excavations director shall inform the competent authority of the discovery of any prehistoric or historical monument, site or location requiring protective measures as provided for in the Law on the Protection of Cultural Heritage, irrespective of it involving underground, underwater or surface explorations.

Article 34

The national, provincial and local authorities are under obligation to provide aid and assistance to the institution should it call upon the administrative and police authorities for help.

The competent authority shall check the smooth sequencing of the excavation operations. It shall assign one of its representatives to the institution for this purpose. The said representative is empowered to attend all excavation or registration operations and control them within the limits of his duties. He shall not have any jurisdiction in the area of instruction with regard to the members and agents of the institution.

Section 4

Scientific ownership and financial provisions

Article 35

The institution shall retain the scientific ownership of its discoveries provided that the scientific findings of the excavations are published within five years from completion of the operations.

The right to iconographic reproduction or dissemination in scientific literature is free after publication of the scientific findings of the excavations.

Article 36

Beyond the five-year deadline provided for under Article 35 of this subdecree, the competent authority shall be allowed to give permission for dissemination for commercial purposes upon payment of a contribution commensurate with the output.

In the event of filming an audiovisual work, the competent authority shall determine a lump-sum contribution based on the shooting time and length of the work.

The amount of such contributions shall be determined by joint order of the Ministry of Culture and Fine Arts and the Ministry of Economy and Finance.

Article 37

The funding of all excavation operations including test pits, explorations, digs, transportation, wages of workers, supervisory or guard staff, local staff training, shall be borne by the institution.

Section 5

Registration and devolution of excavated materials

Article 38

The institution shall keep an up-to-date excavation log that shall include an official inventory of individual artifacts or clusters of artifacts found while excavating. This obligation does not include, in particular, slag, mineral or ligneous specimens, soil samples, insignificant ceramic or glass debris, nor human or animal bones, shells and any indication or evidence of ancient habitat which come under the purview of laboratory process, inasmuch as the excavation does not purport to study such items.

Article 39

In case artifacts are found that have definite significance from a historical, artistic, cultural, scientific, archaeological or pecuniary point of view, the holder shall make a report to be joined to the excavation log.

No assignment may be given to such artifacts prior to their being studied scientifically.

Article 40

When archaeological rescue excavations are funded in whole or in part by the contract owner, the competent authority may offer financial compensation to the latter. The amount of the financial compensation is reached by mutual agreement or upon the advice of an expert.

Article 41

The competent authority shall be allowed to assign to the institution the product of scheduled archaeological excavations for which duplicates or significant numbers exist in public collections.

The institution shall notify the competent authority of the permanent assignment of items for which ownership has been transferred to it. It shall only be allowed to transfer such items, in return for payment or free of charge, to a public collection.

Article 42

Regardless of the place where artifacts owned by the Kingdom of Cambodia are deposited, the institution shall be able to continue to study and analyze them provided that such activity does not cause any damage to them.

The institution shall retain the right to make moldings and photographs for scientific purposes. To this end, the competent authority shall provide it with registration references in the form of inventory numbers.

Chapter V
Exporting and Importing Cultural Property
Section 1
Exporting procedures

Article 43

Cultural property for which exporting is prohibited without a special export license as provided for in Article 51 of the Law on the Protection of Cultural Heritage are those which, as of the date of the license application, enter into one of the categories of cultural property listed under Article 4 of this subdecree.

Article 44

The special license for the temporary or permanent export of cultural property shall be issued by the Ministry of Culture and Fine Arts on behalf of the Supreme Council of National Culture.

Article 45

Any application for a cultural property export license must be submitted to the Ministry of Culture and Fine Arts by the owner of the item or his authorized agent.

The application shall be made in the form prescribed in Annex II. It shall be accompanied by the following documents and information:

- a. A description of the cultural item, in sufficient detail to enable accurate identification.
- b. A photograph of the cultural item or a photocopy if it is a document.
- c. The receipt issued by customs when the cultural item in question has been imported legally to Cambodia.
- d. The market value of the cultural property in Cambodia and abroad in the event of permanent export.
- e. The selling price of the cultural item, if it has already been sold and destined for permanent export.
- f. The purpose of the export.
- g. The destination of the cultural item.
- h. The planned date of export.
- i. The approximate date of return of the cultural item to Cambodia in the event of temporary export.

Article 46

When the applicant does not provide all information and the required supporting documents, the Ministry of Culture and Fine Arts shall request submission of the missing items, by return

registered letter, prior to expiration of the three-month timeframe given under Article 52 of the Law on the Protection of Cultural Heritage. This timeframe is suspended.

The applicant shall have two months from receipt of the letter from the Ministry to submit the requested information and documents. An applicant failing to submit these items within this deadline is deemed to have forfeited his application.

Article 47

The timeframe specified under Article 52 of the Law on the Protection of Cultural Heritage is also suspended, notably in the following cases:

- a. When, in implementation of Article 49 of this subdecree, the Ministry of Culture and Fine Arts requires that the item be brought in for examination; in this case, the suspension shall run from the date of receipt by the applicant of the Ministry's registered letter requesting that the item be brought in.
- b. When the authenticity of the item is legally challenged; in this case, the suspension shall run up to the time when the applicant has forwarded to the Ministry the decision closing the procedure.
- c. When the Ministry requests proof of the legality of importing the item; in this case, the suspension shall run from the date of receipt by the applicant of the Ministry's registered letter asking for substantiation until the time as such substantiation is supplied.

Article 48

Should the item be of special significance, notably from the historical, artistic or archaeological viewpoint, the Ministry of Culture and Fine Arts shall be allowed to invite a group of ad hoc experts made up of five persons at the most to appraise the impact that export of the said item would have on national cultural heritage. This group of experts shall express its opinion on the cultural value of the item in the light of the evaluation criteria listed under Article 54 of the Law on the Protection of Cultural Heritage. It shall submit a report to the Ministry and make recommendations.

Article 49

Should the application procedure so require, the Ministry of Culture and Fine Arts shall ask for the item to be brought in to a place that it shall designate.

Article 50

The export license shall be issued to the applicant after remittance of the amount of tax provided for under Article 53 of the Law on the Protection of Cultural Heritage, acknowledged by receipt, or shall be forwarded to him by double registered letter.

The granting of a temporary export license for an exhibition, restoration or other scientific purposes shall not be subject to payment of a tax to the Royal Government.

Article 51

Should the Ministry of Culture and Fine Arts refuse to issue the license, it shall notify the owner of the item of such decision, even if the application was filed by an authorized

agent, by double registered letter. If the Ministry does not have the name and address of the owner, it shall request this information from the authorized agent by double registered letter. The timeframe given under Article 52 of the Law on the Protection of Cultural Heritage shall be suspended starting from the date of receipt by the authorized agent of the Ministry's letter until the time such information is submitted.

Article 52

In the event there is a risk of fraudulent export of an item of cultural property for which legal export has been refused, the Ministry of Culture and Fine Arts shall be allowed to claim such item for deposition in a public collection, as provided for under Article 57 of the Law on the Protection of Cultural Heritage.

In such event, the Ministry must make a purchase offer to the owner of the item of cultural property.

Article 53

The purchase offer, sent by double registered letter, shall specify the estimated price of the cultural item, information relating to prices fetched, if applicable, by comparable cultural items on the national and international market or, failing that, comparative information in support of the estimate.

The owner of the cultural property shall have two months to respond. This timeframe shall start from receipt of the purchase offer. Absence of a written response from the owner within this timeframe shall be construed as a refusal of the offer.

In this case, the Ministry of Culture and Fine Arts and the owner of the item shall designate an expert to appraise the price of the item.

The expert shall ask for the item to be brought in to him.

The government shall assume the expense of the appraisal.

Section 2 Illegal exporting

Article 54

When a cultural item has been illegally exported, temporarily or permanently, the Ministry of Culture and Fine Arts shall be empowered, in cooperation with the Ministry of Foreign Affairs and International Cooperation, to undertake all diplomatic, administrative and legal procedures necessary to have the said item returned to national soil.

The Ministry shall also act on behalf of the State or owner, in any diplomatic, administrative or legal procedure provided for under a bilateral treaty or other international conventions, including the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects.

Article 55

The Ministry of Culture and Fine Arts shall inform the public of the procedures undertaken to have a cultural item returned to national soil. The public shall also be informed, where applicable, of the outcome of such procedures.

Article 56

When the return of a cultural item is ordered and an allowance is awarded to the bona fide owner, it shall be remitted by the State, without prejudice to the latter's right to receive reimbursement for expenses by any other person.

Article 57

The State shall become custodian of the returned cultural item until it is returned to its owner after ownership of the item has been ruled upon, where applicable. The latter shall be deposited with the National Museum and may be put on exhibit.

Article 58

The cultural item that has been ordered returned is turned over to its owner provided that the latter:

- a. Reimburse all expenses incurred to the State, i.e. expense of any compensation paid to the bona fide purchaser, conservatory expenses, expenses involved in implementing the decision to have the item returned and the storage expenses mentioned under Article 56 of this subdecree; and
- b. Was not himself the person committing the fraudulent export.

When the owner is a public entity, the Ministry of Culture and Fine Arts shall be allowed to demand, prior to returning the item to it, that the measures necessary for the conservation and protection of the item be taken. Failing that, after a formal request not followed by effect in two years, the Ministry shall be allowed to decide to put the item in a venue providing all of the necessary safety measures.

Article 59

Ownership of the returned item of cultural property devolves to the State when the identity of the owner of the item remains unknown after a period of five years from the date when the Ministry of Culture and Fine Arts informed the public of the decision to order the item returned, as provided for in Article 56 of this subdecree.

Section 3 Importing cultural property

Article 60

Any item of cultural property imported onto Cambodia soil shall be declared at customs, as provided for in Article 61 of the Law on the Protection of Cultural Heritage.

The cultural property shall be accompanied by an export permit, issued by the competent authority of the country of origin or by any other document certifying the legality of the export.

Cultural property imported onto Cambodian soil without a customs declaration is deemed to be illegally imported. This same applies for stolen cultural property that is smuggled onto national soil.

Article 61

Upon the specific and detailed request of the government of the home country, the Ministry of Culture and Fine Arts shall search or have a search made for any item of cultural property illegally imported onto national soil.

Article 62

When the State of origin of the illegally imported cultural property is known, the Ministry of Culture and Fine Arts shall inform it by diplomatic channels of the presence of such property on national soil.

Article 63

The customs authorities and the Ministry of Culture and Fine Arts shall take all necessary action to confiscate illegally imported cultural property.

Article 64

Confiscated cultural property shall be deposited with the National Museum which shall provide protection for it and take all necessary measures for its conservation.

Article 65

The requesting State shall send by diplomatic channels its request for the return of an illegally imported item of cultural property to the Ministry of Culture and Fine Arts, which shall take all necessary action to ensure the return of the item to its country of origin.

Such action shall be taken without prejudice to the other administrative or legal procedures of which the requesting State or owner may avail themselves of, where applicable.

Article 66

Requests for returns governed by the provisions of bilateral agreements or other international conventions, including the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects are also reserved.

Article 67

The return of the item of cultural property shall take place upon payment by the requesting State of all expenses relating thereto, including expenses entailed in confiscating the item, depositing it at the National Museum and any conservation measures taken.

Article 68

An illegally imported item of cultural property for which the return is not requested within the timeframe provided by domestic or international law devolves to the State.

Chapter VI Sanctions

Article 69

When a merchant in cultural property is in breach of one of his obligations as provided for in Article 10 of this subdecree and Article 33 of the Law on the Protection of Cultural Heritage, the Ministry of Culture and Fine Arts shall be allowed to withdraw his permit on a temporary basis or permanently in the case of a repeat offense.

Article 70

When an institution that is holder of an archaeological excavations permit is in breach of the obligations provided for under Chapter IV of this subdecree, the competent authority shall be allowed, depending on the gravity of the offense, to:

- a. Withdraw its right to scientific ownership of the excavated material.
- b. Withdraw its excavation permit.
- c. Refuse to grant it any further excavation permit for a maximum period of five years.

Chapter VII Claim procedure guarantees

Article 71

The decisions provided for under this subdecree must be issued in written form.

The reasons for such decisions must be given as well as the avenues of redress and the deadline for same.

Article 72

The persons concerned shall be served notice of all decisions made under this subdecree.

Chapter VIII Transitory provision

Article 73

Any merchant who has already been exercising his professional activity prior to the taking effect of this subdecree shall have 12 months from the date of this act coming into effect to comply with it.

Chapter IX

Final provisions

Article 74

All provisions contrary to those of this subdecree are null and void.

Article 75

The Minister in charge of the Office of the Council of Ministers, the Minister of Culture and Fine Arts, the Supreme Council of National Culture, the APSARA Authority, the ministers, secretaries of State of the concerned institutions are responsible for implementing this subdecree from the date of its signature.

Made in Phnom Penh this 17th day of September 2002

The Prime Minister
Signed and sealed

HUN SEN

Copies to:

- Royal Palace
- Secretary General of the Senate
- Secretary General of the National Assembly
- Cabinet of the Prime Minister
- Ministries and Concerned Institutions
- As provided under Article 75
- Archive

Annex 5: Report on Damage Assessment Mission
to the Temple of Preah Vihear

Report on Damage Assessment Mission to the
Temple of Preah Vihear, Kingdom of Cambodia



December 2011

By Simon Warrack

ICCROM Consultant, Stone Conservator

Introduction

At the end of the ICC Plenary session in December 2011 the author of this report and delegated representative for ICCROM was approached by the **Vice Prime Minister His Excellency Dr Sok An, President of the APSARA National Authority**, who requested that the consultant join a mission to Preah Vihear to inspect the damage to the temple resulting from the conflict in February 2011.

Mission dates and times

The mission took place on the 14th of December 2011.

Mission members

H.E. Mr. Sous Yara - Undersecretary of State of the Office of the Council of Ministers

H.E. Dr. Hab Touch - Director-General in charge of the Department General of Cultural Affairs

H.E. Chuch Phoeurn - President of the National Authority for Preah Vihear

H.E. Hang Soth - Director General of the National Authority for Preah Vihear

Long Kosal - National Authority for Preah Vihear

Ok Top Botra - National Authority for Preah Vihear

Pheng Samouen - National Authority for Preah Vihear

Hem Sinath - National Authority for Preah Vihear

Tuy Rany - National Authority for Preah Vihear

Dr Helen Jarvis - Adviser to the Royal Government of Cambodia

Prof. Claude Jacques - EFEO and Special Advisor to ICC

Prof. Sachidanand Sahai - Advisor, APSARA Authority, Siem Reap

Prof. Azedine Beschouch - Permanent Scientific Secretary to the ICC

Teruo Jinnai - Former Director of Phnom Penh Office, special adviser to Cambodian Government.

HE Than Theany - General Secretary of the UNESCO National Commission

Philippe Delanghe - UNESCO Phnom Penh

Mounir Bouchenaki - Ad Hoc Member

Pierre Andre Lablaude - Ad Hoc Member

Giorgio Croci - Ad Hoc Member

Simon Warrack - ICCROM Consultant (Author of this report)

Lorella Pellegrino - Conservator, Indenture Professor at the University of Palermo

Giovanni Rizzo - Professore Straordinario, Department of Chemical Engineering and Materials, University of Palermo

Previous Surveys and Research

Following the conflict in February and a subsequent meeting attended by the ICCROM Consultant, HE Dr. Sok An, HE Chuch Phoeum, HE Than Theany and a commission from the World Heritage Centre headed by the former DG UNESCO Prof. Koichiro Matsuura, a group of Cambodian conservators from the APSARA National Authority Stone Conservation Unit was dispatched to Preah Vihear in order to carry out a survey in collaboration with the technicians from the National Authority for Preah Vihear. This which was signed on 7th March 2011 by HE Chuch Phoeum.

The members of the technical survey team and authors of the report were:

1. **Mr. Pheng Sam Oeurn**, - Director of Department of Archaeology and Environment, NAPV.
2. **Mr. Yok Vannaluc** - Deputy Director of Order and Security, NAPV.
3. **Mr. Hem Sinath** - Director of Department of Architecture and Human settlement, NAPV.
4. **Mr. Tek Touch** - APSARA Authority, Stone Conservation Unit.
5. **Mr. Kham Khmao** - APSARA Authority, Stone Conservation Unit.

In this report they noted that there were 414 new impact points on the temple in 13 different locations. These varied from direct hits with small arms fire and direct hits with medium calibre weapons to blasts and shrapnel damage from heavy artillery.

The team carried out measurements regarding the size of each damaged area and prepared a documentation form for each impact point. They made a brief visual assessment of the damage and made a short recommendation for the conservation of the damaged areas.

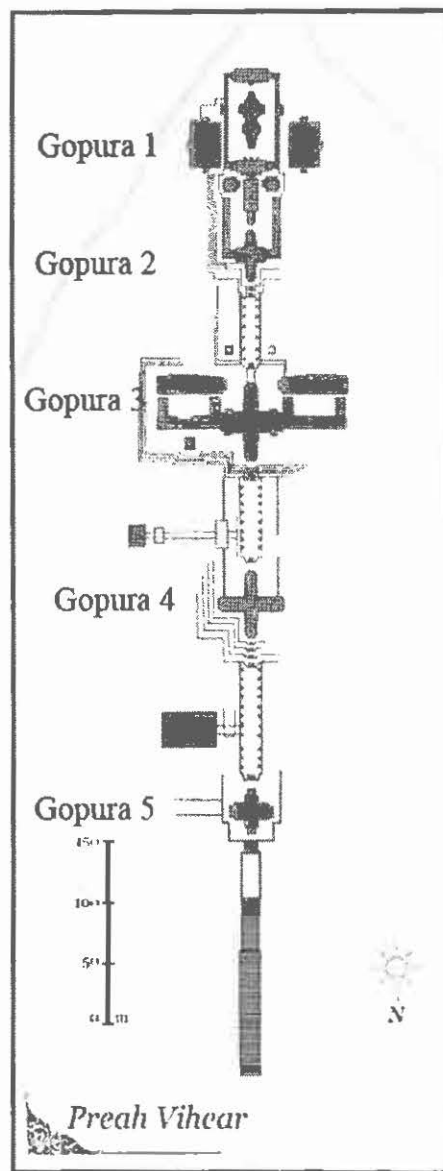


FIG. 1 Plan of the Site at Preah Vihear

An Assessment of Impact Damage

When a metal object hits a stone surface the effect will vary according to a series of factors in conjunction. These may be a combination, on the one hand, of the hardness of the metal (chisel or projectile), the mass of the metal, the velocity of the impact and the angle of the impact and, on the other hand, the type of stone, its hardness, the properties of the constituent minerals and the state of preservation. A combination of these factors influence the effect of the impact.

The impact of a pointed chisel, driven by a well directed hammer of several kilos can have an effect not unlike that of a projectile, and a good sculptor/carver is well aware the fine line between the removal of unrequired stone and potential damage to the underlying stone which, on finishing, may actually be part of the surface. An excellent example of this is the care with which a carver of Carrara statuary marble will take when roughing out with a point (or punch) chisel. He knows very well that a strong blow that is made too perpendicular to the surface of the block will induce micro-fracturing below the surface that will cause what is known to the carvers as bruising.¹ This is true of other stones too such as Alabaster². The bruising is, in fact, an area of micro-fractures that increase the light diffraction and reflection making it less transparent and therefore showing up as a white stain. While the transparent minerals in Carrara and Alabaster make this a clearly visible phenomenon, the effect of severe impact on sandstone, such as that at Preah Vihear, can have an analogous effect. The micro-fracturing, though maybe less obviously, will still occur, as will fracturing and pulverisation and the impact points at Preah Vihear show all these various phenomena.

Fracturing

These are the larger, more visible, cracks that tend to radiate away from the point of impact. They frequently follow the bedding planes of the sandstone block. Occasionally these fractures will traverse corners and arisses which may induce the detachment of larger pieces of stone. Rarely are the fractures observed at Preah Vihear large enough to compromise the static integrity of a single block, let alone a significant section of masonry. However they are points which favour preferential penetration which can have serious repercussions as will be discussed below.

Micro-fracturing

Micro-fracturing is the phase between fracturing and pulverisation and involves an extremely fine network of cracks. This is less visible in sandstone and is less apparent than fracturing but will also have a damaging effect on the stone in the future.

Pulverisation

This is usually the phenomenon associated with the area of direct impact and is caused by the crushing of the crystals and constituent materials in to powder. The pulverised stone tends, initially, to remain in place due to the compaction but it will not be long before wind, rain, run off and other factors cause the powder to be removed exposing the micro-fractured and fractured stone below.

¹ <http://www.stoneshaper.com/bruise.html> Bruising is when the crystals in the stone (which is what makes them so pretty) get crushed by a too-direct blow of a chisel. They can be dug out using a riffler but this may make you change the shape of the stone. To prevent this NEVER hit the chisel into the stone at a steep angle. About 45 degrees seems to be about right but it changes with the hardness of the stone. The harder the stone the steeper the angle required, and the more care that is needed. Marble can be bruised quite deep.

² http://www.ehow.com/info/12058831_alabaster_carving_tips.html "Alabaster is prone to bruising and should never be struck with the tool perpendicular to the stone"



Fig. 2 Mapping indicating the different forms of damage caused by the impact of a projectile at Preah Vihear.

Key:



Fractures



Micro-fractured zone



Pulverised zone.

Blast Damage

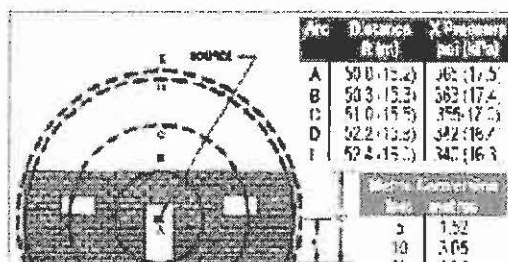
In three locations artillery shells fell quite close to the buildings at Preah Vihear. There was some shrapnel damage which has caused the phenomena described above but there is also the possibility that there was some blast damage and this will require further study. The blast waves from an explosion have been studied with regard to the building of shelters and blast proof buildings but there has been no study of the effects on dry bedded ancient structures like those at Preah Vihear. The

walls of the western wing of Gopura III were already bowing inwards but it is unlikely that any datum points were registered prior to the blast that would permit measurement that could determine whether there has been any resulting movement; however a calculation of the forces that come in to play, the distances and the mass of the wall in its present state should be possible using engineering computer models such as those used for calculating seismic stability and stress in buildings.

Effects

Obviously the immediate loss of material caused by the impact of projectiles is the most immediate and evident damage to the stone, however there is a risk of greater damage and loss in the long term due to the accelerated decay and increased exposure to agents of deterioration caused by fracture and pulverisation.

The cracks and micro-cracks provide areas of



The above diagram shows the pressure distribution model from 25 lbs of TNT with standoff distances of 50 feet and 4 feet above the ground. Masonry, designed effectively, can provide a first line of defence against blast impact.

Fig 3 Blast Assessment Data



Fig 4 Weathered Bullet Hole on a Sandstone Relief in Georgia.



Fig 5 Weathered Bullet Hole on a Devata on the Central Sanctuary at Bhuvan, Baliheng

preferential penetration for humidity and water and this will significantly increase the rate of deterioration of the stone in the immediate area of the impact. Furthermore the presence of increased humidity will favour various forms of biological colonisation which will also increase the rate of the decay of the stone.

The areas subject to pulverisation will wash out quite quickly and if they don't, will have a greater capacity for water retention than the surrounding

areas which will favour the types of decay mentioned above.

The results of these accelerated decay phenomena will be that the bullet hole, or area of impact, will continue to get larger as the decay takes develops.

Bullet holes that were examined in buildings such as the Church of the Holy Cross in Jvari (see Fig. 4) in the Republic of Georgia and also on the Central Sanctuary at Phnom Bakheng in the Angkor Archaeological Park (see Fig. 5) (both of which were the result of past conflicts and are sandstone reliefs) show that the damaged areas are now rounded and quite smooth while the bullet holes at Preah Vihear, which are relatively fresh, still show jagged and angular profiles. This indicates that the decay continues until the fractured, micro-fractured and pulverised stone has been lost and the surfaces are smooth again. The bullet holes at Phnom Bakheng also clearly show how the impact has detached the surface layer and increased penetration of water because there is a black area beside the lacuna which indicates the presence of algae which are thriving on the increased humidity in this area.

Proposals

It is proposed that, in order to address the issues at Preah Vihear following the damage caused by the impact of projectiles and to reduce the risk of damage in the future, there should be activity on two levels;

1. Emergency consolidation of the damaged areas
2. Systematic scientific research in to the materials and the phenomena specific to this case which would include:
 - a. a study of the effects of ballistics on fresh and weathered sandstone
 - b. a mineralogical analysis of the Preah Vihear sandstone,
 - c. an analysis of the properties of the fresh and weathered sandstone.

The conservation activity will reduce the risk of the decay of the areas affected by impact while the results of the research will be very useful for the mitigation of decay and damage not only in the Kingdom of Cambodia but also in other areas of the world where cultural heritage, in particular carved stone heritage, is at risk due to conflict.

Emergency Conservation Proposal

It is essential that now the first survey and documentation has been made, that an emergency conservation intervention followed by a full conservation programme is implemented as soon as possible. The emergency conservation operation is relatively simple and can be implemented by the staff of the Stone Conservation Unit of the APSARA National Authority who already made the first survey and have all the documentation.

It is important to consolidate the areas subject to pulverisation and micro-fracturing and this can be done using Ethyl Silicate with a relatively high deposit such as Remmers Funcosil 510 which is a material that is commonly use at Angkor for the consolidation of decayed sandstone and has therefore been tried and tested extensively in the tropical environment.

Once the areas have been treated with Ethyl Silicate there should be a careful programme of micro-pointing and if necessary filling and this should also be done using an Ethyl Silicate based mortar or fine wash.

It is not necessary to completely fill the bullet holes. On the one hand this would involve too much pointing material which would increase the risk of subsequent failure and detachment of the

pointing and also because these holes are already part of the history of the monument and therefore should not be hidden away but should remain visible as a historic document. This is standard practise across the world and evidence of this can be seen on building in London and Berlin.

The application of an organic hydrophobic film should not be considered, research at Angkor has recently shown that these cause more problems than they solve and are not useful in these situations. It is much more effective to carry out careful pointing and filling and to follow these up with a well managed monitoring programme to ensure that there is no alteration.

Research Proposals

Analysis of Properties of Constituent Materials

The following tests on samples of sandstone from Preah Vihear would be very useful for determining the mineral characteristics of the stone and the properties:

1. X-ray Diffraction (XRD) on a series of samples with the aim of determining the petrographic properties of the sandstone. Up to four thin sections should be tested.
2. Petrographic microscopy and/or, if possible, SEM (Scanning Electron Microscopy). Examination of the images provided by these will make it possible to delineate the empty space occupied by the pores and obtain direct information on their shape and three dimensional distribution.
3. Mercury porosimetry tests will help determine various quantifiable aspects of a material's porous nature, such as pore diameter, total pore volume, surface area, and bulk and absolute densities.
4. On site water absorption tests should be carried out with Karsten pipettes and contact sponges.
5. A small number of core samples of the sandstone should be taken to determine the density, the compressive strength and the hygric dilatation coefficient.
6. Ultra-sonic testing

Artillery Blasts

It would be useful for research and calculations to be made which could assess the forces that are generated by an artillery blast. In particular it would be useful to know how the blast will affect a dry stone structure such as a Khmer temple and to achieve a greater understanding and quantification of the vibrations generated in the ground by an artillery blast.

Projectile impacts.

It is proposed research be made in to the effects of various projectiles on a sandstone surface fired from a variety of ranges and a variety of angulations. The damage can be measured using special equipment such as porosity tests and ultra-sound testing as well as other methods suggested by engineers and experts in the field. A collaboration between the military and the conservators using weapons and blocks of stone both freshly quarried and partly decayed will again provide information that could be very useful in areas at risk of damage through conflict.

Conclusion

In summary the damage to the stonework at the Temple of Preah Vihear is quite extensive in that there are 414 impact points but the damage is essentially superficial and there is no evident risk of collapse. However the aesthetic damage to the temple is evident and regrettable and will increase if there is no conservation and consolidation programme on the impact points. The emergency conservation and indeed the full conservation can be carried out by the Cambodian conservators from the APSARA National Authority Stone Conservation Unit who have many years of experience with the methods and materials required to address these kind of conservation issues. However a budget would be required for the materials and logistics.

It would also be of great benefit both to the Cambodian Authorities and the International community in general if this regrettable incident could be used as a focus for research and study and therefore it this short report has also proposed a series of research activities which need to be developed in order to address the issues of the conservation of stone damaged in conflict and to ensure that should events like this occur here or anywhere else in the world that the conservation community is better prepared to face these problems promptly and effectively. In this way the regrettable incidents at Preah Vihear can be transformed into a forum for research, discussion and eventually publication that will provide useful indications for the wider conservation community.

Simon Warrack
ICCROM Consultant
January 2012

BBC NEWS

ASIA-PACIFIC

4 February 2011 Last updated at 15 24 GMT

'Two dead' in Thai-Cambodia military border clash

By Guy De Launey
BBC News, Phnom Penh

Thai and Cambodian forces have exchanged artillery fire in a disputed border area, with a Cambodian soldier and a Thai civilian reported killed.

The Cambodian government has called it an "invasion", while the Thai military said it was a misunderstanding.

Tension has been rising in recent days, with both sides moving in more troops.

Shells landed in the grounds of the ancient Preah Vihear temple on the Cambodian side of the border and in a Thai village.

It is the most serious incident on the border for some time.

A Cambodian government spokesman blamed the encroachment of Thai soldiers for the fighting and said a complaint would be sent to the UN Security Council.

Long-running dispute

A Thai military official insisted that artillery fire from Cambodia was the trigger. But he said it might have been unintentional.

The fighting ended after about two hours, with both sides confirming a ceasefire.

The two countries' foreign ministers had been meeting in Cambodia to discuss the long-running border dispute when the fighting started.

The Thai nationalist "yellow-shirt" movement has called on its government to take a harder line on the issue with its smaller neighbour.

It is planning a demonstration in front of Cambodia's embassy in Bangkok on Saturday.

There has been tension in the region ever since Cambodia secured the World Heritage listing of the Preah Vihear temple in 2008.

This caused joy in Cambodia, and anguish in Thailand - which once claimed the temple.

FACTBOX - Preah Vihear temple, a lightening rod for Thai-Cambodia tensions

Sat, Feb 5 2011

REUTERS - Fighting broke out between Thai and Cambodian soldiers on Friday and Saturday along a disputed stretch of their border, near the 900-year-old Preah Vihear temple.

By Saturday afternoon, both sides had reached a ceasefire.

Following are facts about the site.

-- Completed in the 11th century, Preah Vihear pre-dates Cambodia's more famous Angkor Wat temple complex by 100 years. Many say its stunning setting atop a jungle-clad escarpment overlooking northern Cambodia also eclipses its celebrated cousin as the finest of all the ruins left by the mighty Khmer civilisation.

-- Officially part of Cambodia since a 1962 World Court ruling, Preah Vihear, or Khao Phra Viharn as the Thais call it, has been accessible mainly only from Thailand. From Cambodia, landmines and Khmer Rouge guerrillas kept it off-limits for decades. Even after Pol Pot's forces surrendered in 1998, the track up the 600 meter Dangrek escarpment is so steep and pot-holed it's passable only by motorbike or heavy-duty four-wheel drive. After rain, you can forget it altogether.

-- The temple has stirred nationalist passions on both sides for generations. In the run-up to the 1962 World Court ruling, Thailand's military government organized a fundraiser in which every citizen donated 1 baht to pay for Bangkok's legal team at The Hague. It was Cambodia's bid last year to list the ruins as a World Heritage Site that sparked a flare-up in tensions. One Thai and three Cambodian soldiers died in a firefight last October.

-- Preah Vihear has witnessed its fair share of bloodshed. The Khmer Rouge occupied the site for years, and rusting artillery pieces can still be found lying amid the ruins. In June 1979, Thai soldiers forced 45,000 refugees from Pol Pot's "Killing Fields" to descend the heavily mined escarpment back into Cambodia. "Several thousand died, either shot by Thai soldiers to prevent them trying to cross back, or blown up in the minefields," British historian Philip Short wrote in a seminal biography of Pol Pot.

(Editing by Jason Szep; Editing by Sanjeev Miglani)



The New York Times*

February 6, 2011

Cambodia Asks U.N. to Act Amid Clashes With Thailand

By SETH MYDANS

SIEM REAP, Cambodia — Deepening a bitter border dispute, fighting erupted for a fourth day on Monday between Thai and Cambodian forces near a disputed 11th-century Hindu temple, and a Thailand military spokesman said the time for negotiations had passed.

The renewed fighting came a day after Prime Minister Hun Sen of Cambodia asked the United Nations Security Council to convene an urgent meeting to stop what he called Thai aggression around the temple, which the Cambodians said had been damaged by cross-border shelling. Witnesses reported shelling near the temple on Monday.

The Thai military spokesman, Col. Sansern Keowkamnderd, said that there would be “no more talks” and that Thai troops would engage in “tit-for-tat” fighting with Cambodian troops, according to the Web site of The Nation newspaper in Bangkok.

The temple is claimed by both nations and has been the focus of tension and periodic military clashes since 2008.

Each side accused the other of starting the latest fighting, which has left at least two people dead and an unspecified number wounded. No deaths were immediately reported on Monday.

“Cambodians always open fire first,” Colonel Sansern said. “We will cease fire when the Cambodians stop firing at us.”

It was not clear how seriously the temple, Preah Vihear, had been damaged. A Unesco World Heritage site, the temple was slightly damaged by shelling in the last serious clash a year ago.

"A wing of our Preah Vihear temple has collapsed as a direct result of the Thai artillery bombardment," a Cambodian military commander was quoted as saying in a statement by the Quick Reaction Unit of the Cambodian Council of Ministers.

The statement also quoted the unidentified commander as saying the Thai side had used "gas shells" as it fired 130-millimeter rounds at Cambodian soldiers, but it did not elaborate.

The dispute involves conflicting century-old maps and a ruling in 1962 by the International Court of Justice awarding the temple to Cambodia. New tensions were set off in July 2008 when Unesco named the temple a World Heritage site and placed it inside Cambodia.

Tensions along the border have become entwined in Thailand's political disputes, with the faction known as the yellow shirts accusing the government of failing to defend Thai sovereignty.

The issue has become a rallying cry in recent weeks for the yellow shirts, who have begun a sit-in near the prime minister's office.

On Sunday, Prime Minister Abhisit Vejjajiva of Thailand said the government wanted a peaceful resolution, but would defend national borders. "If our sovereignty is violated, we have to protect it ultimately," he said.

Anger was stoked last week when a Cambodian court sentenced two Thai nationalists to prison terms of six and eight years on a charge of trespassing and spying in the border region.

Passions had already been aroused in Thailand this year after the Cambodian side erected a plaque near the temple that read, in English: "Here! is the place where Thai troops invaded Cambodian territory on July 15, 2008, and withdrew at 10:30 A.M. on Dec. 1, 2010."

Responding to Thai demands, the Cambodians removed the plaque, but replaced it with another that read: "Here! is Cambodia."

Following more Thai complaints, that plaque was also removed and photographs of the shattered red and yellow tablet were displayed in the Thai press.

Cambodia Demands to Apply the Convention for the Protection of Cultural Goods in Case of Armed Conflict

Phnom Penh, February 9, 2011 AKP –

Cambodian Deputy Prime Minister H.E. Sok An, Minister in charge of the Office of the Council of Ministers and President of National Commission of Cambodia for UNESCO has sent a letter to UNESCO Director General Mrs. Irina Bokova, demanding the application of the Convention for the Protection of Cultural Goods in Case of Armed Conflict, The Hague, 1954.

The full letter dated Feb. 7 reads as follows:

Mrs. Irina BOKOVA
Director General of UNESCO
PARIS

Phnom Penh, 7 February 2011

Subject: Urgent demand to apply the Convention for the Protection of Cultural Goods in Case of Armed Conflict, The Hague, 1954

Excellency,

I refer to my letter dated February 5, 2011. It is with deep sorrow that I find myself obligated to inform urgently Your Excellency of new attacks by the Thai armed forces against the Temple of Preah Vihear in spite of a series of negotiations between Khmer and Thai military officials.

These successive new large scale attacks by Thai troops against targets around the Temple of Preah Vihear and the sacred site of the Temple of Preah Vihear have caused, according to early assessment, significant damages to the Temple itself and in particular to Gopuras I, III, IV and V which were seriously damaged by Thai heavy artillery shelling on February 6, 2011.

We fear that other parts of the World Heritage Site will be damaged by Thai forces which continue to target it with artillery shelling.

The Royal Government of Cambodia considers that Thailand, a State Party to the 1954

Convention for the Protection of Cultural Goods in Case of Armed Conflict, is in breach of Article 4.1 of the Convention and solicits Your Excellency immediate intervention in accordance with articles 21, 22 and 23 of the Convention.

In this context, the Royal Government of Cambodia requests that an urgent meeting of the Countries responsible for the protection or their representatives be convened including, in particular, representatives from the Kingdom of Cambodia and Thailand who are responsible for the protection of World Heritage sites. The objective will be to organize the protection of the Temple of Preah Vihear which is in grave danger of total destruction by Thai armed forces.

The Royal Government of Cambodia would welcome technical assistance from UNESCO to organize the protection of the sacred site of the Temple of Preah Vihear with the fielding of a group of experts to assess damages to the Temple and to take appropriate actions including the participation of UN military observers.

Please be assured, Excellency,
of my high consideration.

President of National
Commission of Cambodia for
UNESCO
Deputy
Prime
Minister

The New York Times*

February 7, 2011

Cambodians Are Evacuated in Temple Feud With Thais

By **SETH MYDANS**

THNAL BEK, Cambodia — Refugees clustered around cooking fires at a schoolhouse here as Cambodia and Thailand prepared for the possibility of further violence after a fourth day of shelling on Monday at their disputed border.

The Cambodian Army cleared out military vehicles and construction equipment and evacuated villagers from the foot of a steep cliff that is the site of an 11th-century Hindu temple claimed by both sides.

The dispute involves a century-old French colonial map, a ruling by the International Court of Justice and a decision in 2008 by Unesco, the cultural arm of the United Nations, to list the temple, Preah Vihear, as a Cambodian World Heritage site.

It has become tangled within the complex knot of Thai politics, as well as simmering enmity between the two neighbors that has erupted into violence near the temple several times since the World Heritage listing.

The current fighting is the most sustained engagement between the two nations. As many as a total of five civilians and soldiers have been killed on both sides, according to Thai and Cambodian news reports.

Cambodia urged the United Nations to send peacekeepers to the border area on Monday, one day after asking the Security Council to convene an urgent meeting to “stop Thailand’s aggression.”

“We will go to the Security Council whether you like it or not,” Cambodia’s prime minister, Hun Sen, said in a speech on Monday, addressing his counterparts in Thailand. “The armed clash is threatening regional security.”

Thailand has always taken the position that the dispute is a bilateral issue and that there is no need to involve outside organizations.

The Thai Foreign Ministry sent its own message to the Security Council on Monday formally protesting what it called "repeated and unprovoked armed attacks by Cambodian troops."

Each side has accused the other of initiating the conflict and of shooting first in each exchange of shelling.

"Thai soldiers had no choice but to exercise the inherent right of self-defense," said Thailand's prime minister, Abhisit Vejjajiva.

The Cambodian government said Thai shelling had damaged part of the temple, but reporters were barred from the conflict area and the report was impossible to verify.

Late Sunday, the United Nations secretary general, Ban Ki-moon, said in a statement that he was "deeply concerned" by the fighting and urged both sides "to exercise maximum restraint."

In the dispute, each side offers a different interpretation of a French colonial map drawn up at the beginning of last century.

The temple is most easily accessible on the Thai side. On the Cambodian side, it can be reached only by a narrow road cut into a steep cliff.

In 1962, the International Court of Justice ruled that the temple belonged to Cambodia.

The Christian Science Monitor - CSMonitor.com

Thailand-Cambodia clashes continue, but Bangkok insists mediation 'not necessary'

Calls for intervention have met firm rejections from Bangkok, even as Thailand-Cambodia clashes that have already killed 10 people continued into their fourth day.



A Thai man walks through a bomb crater near Sisaket, Thailand, near the border with Cambodia, Monday, Feb. 7. Troops of Cambodia and Thailand continue to clash near the 11th century Preah Vihear temple, a world Heritage site on the Cambodian side of the border (AP Photo)

By Simon Montlake, Correspondent
posted February 7, 2011 at 10:04 am EST

Bangkok, Thailand

As fighting between Thai and Cambodian troops along a disputed land border entered a fourth day, Indonesia's foreign minister flew Monday to Cambodia for crisis talks. At least 10 people have died since clashes began Friday, forcing the evacuation of thousands of villagers on both sides of the border.

While the US and other countries have urged restraint by both sides, Cambodia has asked the United Nations to act over what it calls "flagrant aggression" by Thailand. UN Secretary-General Ban Ki-moon said in a separate statement that he was "deeply concerned" by the violence and that the UN stood ready to assist.

But calls for outside intervention have been met with firm rejections by Thailand, which has repeatedly insisted that bilateral talks are the best way to resolve the crisis. "We feel that mediation by outside

parties is not necessary," says Thani Thongpakdi, a spokesman for Thailand's Foreign Ministry.

Indonesia holds the rotating chair of the Association of Southeast Asian Nations (ASEAN), of which both Thailand and Cambodia are members. Indonesian Foreign Minister Marty Natalegawa met Monday with his Cambodian counterpart and is scheduled to arrive in Bangkok on Tuesday for similar talks. Mr. Thani described the visit as a fact-finding mission.

ASEAN's secretary general, Surin Pitsuwan, a former Thai foreign minister, has urged the rival armies to calm tensions and warned that instability could affect member economies. In a statement on Saturday, he offered to help broker a temporary truce.

But ASEAN is unlikely to play a proactive role in resolving this or other bilateral disputes, even if Thailand shifted its position, say analysts and diplomats. The organization lacks any mechanism for mediation or monitoring ceasefires and has long shied away from sensitive issues that could divide its members, who range from democracies to dictatorships.

"It's toothless and it doesn't have much influence, either officially or unofficially, so it won't play a role," says Paul Quaglia, director of PSA Asia, a security consultancy in Bangkok.

The latest Thai-Cambodian border clashes are among the most serious since 2008, when Preah Vihear, an 11th century Khmer temple, became a nationalist rallying cry for both countries. Cambodia, which won sovereignty over the temple in 1962, successfully sought its listing by UNESCO as a World Heritage Site in 2008, angering Thai nationalists who said the surrounding area belonged to Thailand. Troop buildups on both sides have since choked off tourist arrivals to the temple.

Thai nationalists have accused Prime Minister Abhisit Vejjajiva of failing to enforce Thai claims along the border. Thousands of protesters have camped out in central Bangkok calling for his resignation and pressing for the return of two Thai nationalists jailed in Cambodia after being convicted last week for illegal entry and spying. Analysts say it's unclear if the clashes will boost the protests, which have so far failed to attract large crowds.

Cambodia said Sunday that Thai artillery shells had damaged part of the temple, contemporaneous with the better-known Angkor Wat temple complex some 150 miles southwest. Both sides have accused each other of sparking the conflict. In its letter to the UN Security Council, Cambodia accused Thai troops of staging a raid into Cambodian territory on Friday.

The New York Times

February 9, 2011

Pause in Fighting Over Temple Between Thailand and Cambodia

By SETH MYDANS

PREAH VIHEAR, CAMBODIA -- Thai and Cambodian soldiers watched each other across a narrow, forested ravine Tuesday during a pause in some of the fiercest fighting in years in a lingering border dispute.

On one side stood the ancient cliff-top temple that is the focus of their dispute, where a few nicks and chips from artillery fire added new blemishes to some of its collapsing walls and pillars.

The Cambodian soldiers who occupy the 11th-century temple stand almost within shouting distance of a lookout post flying a Thai flag at the highest point across the ravine.

From Friday through Monday morning, the two sides exchanged artillery and rifle fire that by various reports took at least seven lives and left dozens of soldiers and civilians wounded.

It was the most sustained engagement since the current dispute began, in July 2008, after Unesco designated the temple a World Heritage site under the management of Cambodia.

Troops on both sides remained on alert Tuesday, and their governments remained hostile in a confrontation that has drawn pleas for peace from the United Nations and other Southeast Asian countries.

"I don't know what is going to happen," said a Cambodian intelligence officer in a shed near the front lines. "But if they come, we'll fight."

Across the surrounding hillside, cracked boulders, broken trees and a wide swath of blackened ground were evidence of a heavy barrage of artillery and the fires it caused.

Like other officers and soldiers in both armies, the officer, Capt. Sam San, 45, said the other side had fired first.

"We shouted at them, 'Don't enter Cambodia, or we'll fight.'" But, he said, they came anyway, into an area the Thais consider their own.

The temple, which is known as Preah Vihear in Cambodia and as Khao Phra Viharn in

Thailand, looks out from the edge of a steep escarpment over a wide area of northern Cambodia. At its front entrance, away from the cliff, is Thailand, and, until the fighting, most visitors entered from the more accessible Thai side.

After the engagement last weekend, the portion of the temple closest to Thailand showed the marks of the fighting, with chips and chunks cut out of a column and of a wall of the fourth gopura, or entrance building, along the temple's causeway.

A trail of blood through a carved stone doorway traced the last steps of a Cambodian soldier who was killed.

At the fifth and last gopura, chips from the walls were scattered on the ground, along with the tail fins of a rocket. There was no sign of the collapse that the Cambodian government had claimed.

Troops sat perched on the tumbled stones of the ruin, and a sniper rifle was concealed under a rock. A large placard nearby reads: "Cambodian National Commission for UNESCO."

Three yellow packets of dried noodles lay at the foot of a chipped wall. A soldier said they were an offering to the soul of a photographer who had sold pictures to tourists and been killed in the shelling.

A young monk walked down an empty causeway, his bright orange robe glimmering against the gray stone.

"The ground was shaking, and the bunker almost fell in on us," said the monk, Lon Seng Ly, 19, who lived with five other monks at a small contemporary temple halfway down the cliff on the Cambodian side.

"We had to lie down," he said, describing the days of bombardment. "The sound almost blew out my ears."

His temple, Keo Sikha Kiri Svarak, is part way down the winding road to the Cambodian countryside in an area that is also claimed by Thailand. Its loss would cut Cambodia's access to Preah Vihear.

One apparent catalyst for the latest round of violence was Thailand's demand that Cambodia remove its flag from beside the temple.

The temple, which is constructed of wood planks, and the rocks that surround it on the mountainside were riddled with the marks of shrapnel. Rifle fire had defaced a temple inscription and chipped a statue of Buddha.

Perched on top of the monks' bunker, reinforcing it with new sandbags, a Cambodian soldier pointed across the ravine at the Thai flag and said, "That's Thailand." Then he pointed to the Cambodian flag that still flies above a temple archway and said, "This is Cambodia."

ASEAN to send monitors to Thai-Cambodia border

AP foreign, Tuesday February 22 2011

NINIEK KARMINI

Associated Press= JAKARTA, Indonesia (AP) — Foreign ministers from Southeast Asia said military observers will be sent to the Thai-Cambodian border to enforce an unofficial cease-fire to end clashes near a disputed 11th century temple.

Each country has accused the other of starting the conflict and until now disagreed on how it should be settled.

But Cambodian Prime Minister Hun Sen and his Thai counterpart, Abhisit Vejjajiva, approved a proposal Tuesday to send up to 40 military and civilian observers — all from Indonesia — to the remote, mountainous area.

At least eight people have died and thousands have been displaced by the recent fighting.

THIS IS A BREAKING NEWS UPDATE. Check back soon for further information.
AP's earlier story is below.

JAKARTA, Indonesia (AP) — Foreign ministers from Southeast Asia held emergency talks Tuesday on how to end a deadly standoff between Cambodia and Thailand near a disputed 11th century temple.

Each country has accused the other of starting the conflict — which has left at least eight people dead and displaced thousands — and disagree on how it should be settled.

Cambodian Prime Minister Hun Sen earlier demanded a cease-fire — an idea Thailand flatly rejected — but appeared to back off Tuesday saying he'd settle for the deployment of military observers to the remote, mountainous area.

While heading into talks with the two countries and the eight other members of the Association of Southeast Asian Nations, Indonesian Foreign Minister Marty Natalegawa said the only thing off the table was more fighting.

"We are meant to resolve our problems through negotiations," he told reporters.
"We are waging peace. That's what we are doing, not waging war so that no more

guns and artilleries make a sound in our region."

The conflict that erupted earlier this month — resulting in exchanges of small arms, mortars and artillery fire — is rooted in a decades-old border dispute near the Preah Vihear temple that has fueled nationalist passions on both sides.

The monument, which was built between the 9th and 11th centuries and sits atop a 1,722

-foot (525-meter) cliff, was awarded to Cambodia by the World Court in 1962, but sovereignty over adjacent areas has never been clearly resolved.

Skirmishes have erupted several times since 2008, when Preah Vihear was awarded U.N. World Heritage status, but soldiers and locals say none has been as violent as the latest clash.

The U.N. Security Council expressed "grave concern" Monday and gave strong backing to the efforts of ASEAN — which usually refrains from interfering in the internal affairs of member states — to help end the dispute.

Natalegawa indicated the regional grouping was ready to step in and stand firm.

"I would like to make it absolutely clear that ... the option of conflict, the option of use of force, is not meant to be on the table," he said.

In the Cambodian capital, Phnom Penh, Hun Sen told university graduates he was ready to back off calls for a cease-fire, which would require a perhaps lengthy approval by the Thai parliament, if Bangkok agreed to the deployment of military observers.

"Signing a cease-fire is not necessary, but the arrival of observers ... is what's most important," he said, adding monitors would be welcome to all areas inside the Cambodian border, from the front lines to military camps and ammunition warehouses.

"They can inspect wherever and whenever they want."

While Hun Sen's has sought to shift the debate to an international stage, his Thai counterpart, Abhisit Vejjajiva, has pressed hard for a bilateral solution so it was not immediately clear what sway the Southeast Asian ministers might have.

Associated Press reporter Sopheng Cheang contributed to this report from Phnom Penh.

VOV Online

Cập nhật : Chủ Nhật, 27/02/2011 - 8:40 AM

Indonesian officers visit disputed Thai-Cambodia area

A five-member Indonesian military team visited the disputed Thai-Cambodian border area on February 26 to pave the way for deployment of Indonesian observers in the region, a senior Cambodian defence official said.



Gen. Neang Phat, Deputy Minister of the National Defense of Cambodia, told Kyodo News by telephone that the Indonesian advance team visited the ancient temple of Preah Vihear and the surrounding area to find a suitable location for deployment of observers who will monitor the implementation of a ceasefire agreement between Cambodia and Thailand.

He expressed his hope that the Indonesian observers will start their work soon.

At an ASEAN foreign ministers' meeting in Jakarta on February 22, Thailand and Cambodia agreed to invite Indonesia, which is the current ASEAN Chair, to send observers to monitor the long-term ceasefire agreement between the two neighbours.

Indonesian Foreign Minister Marty Natalegawa said Indonesia will dispatch two separate teams to Cambodia and Thailand, each consisting of 15 to 20 military personnel and civilians.

In related news, the Cambodian news agency AKP quoted Prime Minister Hun Sen at a annual meeting of the Ministry of Home Affairs on February 25 saying that he suggested

Indonesia maintain its role as an observer until Cambodia takes over the rotating ASEAN Chair in 2012.

VNA/VOVNews

The New York Times*

April 28, 2011

Thai and Cambodian Military Commanders Agree on a Cease-Fire

By SETH MYDANS

BANGKOK — Thai and Cambodian military commanders agreed on a cease-fire Thursday after seven days of fighting that took at least 15 lives and displaced tens of thousands of civilians, the Cambodian government announced Thursday.

However, the Thai Army spokesman, Col. Sansern Kaewkamnerd, said no official deal had been reached. Some Thai officers were quoted as saying they would wait overnight to assess the situation.

The fighting over the past week focused on two ancient stone temples about 160 kilometers, or 100 miles, west of the Preah Vihear temple, where a dispute over territory has caused armed clashes since Unesco awarded it World Heritage status under Cambodian administration in 2008. The World Court ruled in 1962 that Preah Vihear belonged to Cambodia. Both sides lay claim to a 4.6-square-kilometer, or 1.7-square-mile, area next to the temple.

The cause of the latest round of fighting was unclear, and each side has blamed the other for starting and prolonging it.

As part of the cease-fire, both sides agreed to reopen a border checkpoint near the two temples, Ta Moan and Ta Krabey, that have been the scene of the recent clashes, said Phay Siphon, spokesman for the Office of the Council of Ministers of Cambodia. He also said they agreed to allow displaced people to return to their homes.

"We will abide by the cease-fire from now on, and local commanders will meet regularly to avoid misunderstanding," he said in Phnom Penh.

The Thai regional commander, Thawatchai Samutsakorn, was quoted by Reuters as saying,

"The declaration on the Cambodian side is a good sign. Let's try to enforce it."

The prime ministers of both nations have said they are ready to negotiate a peace agreement, but they have differed over the venue and timing of a meeting. Cambodia has sought international help in brokering a truce, but Thailand insists that the conflict is a purely bilateral matter.

While each side has accused the other of starting the battles, the conflict has been connected from the start with the long-running political crisis in Thailand, with nationalists accusing the government of failing to protect Thai territory.

The latest engagement, some analysts say, reflects the agendas and ambitions of the politicized Thai military, seeking to assert its influence and leverage in advance of a parliamentary election expected in June or July.

"It's a good way for the military to take a powerful position in politics," said Pavin Chachavalpongpun, an specialist on Thailand at the Institute of Southeast Asian Studies in Singapore.

The election is likely to bring renewed tensions to political conflicts that flared into violence a year ago, when the so-called red shirt protesters attempted to unseat the government. Their prolonged protests were crushed last May by the military in street battles in which about 90 people were killed.

The Thai military staged a coup in 2006 and has played a powerful role behind the scenes since civilian rule was restored in 2007. In the coming election, a military-backed government led by the Democrat Party is being challenged by parties broadly aligned with the red shirt opposition.

The Thai foreign minister, Kasit Piromya, headed to Jakarta on Thursday to discuss the clashes with Marty Natalegawa, the foreign minister of Indonesia, which holds the annual chairmanship of the Association of Southeast Asian Nations and has offered to mediate. The Thai military has rejected an offer by Indonesia to provide military observers to keep the peace along the border.

On Wednesday, the Thai defense minister, Prawit Wongsuwan, withdrew from planned cease-fire talks with his Cambodian counterpart, Tea Banh. The reason given by a Thai Army spokesman was that news reports in Cambodia had portrayed the talks as a sign that Thailand was surrendering.

"The military is going solo," said Mr. Pavin, the Thailand specialist. "In many ways, it shows how useless the Foreign Ministry is. Basically it has been taken over by the military."

The New York Times*

May 8, 2011

Southeast Asia Talks Leave Two Key Issues Unresolved

By AUBREY BELFORD

JAKARTA, Indonesia — A meeting of Southeast Asian leaders ended here on Sunday with two significant issues unresolved, which led some analysts to question the leaders' ability to confront entrenched problems.

The meeting of the Association of Southeast Asian Nations failed to make progress in resolving the deadly border dispute between Thailand and Cambodia. In addition, the meeting ended with the question left open of whether Myanmar would assume the organization's rotating chairmanship.

Myanmar, formerly Burma, had asked to take up the chairmanship in 2014, which would end an arrangement in which the nation has been skipped over because of concerns over its authoritarian government and poor human rights record.

Civic groups and some elected officials in the region have criticized the proposal. Human Rights Watch said last week that a chairmanship for Myanmar would reduce the regional bloc, known as Asean, to "the laughingstock of intergovernmental forums."

Bantarto Bandoro, a professor of international relations at Indonesia Defense University, said the failure to move forward on either issue reflected a broader pattern in which Asean members had been unwilling to tackle contentious issues. This, he said, has blunted the organization's ambitious plans to create a regional political and economic community that would include free trade by 2015.

"The problem is that Asean has a limitation in solving the problems that its members have because of the principle of noninterference," Mr. Bantarto said. "If Asean continues to keep this so-called sacred principle of noninterference, then I have some pessimism that Asean will be able to solve problems in the future."

In an attempt to resolve the border dispute, Prime Minister Abhisit Vejjajiva of Thailand and his Cambodian counterpart, Hun Sen, met on the sidelines of the meeting in talks facilitated by President Susilo Bambang Yudhoyono of Indonesia.

The negotiations appeared to yield little other than an agreement for the two countries' foreign ministers to remain in Jakarta for one more day of talks. The dispute, which centers on competing land claims near the ancient temple of Preah Vihear, has cast doubt on efforts toward greater political and economic integration.

Sporadic clashes between Thai and Cambodian troops in recent weeks have left 20 people dead and forced 100,000 to flee their homes. It is the deadliest recent flare-up in the long-running dispute. After their meeting, each prime minister accused the other of standing in the way of a resolution.

The tensions between the two nations largely overshadowed the two-day talks among leaders of the 10-member regional bloc. Issues like food security, territorial disputes in the South China Sea and the admission of East Timor as a member were on the agenda.

A spokesman for Mr. Yudhoyono, Teuku Faizasyah, said the agreement for another day of talks between Cambodia and Thailand showed the relevance of Asean as a forum. "They will sit together to hammer out some possible breakthroughs — not really breakthroughs, the way I see it, but how to make progress on the stalemate between them," he said.

The New York Times

July 18, 2011

U.N. Court Orders Troops From Temple on Thai-Cambodian Border

By THOMAS FULLER

BANGKOK — The top judicial body of the United Nations on Monday sought to defuse tensions at a Southeast Asian flash point, ordering Cambodia and Thailand to withdraw troops from a disputed temple and establishing a demilitarized zone along their mountainous border.

The two countries have fought each other numerous times in recent years near Preah Vihear, an ancient hilltop temple that stirs nationalist sentiments in both countries.

The court order to “immediately withdraw” military personnel from around the temple was an international legal obligation “with which both Parties were required to comply,” according to a statement released by the International Court of Justice in The Hague. Judges at the United Nations court ruled, 11 to 5, in favor of the withdrawal and established a demilitarized zone approximately 4.5 miles by 2.5 miles.

Thailand’s acting foreign minister, Kasit Piromya, told reporters in The Hague that the Thai government would comply with the order. “We are satisfied that the withdrawal of troops is applicable to both Cambodia and Thailand,” he said, according to the Reuters news agency.

Cambodia’s foreign minister, Hor Namhong, praised the decision, Reuters reported. “This map means there will be a permanent cease-fire,” he said. “It will be tantamount to the cessation of aggression of Thailand against Cambodia.”

Despite the ruling, a resolution to the conflict still seems far off.

The long-running border dispute has been poisoned by domestic politics in both Thailand and Cambodia. One political faction in Thailand accused the other of selling out to Cambodia, a historical rival.

Yet protests by Thai nationalists failed to gain traction and petered out earlier this month. And Suwit Khunkitti, a Thai government minister who had based a recent election campaign on Thailand's rights to the temple, failed to win a seat in the July 3 election.

Mr. Suwit, the acting minister for natural resources and the environment, said Monday that he disagreed with the verdict and that Thailand did not "have to follow it if it is a violation of the country's sovereignty."

The court on Monday also said it would pursue a "request for interpretation" on a previous judgment over the crucial question of who controls the temple and, possibly, the surrounding area. In the meantime, the court said, observers from the Association of Southeast Asian Nations should be allowed into the demilitarized zone.

Thailand's July 3 election has held out hope for a détente between the two countries. The victory of the party allied to Thaksin Shinawatra, the former prime minister, were welcomed by the Cambodian leader, Hun Sen, who once hired Mr. Thaksin as his economic adviser. But that election result has yet to be confirmed by Thailand's election commission and is being challenged in the courts.

The dispute over the temple has its roots in the period when French colonizers controlled what is modern-day Cambodia. In the early 1900s, French surveyors traced the border line along the watershed of the Dangrek mountain range, but deviated from the watershed at Preah Vihear, placing the temple inside Cambodia. It was an awkward demarcation because of the temple's location on a bluff more easily accessed from Thailand.

But Thailand's government made no protest at the time and used the French maps as their own, according to a judgment by the International Court of Justice in 1962. That judgment established that the temple should be inside Cambodian territory. But the ruling did not address the sovereignty of the land surrounding the temple, which is the subject of the ongoing dispute.

Temple conflict isn't over; observers are still needed

Jim Della-Giacoma, The Nation | 23 Feb 2012

The Association of Southeast Asian Nations (Asean) looked to be on the cusp of making history when its foreign ministers met on February 22, 2011 to discuss the unprecedented fighting between two member states. Thailand and Cambodia were exchanging enough artillery fire around the disputed Preah Vihear temple for some to call it a war.

Indonesia convened the ministers' meeting in an activist moment of preventative diplomacy that made a ground-breaking decision to deploy observers to monitor the ceasefire. But a year later, with no boots on the ground, this hollow victory has left Asean looking weaker, raised questions over whether the conflict is really over, and left a cloud over Thailand's international reputation.

It was the civilian Abhisit government that approved the observers ahead of the meeting, and then foreign minister Kasit Piromya who subsequently announced that Thailand would welcome the deployment of Indonesian monitors, but it did not take long for this sweet regional diplomatic triumph to turn sour.

The Thai military spoiled the moment by blocking them on the grounds that having foreigners on its soil would be an affront to national sovereignty.

In the face of such a strong sense of nationalism, it is now a hard case to make that Thailand should live up to its obligations made a year ago and allow the deployment of observers.

Within Asean itself, many have given up on this idea. There is little traction for such arguments in Bangkok that Thailand should worry about its international reputation when the political culture is so inward looking. But until observers are there, it remains on the record that Thailand is undermining the UN Security Council, ignoring Asean, and defying an order of the International Court of Justice, none of which are the mark of international good citizenship.

Undoubtedly, the calculation has been made in Bangkok that giving in to the powerful military's nationalistic arguments about "sovereignty" trumps the benefits of following international law. But Thailand should try to resist such rogue tendencies and aspire to think of the longer-term consequences of its actions. As a member of a regional economic community with growing common interests ahead of the 2015 integration deadline, it should act the way it wants others to behave the next time Thailand has an agenda to advance that requires cooperation from its neighbours.

Times are changing and Asean's borders will soon be more like zones of economic cooperation and trade rather than Cold War battle lines.

With the guns silent and the General Border Committee and Joint Border Committee having recently met, some now see monitors as redundant and argue that the problem is solved and best left as a bilateral matter. But such pragmatism is too myopic and it misses the larger

significance of the February 22 meeting as a precedent for how Asean can address future conflicts. It also denies the fact that the dispute is actually still unresolved. While this is the case, the border issue is out there and susceptible to future manipulation for domestic political purposes. Until definitively demilitarised, a formal ceasefire in place, and border demarcation resumes, it cannot be assumed that it is impossible for fighting to restart. Asean needs to have a working political mechanism to avoid flare-ups and solve such conflicts, as well as the means to properly monitor any agreements. In this context, observers are invaluable, including as an early warning system.

The inability to follow through with an agreement has undermined the credibility of the regional grouping. It also puts a question mark over Thailand's commitment to the regional body and important concepts such as the rule of law that should govern it. The July 2011 order of the International Court of Justice creating a provisional demilitarised zone was legally binding on Thailand and Cambodia. The court delegated the Asean observers to be its eyes and ears on the ground until it could hear the substantive case on the request for an interpretation on its 1962 ruling on the border around the Preah Vihear temple.

Thailand does have something to gain from allowing observers to deploy. It could help stop further internationalisation of the conflict. To defy this order so blatantly shows unnecessary disrespect for international institutions but also risks bringing the matter back to the UN Security Council, which acts like a court of last resort in these cases. Monitors would create a sense that all sides are being watched, which would encourage all sides to be on their best behaviour. The Thais have claimed in the past that the Cambodian military has been provocative, and monitors could provide the evidence of such alleged transgressions. They could help solve often-controversial claims and counter-claims about who shot first.

In the end, we cannot start to think the conflict is over until observers are on the ground. The history of this conflict since 2008 is one of many meetings, expressions of goodwill, and statements of friendship often followed within hours by the boom of artillery and the retort of rifle fire. There is no certainty this dispute is on the way to being resolved until the two parties start to dramatically change and stop deploying their armies against each other on their shared frontier. The deployment of observers would change the pattern of behaviour and be a clear sign that it is no longer business as usual on the border.

Jim Delia-Giacoma is the South East Asia Project Director of the International Crisis Group. Its report, "[Waging Peace: Asean and the Thai-Cambodian Border Conflict](#)", is available now.

The Nation



Waiting for RI Observers at Preah Vihear

Jonathan Prentice, Brussels | Opinion | Sat. March 17 2012 11:51 AM

A year ago, Cambodia and Thailand fought a series of short but nasty skirmishes along their joint border. Efforts to reduce tensions through the deployment of Indonesian observers remain stillborn; one year on there are no observers and on the Cambodian side there is just a lone man with Indonesian and ASEAN flags blowing in the breeze.

The dispute, centered on the emblematic Preah Vihear Temple — in Cambodian territory but down the years oft-claimed by Thailand — was serious enough to seize the attention of the UN Security Council.

It also triggered signs that ASEAN wanted a more proactive role in ensuring stability in its region. This optimism, however, has given way to stasis and further questioning of the organization's ability to look after its own backyard.

Earlier this month, I met an official from Cambodia's National Task Force whose job is to prepare the ground for the observers' arrival.

After I traveled four hours north from Siem Reap, home of the famous Angkor ruins, he picked me up in his new Mitsubishi flat bed with ASEAN logo decals and license plate: IOT 3.

IOT is for Indonesia Observer Team. Under the terms of reference signed by Cambodia in May 2011 ahead of the ASEAN Summit in Jakarta, there were to be 15 Indonesian soldiers and civilians on either side of the border.

Thailand has not signed the agreement and it never came into force. Then foreign minister Kasit Piromya initially announced Bangkok's agreement to the observer mission's deployment but objections from the military caused the historic deal to falter.

First, Thailand quibbled over the team's location, their name, their diplomatic status and what they would wear. Then Thai generals said they would not accept Indonesian soldiers in uniform on their soil as it was an affront to their sovereignty.

A special meeting convened by President Susilo Bambang Yudhoyono on the sidelines of the summit could not remove the roadblock. A July 2011 decision of the International Court of Justice ordering their deployment was ignored.

The narrow interests of the Thai military trumped ASEAN's potential collective goal of coming up with a working mechanism to deal with violent conflict within its own membership.

Back in Cambodia's far north, on the border near Preah Vihear, bored Cambodian soldiers stare across the valley at their Thai counterparts; who seem, likewise, to have little else to do but in turn stare back. To occupy their time they eat, sleep, converse, play cards; it is too brutally hot to exercise. Some say they just want to go home.

After visiting the World Heritage temple site, we visited the empty headquarters of

the ASEAN Mission for Cease-Fire Observation. The red and white Indonesian flag is everywhere. Had the Indonesians arrived, I asked?

No. What did my guide do all day? He waited for the Indonesians, was the response; he did not expect them anytime soon. This poor fellow, originally from Kompong Cham, Cambodia's border province with Vietnam many miles away, was like a sad facsimile of a character from a Conrad novel — sent out to the back of beyond by his bosses and, perhaps, forgotten.

A few days after my visit, on March 5, Cambodian Foreign Minister Hor Namhong and his Indonesian opposite number Marty Natalegawa met in Phnom Penh and reportedly discussed the IOT, but most officials in the capital seemed to want to forget about this problem in the year that is Cambodia's turn to chair ASEAN, and as Phnom Penh's efforts to secure a temporary seat on the UN Security Council intensify. Such is his life that my friend from the National Task Force waits for something that may never arrive.

But even if they were deployed, the observers would only solve part of the problem, as their area of operations only covers Preah Vihear and its environs, particularly the almost 18 square km provisional demilitarized area created by the ICJ decision.

Around 150 km to the west, troops from both countries face off against each other around the more obscure temples of Ta Moan and Ta Krabei. They are heavily armed, well dug-in, and so close that at Ta Moan they even share the same shade from the trees.

This is not sustainable — it is simply too risky that firefights could be triggered, even if only accidentally. Visiting Ta Moan, it was difficult to accept that Thailand and Cambodia, under the ASEAN umbrella, had sworn undying friendship toward each other.

The world's focus has shifted elsewhere, but here on this disputed frontier the conflict continues. The week before my visit gunshots terrified the residents of a nearby town; they turned out only to be soldiers shooting harmlessly into the air — last year's fighting suggests such noises might not always be so benign.

But rather than wait for the conflict to reignite and cause problems again for Cambodia, Thailand and ASEAN, there is a first step that could be taken toward preventing future misunderstandings and violent conflict — deploy the observers.

The flags are flying, the maps are posted, vehicles are fueled and, on the border, there is a lonely Cambodian official ready and waiting to provide a welcome.

The writer is the senior policy advisor at the International Crisis Group based in Brussels.

NATIONAL

Briefing

Radio Station Owner Still Free After Return

Mam Sonando, the owner of the independent Beehive Radio station, arrived back in Phnom Penh late Thursday night, despite having been accused by Prime Minister Hun Sen of involvement in a so-called "secessionist" movement. Mr. Sonando had been in the U.S. since March. "I didn't have any problems [entering the country]," Mr. Sonando said on Friday. "I am not worried or anything, as I have done nothing wrong," he said. In a speech last month, Mr. Hun Sen linked Mr. Sonando to the so-called secession in Kratie province in May, during which more than 200 armed security personnel raided Broum village, evicted 600 families and shot dead a 14-year-old girl. Mr. Sonando said the accusations were baseless and that he had returned to "clarify" the situation. "If there is an accusation, I have to clarify that accusation," he said. "But I am worried that people who have a problem will be asked to frame me," he added. (Phnom Bopha)

Union Members Beaten During Factory Protest

Three union members were beaten by a gang of men during a protest outside a factory in Phnom Penh's Dangkae district on Friday, the Coalition of Cambodian Apparel Workers Democratic Union (CCAWDU) said. CCAWDU members Nei Buthoem, Chin Khueang and Chan Pocu, were beaten by a gang of 15 men while protesting against the firing of three union representatives last month from the Hai Yon shoe factory in Dangkae district's Choan Chao commune, CCAWDU Director Ath Thom said. "Mr. Buthoem said he has bruises on both his cheeks and has to stay home for a few days, but the other two men also had their teeth broken and have injuries to their heads," Mr. Thom said. "They said that they still want to continue striking," he added. A representative from Hai Yon denied that the factory was in any way involved in the attack on the strikers. "If it really happened this morning, there was no one but the gangsters involved, because we were inside and didn't know what was happening," the factory representative, who declined to give his name, said. (Leng Len)

Pilot Unaware of Shots Fired at Thai Aircraft

By SIMON MARKS
AND PHORN BOPHA
THE CAMBODIA DAILY

The captain in charge of a Bangkok Airways aircraft that was shot at by a Cambodian soldier Wednesday night had no knowledge of the danger his flight was in when it was targeted by anti-aircraft fire, a spokesman at the airline said Friday.

"Our pilot was not aware shots were fired until the news broke out," Passapong Jirawattanasak, chief of regional corporate communications for Bangkok Airways, said from Thailand.

He said the plane in question was an ATR twin-engine turboprop that was carrying 70 passengers at the time of the shooting. No one in the aircraft was aware of the gunfire, Mr. Jirawattanasak said.

"[T]he PG913 flight, which was

due to arrive at Siem Reap Airport at 1450hrs had to return to Suvarnabhumi Airport as it was unable to land due to bad weather at Siem Reap Airport," he said.

The Ministry of Defense on Friday released a statement saying it was investigating the incident but had not yet arrived at any conclusions. It also ordered media outlets to stop reporting on the incident until the government produces its own findings.

"Cambodia has no reason to cause damage or disturb the safety of a civilian flight. However, the Ministry of Defense is on duty and within its rights to assure the sovereignty of Cambodian airspace so that it is not invaded," the ministry continued in the statement.

Military officials in Banteay Meanchey, where the shooting occurred, said a soldier had spotted the plane

flying in circles over the border area and had fired 18 warning shots from a heavy machine gun because he suspected the aircraft was a Thai military spy plane.

The shooting took place just ahead of an announcement by Cambodia on Friday that it would pull troops out of disputed territory around Preah Vihear temple next week.

Thailand and Cambodia have traded gun, rocket and artillery fire in the past several years—leading to deaths and injuries on both sides—over competing claims to border territory.

Prime Minister Hun Sen and Thai Prime Minister Yingluck Shinawatra also held talks in Siem Reap City on Friday. Relations between the two countries have warmed significantly since Ms. Yingluck came to power midway through 2011.

Cambodia to Withdraw First From Preah Vihear

By KUCH NAREN
THE CAMBODIA DAILY

Foreign Affairs Minister Hor Namhong announced Friday that Cambodia will withdraw more than 480 troops from the provisional demilitarized zone surrounding the Preah Vihear temple complex Wednesday.

The removal of Cambodian troops is expected to lead to a reciprocal withdrawal by Thai troops stationed in the vicinity of the temple, which has been the site of several clashes between both countries since 2008.

"We will withdraw some 486 Cambodian troops from the demilitarized zone, a symbol to prove our goodwill in abiding by the International Court of Justice's [ICJ] order issued on July 18 last year," Mr. Namhong said at a news conference to conclude

the 45th Asean Foreign Ministers' meeting in Phnom Penh.

"Now, Cambodia moves a step forward to move back troops on July 18," he said, indicating that he expected Thailand to do the same.

The foreign minister also said that Thailand had used many excuses to slow down the process of troop withdrawals from the demilitarized zone, which was demanded of both sides by the ICJ ruling.

While the ICJ ordered the withdrawal, the ruling did not specify a process, or timeline, by which the forces should exit, leaving the issue contested by Phnom Penh and Bangkok with each calling on the other to remove its troops first. With neither side willing to start first, troops have remained in the outlined demilitarized zone since.

General Chea Dara, deputy commander-in-chief of the Royal Cambodian Armed Forces, said that the troop withdrawal would take only one day.

Cambodian Defense Minister Tea Banh said that in a bilateral meeting with Prime Minister Hun Sen in Siem Reap City on Friday, Thai Prime Minister Yingluck Shinawatra said that Thailand would also pull back troops from the 17.3-square-km demilitarized zone.

"After learning that Cambodia has the strong will to withdraw Cambodia troops from the demilitarized zone...she claimed Thai troops will be pulled back too," the minister said.

After the withdrawal of Cambodian and Thai troops, only police and security guards will remain in the area, he said.

Boeng Kak Women Attempt to Meet US Official

By PHILIP HELMANS
AND PHORN BOPHA
THE CAMBODIA DAILY

SIEM REAP CITY - Four women evicted from the Boeng Kak lake community and released from jail last month arrived here Friday in an attempt to meet Melanne Verveer, the U.S. ambassador-at-large for women's affairs, who is part of a delegation visiting the country with U.S. Secretary of State Hillary Clinton.

"I want to meet her, and I hope that I will meet her to ask her to help us bring our issues to the government," said Tep Vanny, a representative for the Boeng Kak community.

"We are sure that we will meet her."

Ms. Vanny said the women had traveled to Siem Reap in order to request help from the U.S. in clearing their names of any crime, reclaiming their land and stopping the authorities from beating women and children during peaceful protests.

Ms. Vanny was among 13 women jailed on May 24 for protesting against evictions from Boeng Kak.

The Appeal Court released them last month but did not overturn their convictions.

After arriving here on Friday from Phnom Penh, Ms. Clinton

met with representatives from 11 labor unions.

In the meeting, the unions told Ms. Clinton that "brands shouldn't be squeezing every dollar in a race to the bottom by taking advantage of worker's rights, but rather investing in them," said David Welsh, country director for the American Center for International Labor Solidarity.

Delivering a speech at the Lower Mekong Initiative Gender Equality and Women's Empowerment Dialogue in Siem Reap City, Ms. Clinton urged all countries in Asean to improve their labor conditions and respect the human rights of workers.

Thai, Cambodian Troops Leave Disputed Area

By Associated Press

PREAH VIHEAR, Cambodia—Cambodia and Thailand withdrew their army troops Wednesday from a disputed border area near an ancient temple, as the Southeast Asian neighbors try to defuse a decades long dispute that has turned deadly in recent years.

Some 485 Cambodian troops and an undisclosed number of Thai forces pulled back from a demilitarized zone near the 11th-century Preah Vihear temple, complying with a ruling last year by the International Court of Justice.

The court had awarded the temple to Cambodia in 1962, and while Thailand accepts that decision, both countries lay claim to land around it.

The dispute has led to several rounds of armed conflict in the past four years. Eighteen people were killed in the last serious fighting in April last year.

In July 2011, the court responded to an appeal from Cambodia by ordering both countries to withdraw their troops completely and simultaneously from the 17.3-square-kilometer provisional demilitarized zone around the temple.

Following the withdrawal of their army troops, both countries are deploying police forces in the demilitarized zone.

Cambodian troops smiled and waved to a cheering crowd Wednesday after they took part in a withdrawal ceremony and carried their arms to military trucks that took them away from the site.

Cambodia's deputy defense minister, Gen. Neang Phath, said 255 police have been stationed in the demilitarized zone and 100 more on the grounds of the temple, which is recognized by the United Nations as a World Heritage site.

Cambodia's 2008 application for Preah Vihear to become a World Heritage site reignited passions over the temple, which many nationalistic Thais claim as their own. The application came at a period of serious political discord in Thailand, which increased Thai sensitivity over an alleged threat to its territorial integrity.

Thai Defense Minister Sukumpol Suwanatai and Army Commander Gen. Prayuth Chan-ocha traveled to the Thai side of the border to take part in their country's own withdrawal ceremony, which saw army soldiers replaced by about 300 armed border-patrol-police officers.

Tensions over the border have eased in the past year with the installation of a new Thai government that is more sympathetic to Cambodia. However, little progress appears to have been made in resolving the core issue of competing territorial claims.

Cambodia's 2008 application to the International Court of Justice also included an appeal for clarification of the 1962 court decision awarding it the temple, to see whether it can resolve the dispute over 4.6 square kilometers of land around it.

NATIONAL

Troops Pack Their Bags and Withdraw From Preah Vihear

Hundreds of armed police will remain on guard within 20 km of the site

By KUCH NAREN
AND ZSOMBOR PETER
THE CAMBODIA DAILY

SA'EM DISTRICT, Preah Vihear province - Hundreds of Thai and Cambodian soldiers packed their things and moved out of the Preah Vihear temple area yesterday as part of the surprise joint withdrawal Prime Minister Hun Sen and his Thai counterpart, Yingluck Shinawatra, announced on Friday in Siem Reap.

As the last wisps of morning mist peeked away from the cliff-top temple, the scene could not have been more different from that in February 2011, when four days of fighting between Thai and Cambodian troops left a dozen soldiers dead.

For months after the fighting, bloodstains still streaked the 11th-century stonework. Soldiers armed with automatic rifles and rocket launchers roamed the bullet-riddled walls.

But before noon yesterday, the heavy machine guns trained on Thailand since fighting first broke out here in 2008—soon after the temple won a place on Unesco's list of World Heritage sites—were gone. A half-dozen unarmed police and rangers ambled through the leaning doorways, while a few more played chess in the shade of a tree.

Yesterday's withdrawal finally set in motion an order the International Court of Justice (ICJ) issued a year ago to the day, in which it drew a demilitarized zone around the temple and the disputed 4.6 square km next to it and told all Thai and Cambodian troops to pull out "immediately."

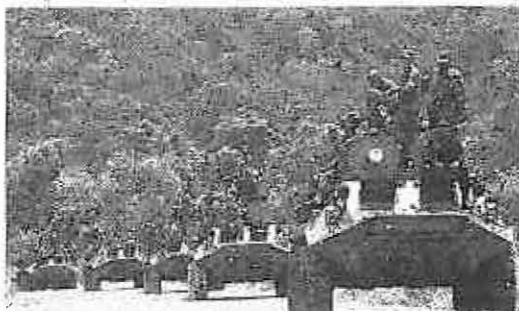
Try Pisith, an officer with the Interior Ministry's national police, who took up his new post at the temple on Tuesday, remembered how it was here in the weeks following last year's fighting when he visited as a civilian.

"There was blood, there were cluster bombs around the temple and the complex surrounding the temple. Now we don't see any blood or unexploded ordnance here. There are no more armed soldiers," he said.

With fighting no longer an imminent threat, Mr. Pisith has his mind set on other pressing matters.

"I can see the potential of this temple. Because it is no longer a place of fighting, it will attract more and more tourists to see how incredible our Preah Vihear temple is," he said.

Halfway down the cliff, the 485 Cambodian soldiers being withdrawn were gathered in ragged



Cambodian troops in armored vehicles take part in a military withdrawal ceremony near the Preah Vihear temple in Preah Vihear province yesterday.

rows for a ceremony that made their pullout official.

For Sek Thealy, the pullout could not come soon enough. Posted at the temple since 2008, he was now standing in front of a stage packed with military officials and foreign embassy attaches wishing him off.

"I'm so happy to be pulled back," he said, clutching his beat-up rifle. "I hope there are no more border clashes. I want to see Preah Vihear temple be a place for visiting, not fighting."

Defense Minister General Tea Banh sought to put a magnanimous face on the withdrawal.

"This is to express our good will to protect the world heritage, so we really want to redeploy our forces," he told the crowd. "We decide to have no military in the demilitarized zone. Today we do that."

It did not come easy.

After the ICJ ordered the withdrawal in July 2011, Bangkok and Phnom Penh promised soon after to comply but just as quickly set new conditions for actually following through with the order. Cambodia insisted that observers from Indonesia—which had been trying to mediate the conflict—had to be in place at the temple before the pullout could start. Thailand first balked at the very idea of observers, then said it would only let them in after the withdrawal.

The two sides appeared to be making some progress when the Thai and Cambodian defense ministers finally sat down in Phnom Penh in November and agreed to set up a joint working group to iron out the finer details of a withdrawal.

But by the second meeting of the group late last month, no decision had been reached.

All the while, Cambodia kept filing a steady stream of complaints

with Bangkok and the ICJ on everything from Thai spy planes to—just a few weeks ago—Thai troops putting up a fresh line of barbed wire.

It was amid this atmosphere of continued bickering and stalling that Ms. Yingluck and Mr. Hun Sen sat down behind closed doors in Siem Reap on Friday and emerged with news of the joint withdrawal, dropping all previous conditions.

Thai-Cambodian relations have been on the mend since Ms. Yingluck and her party swept to power in Thailand last year. Cambodia has also been eager to make a good

impression as this year's chair of ASEAN in its bid for a temporary seat on the U.N. Security Council.

But it also remains unclear just how demilitarized the demilitarized zone will be now that troops have withdrawn. Though media reports said soldiers on the Thai side of the border had also pulled out yesterday, a spokesman for the Thai army declined to comment.

And that's not to mention the hundreds of armed police both sides are using to replace the soldiers, many of whom will remain stationed 10 to 20 km away.

Chuch Phoeung, president of the National Authority for Preah Vihear, said that the once-popular border gate at the base of the temple's stone staircase would never open again, citing the scene's "bitter history."

There's also the little matter of who actually owns the disputed piece of land next to the temple. The ICJ has yet to issue a ruling on that, much larger question. Last year's order to withdraw was just a stopgap measure to keep the two countries from fighting while it deliberates.

Still, Dy Linda, another soldier posted at the temple since 2008, is just happy to be leaving.

"Whenever the clash happens, the temple is the victim," he said. "Now the temple is smiling, and I want to see it keep smiling."

Man Kills Two Women, Injures Four in Grocery Store Shooting

By NIHEM SHRY ROTH
THE CAMBODIA DAILY

A 30-year-old man shot dead two women and injured four others in a grocery store in Phnom Penh before killing himself yesterday morning, a military police officer said.

Pong Savarith, deputy municipal military police commander, said that So Vuthy, 30, had snatched an AK-47 off a police officer in Chamkar Mon district's Tumnap Toek commune, walked into a grocery store nearby and arbitrarily opened fire.

"Two women died and two women and two men were injured, and then he shot himself in the head," said Mr. Savarith. "Lien Sengphet, 34, died because she was shot twice in her chest. Guon Heng, 58, died because she was shot twice in her left and right shoulder."

The other four injured victims are currently in Khmer Soviet Friendship hospital. Mr. Savarith added that So Vuthy worked as a prison guard in Prey Sar prison and had taken the AK-47 from

Bonn Thy, 40, a police officer who was guarding a jewelry shop.

"The suspect [So Vuthy] is a kind of drug addict who has mental problems. That's why he dared to shoot these people in the shop," said Mr. Savarith. "The suspect might have had problems at the grocery shop or at these surrounding places."

He added that Mr. Thy would have to be punished as he is the owner of the gun, though he said that decision would be up to police. Ouch Sokhon, deputy municipal police chief, declined to comment on the incident and it was unclear yesterday if Mr. Thy was being detained.

Ann Sam Ath, technical supervisor for rights group Licadho, said that Mr. Thy should be punished for his carelessness.

"Although the Tumnap Toek official did not intentionally cause the shooting, it is due to his carelessness that the suspect had the opportunity to grab his gun," said Mr. Sam Ath.

Troops pulled from Preah Vihear

Cambodian soldiers pose as civilians, source says

Published 19/07/2012 at 08:04 AM

Newspaper section [Home](#)

Thailand and Cambodia: Troops redeploying their soldiers from disputed border area yesterday as 'first step' in following the International Court of Justice's order ended year



Soldiers patrol police the disputed area near the Preah Vihear temple in Si Sa Khet Vientiane. Moved to replace soldiers who pulled out. PANAP LACAPASAT/ANSA.

Indonesian Foreign Minister Marty Natalegawa will visit Cambodia today, a day after the two countries pulled out their troops. Indonesia has been acting as a mediator between the two countries.

Defence Minister Sukumpol Suwanalat and army chief Prayuth Chan-ocha yesterday oversaw the deployment of two companies of border patrol police officers to replace soldiers who withdrew from the 17.3 sq km area around the Preah Vihear temple, marked as a demilitarised zone by the ICJ.

The zone includes the 9th-century Hindu temple and a 4.6 sq km surrounding area, the ownership of which is claimed by both countries. Phnom Penh has asked the ICJ to interpret whether the immediate vicinity around the temple belongs to Cambodia.

The court has ordered the two countries to pull out their troops until it renders its judgement. The ICJ is likely to rule on the case in September or October next year. ACM Sukumpol said Cambodia must also comply with the ICJ's order.

"If they are gentlemen, they must honour the agreement," he said in response to reports that Cambodian soldiers remain in the disputed area posing as civilians.

ACM Sukumpol said that initially border patrol police will work with soldiers in the border area. This was the first step and more troops would be redeployed in the future, he said. He brushed aside concerns that the troop redeployment would lead to a loss of territory for Thailand. "We are not at a disadvantage," he said.

ACM Sukumpol said a Thai-Cambodia joint working group under the General Border Committee (GBC) had been set up to work on the redeployment of troops. However, a border military source said Cambodia had sent in more soldiers to the disputed areas near Preah Vihear over the past two weeks.

Some 200 Cambodian troops removed their military uniforms and donned civilians' clothing to pose as staff looking after the Preah Vihear temple, a source said. The source said Cambodian troops continued to keep heavy weapons such as artillery and rocket-propelled grenade launchers around the temple.

Deputy Prime Minister Yuthasak Sasiprapa, who oversees national security, said yesterday that negotiations must continue on clearing the surrounding community, market and the Keo Sikha Kiri Savara pagoda which is occupied by Cambodian villagers and monks.

He said the Thai side has protested several times against Cambodian villagers occupying land and asked Phnom Penh authorities to regulate the area surrounding Preah Vihear.

Meanwhile, Cambodia yesterday replaced its soldiers in the disputed area with police. "It's an appropriate time to implement the ICJ's verdict," Cambodian Defence Minister Tea Banh said during the exit ceremony on the Cambodian side, shown live on television. He warned that "full peace has not been ensured".

Some 485 Cambodian troops pulled back from a demilitarised zone and 255 police entered it, and another 100 have moved to the temple grounds, according to Cambodia's Deputy Defence Minister Gen Neang Phath.

Cambodian Defence Minister Tea Banh, along with high-ranking Cambodian authorities, oversaw the redeployment of the soldiers.

Bangkok Post The world's window on Thailand
BORDER DISPUTE

Observers 'no longer needed'

Published: 10/7/2012 at 03:34 AM
Newspaper section: [News](#)

Indonesian observers may no longer be needed in the disputed land near Preah Vihear temple as the situation at the Thai-Cambodian border has stabilised, Supreme Commander Thanasak Patimapakorn said yesterday.

Gen Thanasak, who visited Indonesia on Monday and Tuesday, said he had told his Indonesian counterpart that Thailand and Cambodia had not been in conflict for almost two years now, so there is no longer a need for observers.

"Indonesia considers that if the two countries can talk, they will have no need to come in, and this is also the two nations' stance," Gen Thanasak said.

The International Court of Justice (ICJ) on July 18 last year ordered Thailand and Cambodia to withdraw their troops from the 17.3 sq km provisional demilitarised zone (PDZ) around Preah Vihear temple after Cambodia petitioned the ICJ to reinterpret its 1962 verdict granting Cambodia sovereignty over the temple and its 4.6 sq km surrounding area. Thailand and Cambodia started redeploying their soldiers from the PDZ on Wednesday and replacing them with border patrol police officers. Prime Minister Yingluck Shinawatra and Cambodian leader Hun Sen agreed on the troop redeployments during a meeting on July 13 in Siem Reap. Gen Thanasak said the situation has remained calm since the redeployment. He said a Cambodian bomb disposal team will visit Thailand on Thursday to discuss removing explosives from the PDZ.

The move follows the Joint Working Group's (JWG) agreement between the two countries to start clearing mines in the PDZ. The JWG was formed following a resolution of the Thai-Cambodian General Border Committee to work out details of the troop withdrawals, but the past two JWG meetings failed to reach an agreement so their premiers were asked to discuss the pullouts.

A Cambodian community continues to live in the disputed area, in violation of the Thai-Cambodian Memorandum of Understanding on border issues signed in 2000, but Gen Thanasak said border moves must proceed step by step.

The ICJ is tentatively set to rule on Cambodia's petition on the interpretation between September and October next year, Gen Thanasak said.

Annex 7: UNESCO Statements Regarding Preah Vihear in 2011

Page 1 of 1

Director-General expresses alarm over escalation of violence between Thailand and Cambodia

Sunday, February 6, 2011

UNESCO Director-General Irina Bokova expressed her deep concern at the sudden escalation of tensions between Cambodia and Thailand on the issue of the Temple of Preah Vihear, inscribed on the World Heritage List.

Reports indicate that troops on either side have exchanged fire resulting in the loss of life and also some damage to the temple.

The Director-General expresses her distress at this sudden turn of events and calls upon both sides to exercise restraint for the sake of the preservation of the Temple of Preah Vihear and open direct channels of communication at the highest levels to defuse the tension.



Date:
Feb 6, 2011

UNESCO to send mission to Preah Vihear

Tuesday, February 8, 2011

The Director-General of UNESCO, Irina Bokova, today reiterated her call for calm and restraint around the Temple of Preah Vihear, inscribed on the World Heritage List in 2008. A border dispute between Cambodia and Thailand caused several deaths and damage to the site in recent days.

"I intend to send a mission to the area as soon as possible to assess the state of the temple," she said. "World Heritage sites are the heritage of all humanity and the international community has a special responsibility to safeguard them. This requires a collective effort that must be undertaken in a spirit of consultation and dialogue. Heritage should unite people and serve as an instrument of dialogue and mutual understanding and not of conflict."

The Temple of Preah Vihear, dedicated to Shiva, is composed of a series of sanctuaries linked by a system of pavements and staircases over an 800-metre-long axis, it dates back to the first half of the 11th century AD. The site is exceptional for the quality of its carved stone ornamentation and its architecture, adapted to the natural environment and the religious function of the temple.



Date:
Feb 8, 2011

UNESCO Director-General to send Special Envoy to Bangkok and Phnom Penh

Thursday, February 10, 2011

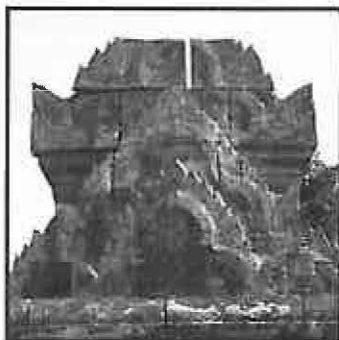
UNESCO Director-General Irina Bokova regretted the continuing tension between Cambodia and Thailand over the issue of the Temple of Preah Vihear. "The world's cultural heritage should never be a cause for conflict," she said.

She announced that she would shortly send a Special Envoy on a mission of good offices to Bangkok and Phnom Penh, following appropriate consultations with both capitals.

The Director-General also stated that any assessment mission to the Preah Vihear site could only take place once calm has been restored to the area.

Meanwhile, UNESCO is in close touch with senior officials of both countries.

The temple was inscribed on the World Heritage List in 2008. Dedicated to Shiva, is composed of a series of sanctuaries linked by a system of pavements and staircases over an 800-metre-long axis; it dates back to the first half of the 11th century AD. The site is exceptional for the quality of its carved stone ornamentation and its architecture, adapted to the natural environment and the religious function of the temple.



Date:
Feb 10, 2011

11 02 2011 —UNESCOPRESS

The Director-General of UNESCO names Koïchiro Matsuura as Special Envoy on Preah Vihear

Irina Bokova, Director-General of UNESCO, has named Koïchiro Matsuura as Special Envoy to address the issue of Preah Vihear.

Mr Matsuura, former Director-General of UNESCO, will visit Bangkok and Phnom Penh to discuss how the World Heritage site can be safeguarded. He will examine with both sides how to lessen tension and promote dialogue around the preservation of the Temple, within the Organization's mandate.

The Director-General informed Cambodia and Thailand about Mr Matsuura's mission.

Preah Vihear Temple was inscribed on the World Heritage List in 2008 on the grounds of its outstanding universal value. States Parties to UNESCO's World Heritage Convention of 1972 undertake to recognize that "such heritage constitutes a world heritage for whose protection it is the duty of the international community as a whole to co-operate".

Cambodia and Thailand are both signatories to the Convention.

UNESCO Special Envoy on Preah Vihear to meet with prime ministers of Thailand and Cambodia

Tuesday, February 22, 2011

UNESCO Director-General Irina Bokova's Special Envoy on the Preah Vihear Temple, Koichiro Matsuura, will travel to Bangkok and Phnom Penh between 25 February and 1 March to discuss the safeguarding of the World Heritage site with the Thai and Cambodian prime ministers.

Mr Matsuura, a former Director-General of UNESCO (1999-2009) and a former Chair of the World Heritage Committee (1999), will also examine with both sides ways of reducing tension and promoting dialogue around the preservation of the temple.

Irina Bokova has voiced concern over clashes around the Temple in recent weeks, stressing that "the world's cultural heritage should never be a cause for conflict."

The 11th century temple of Preah Vihear was inscribed on the World Heritage List for its outstanding universal value in keeping with the 1972 World Heritage Convention, which has been ratified by both Cambodia and Thailand.

In keeping with the Convention, States parties undertake to recognize that "such heritage constitutes a world heritage for whose protection it is the duty of the international community as a whole to co-operate".



UNESCO Director-General regrets the announcement of Thailand's intention to denounce the 1972 World Heritage Convention

Sunday, June 26, 2011

The Director-General of UNESCO Irina Bokova has expressed her deep regret following the declaration of the Thai Minister Suwit Khunkitti during the 35th session of the World Heritage Committee being held at UNESCO Headquarters in Paris from 19 to 29 June 2011, on the intention of Thailand to denounce the 1972 World Heritage Convention.

Irina Bokova reiterated that "The World Heritage Convention of 1972 is not only the foremost international instrument for the preservation and protection of the world's cultural and natural properties which have Outstanding Universal Value, but also widely recognized as an important and indispensable tool to develop and encourage international cooperation and dialogue".

Contrary to widely circulated media reports, the World Heritage Committee did not discuss the Management Plan of the Temple of Preah Vihear nor did it request for any reports to be submitted on its state of conservation. Moreover, it needs to be clarified that UNESCO's World Heritage Centre never pushed for a discussion of the Management Plan by the Committee.

The decision of the World Heritage Committee on the Temple of Preah Vihear World Heritage site in Cambodia only reaffirms the need to ensure the protection and conservation of the property from any damage. It further encourages the two countries to use the 1972 Convention as a tool to support conservation, sustainable development and dialogue.

The World Heritage Committee decision was adopted unanimously after Thailand staged a walkout. The request of Thailand to adjourn the debate was not supported by any other member of the World Heritage Committee.

While cognizant of the values and importance of the Temple of Preah Vihear, the Director-General has on many occasions called on Cambodia and Thailand to ensure its protection and sustainable development. She has emphasized that heritage should serve not for conflict but as a tool for dialogue and reconciliation. Earlier in February 2011, she had sent her special envoy Mr. Koichiro Matsuura, to the two countries, following clashes near the temple. Mrs. Bokova also facilitated consultations between the two Parties in May 2011 in Paris, with the aim of bringing closer their respective positions.

Intense negotiations were also held with the delegations of the two countries over the past five days on the sidelines of the 35th session of the World Heritage Committee, but no agreement could be reached.

The Director-General expressed the hope that Thailand will carefully consider its future course of action in respect of this important Convention and will continue to be an active participant in the international cooperation for the protection of the world's outstanding heritage.

Date:
Jun 26, 2011

27.05.2011 - UNESCOPRESS

**UNESCO Director-General Irina Bokova
Convenes meeting between Cambodia
and Thailand to discuss conservation
measures for Temple of Preah Vihear
World Heritage Site**

The Director-General of UNESCO has facilitated three days of bilateral and individual consultations between delegations from Cambodia (led by Vice- Prime Minister. Sok An) and Thailand (led by Suwit Khunkitti, Minister of Natural Resources and Environment) to discuss conservation issues concerning the World Heritage site of Preah Vihear. The meeting took place ahead of the forthcoming 35th session of the World Heritage Committee that will be held at UNESCO Headquarters in Paris from 19-29 June, 2011

The meeting, held in an open atmosphere of dialogue and cooperation, sought to foster common understanding of the issues affecting the World Heritage site, and to reach agreement on enhancing its state of conservation following recent threats to the property.

The Director-General while expressing satisfaction that the two Parties had responded positively to her invitation and affirmed their will to protect and preserve the Temple from future potential damages, voiced her disappointment at the fact that no agreement was reached between the Parties on concrete steps ahead of the forthcoming World Heritage Committee session.

"I appeal to both countries to pursue efforts towards achieving a common agreement before the World Heritage Committee session in June in a spirit of cooperation and constructive dialogue" said the Director-General, Irina Bokova.



© UNESCO/Alison Clayson Temple of Preah Vihear

