

UNESCO/CUA/120
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Translated from the French

# UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

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FIRST MEETING OF THE HIGH CONTRACTING PARTIES TO THE CONVENTION FOR THE PROTECTION OF CULTURAL PROPERTY IN THE EVENT OF ARMED CONFLICT

Unesco House, Paris, 16 - 25 July 1962

#### REPORT

- 1. The First Meeting of the High Contracting Parties to the Convention for the Protection of Cultural Property in the Event of Armed Conflict opened at Unesco Headquarters on 16 July 1962. This Meeting was convened by the Director-General as recommended in resolution III, adopted by the Intergovernmental Conference at The Hague on 14 May 1954. By the opening date of the Meeting, 49 States had deposited instruments of ratification or accession, and during the Meeting these were joined by another State, the Republic of Panama. The representatives of 39 of these States attended the Meeting. The States were: Albania, Belgium, Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, Cambodia, Cuba, Czechoslovakia, Dominican Republic, Ecuador, France, Gabon, the Holy See, Hungary, India, Iran, Israel, Italy, Jordan, Lebanon, Libya, Luxembourg, Madagascar, Malay, Mexico, Netherlands, Nicaragua, Nigeria, Panama, Poland, Rumania, Republic of San Marino, Spain, Switzerland, Syria, Thailand, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics and United Arab Republic.
- 2. Observers appointed by the following 18 States not Parties to the Convention also attended the proceedings: Austria, Bolivia, Canada, Chad, China, Costa Rica, Federal Republic of Germany, Japan, Korea, Laos, Mauritania, Niger, Portugal, Saudi Arabia, United Kingdom, United States of America, Venezuela and Viet-Nam. The following international organizations appointed observers: the League of Arab States, the International Institute for the Unification of Private Law, the International Red Cross Committee, the International Council on Archives and the International Council of Museums.
- 3. After an address of welcome by the Acting Director-General, the Meeting elected as its Chairman H.E. Mr. G.A. Raadi, Permanent Representative of Iran to Unesco, and Head of that country's delegation to the Meeting.
- 4. The draft Rules of Procedure submitted by the Secretariat were adopted with three amendments. The first consisted in the insertion in Rule 1, after the words "... adopted at The Hague on 14 May 1954," of the words "and those of States which have deposited their instruments of ratification or accession in accordance with Articles 31 and 32 of the Convention". By the second amendment, Rule 2 was reworded to read as follows: "The representatives of other States may participate in the work of the Meeting as observers, without the right to vote".

The third amendment, following from the rewording of Rule 1, consists in the substitution of the following for the first sentence of Rule 14: "Each of the States referred to in Article 1 shall have one vote".

5. On 23 July, the Chairman of the Meeting communicated to delegates a letter addressed to him by the Acting Director-General of Unesco, reading as follows:

"SIR.

ON BEHALF OF THE GOVERNMENT OF THE DEMOCRATIC REPUBLIC OF VIET-NAM HAVE HONOUR PRESENT MY COMPLIMENTS AND REQUEST YOU TO ADMIT MR. MAI VAN BO COMMERCIAL REPRESENTATIVE OF THE DEMOCRATIC REPUBLIC VIET-NAM IN FRANCE AS OBSERVER OF DEMOCRATIC REPUBLIC VIET-NAM TO CONFERENCE FOR PROTECTION OF CULTURAL PROPERTY EVENT ARMED CONFLICT MEETING IN PARIS FROM 16.7.1962 TO 26.7.1962 I HAVE HONOUR TO BE ETC.

UNG VAN KHIEM"

As a result of this communication, which gave rise to a discussion, the following resolution, proposed by the French delegation, was adopted by roll-call by 18 votes to 11, with 3 abstentions:

"The Meeting of High Contracting Parties to the Convention for the Protection of Cultural Property in the Event of Armed Conflict, having been informed of a request for the admission of further observers on the strength of Rule 2 of the Rules of Procedure,

DECIDES that in order to be admitted under Rule 2 of the Rules of Procedure adopted on 16 July 1962, observers must be invited by the Secretariat of Unesco in accordance with a decision of the Executive Board of the Organization".

- 6. The Bureau, elected according to the Rules of Procedure, consisted, in addition to the Chairman, of the following persons: Vice-Chairmen: H.E. Dr. Alejandro Montiel Arguello, Head of the delegation of Nicaragua, Mr. F.I. Ajumogobia, Head of the delegation of Nigeria, Mr. F.P.Th. Rohling, Head of the delegation of the Netherlands, Mr. J. Zachwatowicz, Head of the delegation of Poland; Rapporteur: Mr. M. Matteucci, member of the delegation of Italy.
- 7. The Director-General was represented at the Meeting by Mr. M.L. Gomes Machado, Director of the Department of Cultural Activities. Mr. H. Saba, Legal Adviser, and Mr. C. Lussier, of the Bureau of Legal Affairs, attended the Meeting. Mr. G. Rosi, Chief of the Museums and Monuments Division, acted as Secretary of the Meeting, with the assistance of Mrs. B. Riazi-Harlaut. The proceedings opened with the examination of the provisional agenda, which was adopted unanimously. It was agreed that various questions which delegates wished to discuss in connexion with the application of the Convention should be dealt with under item 9.

#### Item 6 of the agenda

8. Working through its agenda, the Meeting first took note of the report of the Unesco Secretariat, describing the measures taken by the Organization to discharge the duties entrusted to it by the Convention (document CA/RBC.1/4). It emerged from the report and from the speech delivered by the Acting Director-General that these measures, comprising various administrative and technical activities, had proceeded smoothly.

### Item 7 of the agenda

- 9. Document UNESCO/CA/RBC.1/3 containing the reports from States on measures taken to apply the Convention at national level, together with an analysis of the reports prepared by the Secretariat, was submitted to the Meeting. Reports received from further countries after the preparation of the document, and in some cases even after the opening of the Meeting, were distributed to participants as additional annexes. Further information on the subject was forthcoming from statements made in the course of the proceedings by the representatives of several States. The Meeting was thus able to note than an encouraging start had been made with the application of the Convention in a number of countries and that in some of them even, impressive results had already been obtained.
- 10. It should be mentioned that the documents distributed to the participants included the Records of The Hague Conference, published in English and French by the Netherlands Government with the collaboration of the Unesco Secretariat. The publication was greatly appreciated and extensively referred to by the participants.
- 11. The Meeting noted that since no proposal for the amendment of the Convention had been submitted under Article 39, its task would be confined to considering, in the light of the experience of States, the problems raised by the application of the Convention and of the Regulations for its execution. The Meeting felt, however, that to encourage other States to become Parties to the Convention and to facilitate its application, it ought also to make some suggestions for future action.

### Item 8 of the agenda

- 12. The only specific topic included in the agenda, at the request of the Netherlands Government, was the interpretation of Article 8, with special reference to expressions such as "adequate distance" and "centres containing monuments and other cultural property of very great importance". It was noted, in particular, that the concept of "adequate distance" was liable to change according to the development of the means of destruction employed, and that in the event of the use of nuclear weapons it would be very difficult to comply with such a condition. As for the scope of the phrase "of very great importance", it was pointed out that the importance of cultural property might be assessed not only from a world but also from a national standpoint.
- 13. The discussion of the item showed that the Meeting was unable to arrive at a more precise definition of those terms, partly because of its limited competence and partly because of the different conditions which prevailed in the various particular cases and made it impossible to adopt uniform and universally valid rules. It was therefore thought preferable to consider setting up an ad hoc body in the form of an advisory committee consisting of experts on the different matters covered by the Convention (viz. legal, technical, military and organizational questions). Such a committee could be consulted whenever a special study of a particular problem was deemed desirable.
- 14. In that connexion it was recalled that at The Hague Conference, some delegations had advocated the creation of a permanent body, which, deriving its powers from the Convention itself, could co-ordinate the efforts of the individual States and seek to reconcile any divergent views which might arise regarding the application and interpretation of the clauses of the Convention.
- 15. The Committee suggested by the Meeting, the advisory rôle of which, at the international level, would come within the scope of the technical assistance to be provided by Unesco under Article 23, could be established only with the collaboration of the Organization. The Meeting considered that the assistance of the Secretariat, authorized by a decision of the General Conference, could ensure possession by the proposed body of the necessary means, authority and prestige.
- 16. The Meeting wished to express its confidence in such a decision and to indicate what, in its opinion, should be the duties and composition of such a committee. In this connexion, the problem of distribution, on either a geographical or a regional basis, was raised, and the following resolution was adopted:

"NOTING the problems raised by the application of the provisions of the Convention for the Protection of Cultural Property in the Event of Armed Conflict,

CONSIDERING that in accordance with Article 27, the Meeting of High Contracting Parties has the task of studying problems concerning the application of the Convention and of the Regulations for its execution and to formulate recommendations in respect thereof,

CONSIDERING further that Article 23 of the Convention provides as follows:

- 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.

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THE FIRST MEETING of the High Contracting Parties, held in Paris on 16 July 1962, RECOMMENDS to the Director-General of Unesco that he set up a technical advisory committee to assist him in discharging the duties assigned to Unesco under Article 23 of the Convention, with particular reference to:

- (a) the drawing up of a programme of action with a view to the application of the Convention by the different States,
- (b) the entry of cultural property under special protection in the International Register,
- (c) the dissemination of information and documents on the application of the Convention,
- (d) the co-ordination of the activities of the national advisory committee, the establishment of which is advocated in resolution II, appended to the Final Act of the International Conference at The Hague.

This Committee would consist of some 20 members of different nationalities serving in their personal capacity and appointed by the Director-General from among the best qualified experts of the High Contracting Parties to the Convention.

The members of the Committee should be so selected as to ensure representation of the various aspects of the protection of cultural property in the event of armed conflict, with due concern to secure the broadest possible geographical representation.

It would be desirable for the Committee to meet at least once yearly".

- 17. After suggesting the establishment of such a working instrument, the Meeting felt that the study of the legal and technical problems mentioned in item 8 of the agenda need not be pursued further.
- 18. It considered, however, that pending the establishment of the new advactory committee, the interpretation of the expression, "at an adequate distance" was worthy of special study by the Meeting itself. It accordingly adopted the following resolution on the point:

"The First Meeting of the High Contracting Parties convened in Paris on 16 July 1962,

CONSIDERING that some uncertainty exists regarding the interpretation of Article 8 relating to special protection and, in particular of the concept of 'adequate distance',

RECOMMENDS that the technical advisory committee, whose establishment is envisaged, be seized of this problem, make a thorough study of it and submit its proposals for a solution to a subsequent Meeting of the High Contracting Parties,

EXPRESSES the hope that in evaluating the 'adequate distance' for purposes of special protection, the High Contracting Parties will bear in mind first and foremost the very purpose of the Convention, which is to provide the widest possible protection for cultural property throughout the world".

19. The Meeting had an opportunity of hearing many communications relating to the action so far taken in several countries, not only at the legal and administrative level but also at the technical and organizational level, to apply in time of peace, certain measures advocated by the Convention. It emerged from these communications that some activities carried out for this purpose by several States were already having a beneficial effect on the general preservation of their cultural property, regardless of the possibility of any conflict. The Convention is thus proving an effective means of protecting cultural property against the dangers to which it is exposed even in time of peace.

These communications gave rise to a general discussion which followed the outline proposed by the Secretariat for the preparation of reports by States Parties to the Convention (document UNESCO/CA/RBC/1.3). It was thus possible for certain delegates to dwell on other aspects of the Convention which would be likely to involve certain difficulties in practice. In this connexion, special mention should be made of the observations of the Polish delegation concerning certain defects in the present wording of the Convention. According to this delegation, various drawbacks arose out of these defects.

- (1) Should there be difficulties in interpreting the Convention and should the procedure which it lays down for its application prove inadequate, the Committee which it was recommended to set up might prove to have a useful part to play.
- (2) On the other hand, in the case of clauses likely to weaken the effectiveness of the Convention, such as the possibility of waiving special protection in the event of unavoidable military necessity, there would be no other means of remedying the matter than to contemplate a revision of the Convention, in the manner provided for in the Convention itself.

Furthermore, the Polish delegation is considering the possibility of having the Protocol concerning the restitution of cultural property inserted in the actual Convention.

20. In the course of the general discussions, it was found advisable for a more thorough examination of certain problems involved in the application of the Convention to be made forthwith by a small group of members of delegations at the present Meeting, selected from among those whose qualifications equipped them to make a contribution to the study of these problems, with particular reference to technical problems. A group of experts from 11 countries: (Belgium, France, Germany (Federal Republic of), Italy, Netherlands, Poland, Rumania, Spain, Switzerland, Syria and the United Arab Republic) and from ICOM therefore met, after the closure of the debate on item 9, and submitted a report embodying highly pertinent observations concerning certain aspects of the application of the Convention.

The Meeting decided that this document, which might possibly be transmitted to the Advisory Committee whose establishment it had recommended, should be appended as an annex to the present report.

- 21. On the conclusion of the general discussion, the importance of certain points was stressed, namely:
  - (a) the desirability of ensuring that as many States as possible become Parties to the Convention.
  - (b) the importance of action to be taken at the national level for the implementation of the Convention, such as the preparation of inventories, exchanges of information, etc.,
  - (c) the part that should be played, in compliance with resolution II adopted by The Hague Conference, by the National Committees set up to advise on the implementation of the Convention.
- 22. During the discussions, many delegations expressed their anxiety over the dangers of destruction to which cultural property would be exposed in the event of armed conflict. The following resolution was adopted by roll-call:

"The High Contracting Parties to the Convention for the Protection of Cultural Property in the Event of Armed Conflict, participating in the first Meeting of the Contracting Parties held in Paris,

RECALLING that the purpose of the Convention for the Protection of Cultural Property in the Event of Armed Conflict, signed at The Hague on 14 May 1954, is to protect the cultural heritage of all peoples for future generations,

CONSCIOUS of the fact that cultural property suffered irreparable damage during the Second World War,

CONVINCED that the destruction of cultural property and the damaging of such property belonging to any people whatsoever means damage to the cultural heritage of all mankind,

CONCERNED at the continuance of the desperate arms race and at its possible consequences for humanity and civilization,

RECALLING that the Contracting Parties have undertaken to respect cultural property situated both within their own territory and within that of the other Contracting Parties,

REAFFIRMING the need for all High Contracting Parties to take scrupulous care to ensure the installation, in time of peace, of the arrangements for protection provided for in The Hague Convention,

RECALLING the repeated stress already laid at The Hague Conference on the fact that in the present state of armaments production technique, the most reliable guarantee for preserving cultural property and, hence, for achieving the aims of the Convention lies in general and complete disarmament under effective international control,

EXPRESS the earnest hope that, through the achievement of general disarmament and the development of a spirit of understanding and peaceful co-operation between peoples, the necessary conditions will rapidly be created for the safeguarding and preservation of cultural property in time of peace, once the threat of war has been removed and a vast fund of human and material resources released for use in improving the lot of mankind and in ensuring human progress in every field".

A detailed account of the proceedings is to be found in the summary records prepared and distributed by the Secretariat during the Meeting, along with the other working papers.

#### ANNEX

#### REPORT OF THE GROUP OF EXPERTS

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#### REPORT

The Group of Experts devoted its proceedings to an exchange of views on the provisions dealt with in Chapter I. paragraph 1 (Safeguarding of cultural property), on pages 1-2 of the document entitled Reports of the High Contracting Parties (CA/RBC.1/3 of 15 June 1962).

The observations emerging from this discussion, which are set out below, are essentially of a practical nature, and are based on a comparison of the experience and viewpoints of several High Contracting Parties.

# I. SPECIAL OBSERVATIONS

Judging from the information communicated by the High Contracting Parties, the following points in the above-mentioned paragraph are of special importance :

#### The listing of items of cultural property in categories according to their importance 1(a)

The inventory to be made in application of The Hague Convention is intended to cover only a selection of cultural property, since the compilation of a complete inventory of the cultural property of a State is part of the normal duties of the services and administrations which have the custody of, or responsibility for, cultural property.

The following appears to be a suitable classification of the cultural property coming within the scope of The Hague Convention:

Category A - Most important cultural property

Category B - Very important cultural property

Category C - Important cultural property.

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#### 999 1(b) The assembling of microfilm archives

States are advised to constitute very full archives for each item of cultural property in the select list referred to in 1(a), consisting of:

microfilms photogrammetric negatives various surveys, etc. The old or hearth

Three copies of these archives should be made and placed in safe positions in various parts of the country or, by agreement, in another country. a a tark to a talegraph of a self-central responsible to a final contract of a self-central contract.

### 1(c) Plans for the evacuation of movable objects and their containers

#### Evacuation plans

The definition and marking of cultural property are of the utmost importance in order to make clear what emergency measures are to be taken and in what order of priority.

Such measures are in any case part and parcel of the system for the protection of cultural property in time of peace.

Definite directions as to evacuation are essential.

The evacuation and removal to safety of cultural property in time of armed conflict already sets serious staffing problems in time of peace as regards both qualifications and members.

#### Containers

The choice of containers and their storage present a very serious fire-prevention problem in time of peace.

### 1(d) Refuges and shelters

In view of the development of modern weapons and the way in which conflicts are likely to be started, the principle of the protection of cultural property by removing it to safety should be abandoned in favour of the more realistic principle of immediate if incomplete protection on the spot.

Any establishment containing cultural property coming within the scope of The Hague Convention, in addition to the actual protection of the building itself, should contain one or several "security spaces" so that the most valuable cultural property may be placed in immediate safety with the means at hand.

These "security spaces" may belong to any of the following categories of protection according to the degree of importance of the cultural property and the funds available:

constructed security space reinforced spaces fortified spaces refuges.

## This would imply:

In existing buildings

either as they stand, or

during building work or alterations

a systematic search for ways and means of creating "security spaces".

In extensions or new buildings

systematic planning of "security spaces"

All "security spaces" formed in this way should be designed solely for the storage of cultural property.

All "security spaces" should be maintained constantly in perfect condition with respect to : atmosphere (temperature and relative humidity) the functioning of mechanical, electrical and emergency installations.

### 1(e) Fire prevention and control

Fire, which represents the major (direct or indirect) hazard in time of conflict, is also the main - permanent - hazard in time of peace.

A well-organized system of fire prevention and control in time of peace already constitutes a very considerable guarantee against fire in time of armed conflict.

It should, however, be emphasized that protection from fire in time of armed conflict raises the special problem of the need for establishments to be self-supporting as regards firefighting resources.

# 1(f) . The protection of immovable property and its preservation

Here, too, the important of the fire hazard needs to be emphasized (see point 1(e)).

# 1(g) Legal provisions and regulations introduced to ensure protection

Detailed studies have already been made and some action has been taken in this field:

Legal provisions

Laws already in force: 

Albania

Czechoslovakia

Poland

Rumania

Spain

Draft legislation before legislature:

In preparation :

Syria(1)

Syria(1) Federal Republic of Germany

# II. GENERAL OBSERVATIONS

Subject to the foregoing, the Group of Experts submits the following observations:

#### (1) General

The Group of Experts wishes to bring the following points to the attention of the Technical Advisory Committee, the establishment of which has been recommended by the Meeting of High; Contracting Parties:

- In 1956, Unesco (Division of Museums and Monuments) published a manual entitled "Protection of Cultural Property in the Event of Armed Conflict" (Museums and Monuments VII) to which the High Contracting Parties can already refer.
- The effective and practical application of The Hague Convention depends upon the centralization and maintenance, for consultation by, or distribution to, the High Contracting Parties, of:

documentation on ways and means of protecting cultural property in the event of armed conflict; The state of the section of the section of

information on projects drawn up, measures adopted and publications issued by the High Contracting Parties.

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It would be of particular interest if existing legislation could be assembled by Unesco, translated into the Organization's working languages, and distributed to the High Contracting Parties.

Unesco could do much to facilitate the application of The Hague Convention and the establishment of effective machinery by preparing, in the light of the laws and regulations communicated by the High Contracting Parties, a document laying down the main lines which it would be desirable for them to follow when drafting national legislation and regulations (cf. the model law on the Red Cross).

It would therefore be highly desirable for Unesco to consider this essential problem with a view to discovering the best way of solving it.

- (c) The Technical Advisory Committee should study the problem of the contacts to be established in time of peace within each State between the services responsible for the protection of cultural property and the armed forces.
- (d) The Technical Advisory Committee should lay down rules for the application of Article 8, with particular reference to the concept of "adequate distance".
- (e) It would be desirable for the various non-governmental organizations whose attributions include the protection of cultural property (International Committee on Monuments, International Council of Museums, International Council on Archives, International Federation of Library Associations, etc.) to organize, in co-operation with Unesco, special campaigns to publicize the distinctive emblem of cultural property (the cultural property shield) and take advantage of all events they organize to make the emblem known.

#### (2) At national level

The most rational way to apply The Hague Convention seems to be to establish a body specially responsible for the protection of cultural property, the duty of which would be:

- to implement the Convention
- to supervise its application
- to keep a constant check to ensure that all the devices and equipment contributing to such protection are working satisfactorily.

Here it may be pointed out that the nomenclature mentioned in paragraph 1, which was studied during the proceedings of the Working Party of Experts, constitutes a perfectly applicable programme.

#### (3) Suggestion for immediate action by the High Contracting Parties

It should be emphasized that the perfect organization of fire-fighting arrangements in time of peace is a basic factor contributing to the protection of cultural property in the event of armed conflict.

# III. RECOMMENDATION

The experts participating in the First Meeting of High Contracting Parties,

Having been informed of the way in which the Convention for the Protection of Cultural Property in the Event of Armed Conflict is being applied in the various States, unanimously note that the widest possible standardization of the measures prescribed in the Convention is of great importance for its application.

Since knowledge by all States of each other's activities in this field will make it possible to determine common lines of action, they request the Director-General of Unesco, under Article 23 of the Convention, to communicate to them:

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in particular, all laws or regulations adopted by the various States in connexion with the application of the Convention,

in general, all documentation relating to the popularization of the basic principles of the Convention and to methods of applying it.

#### APPENDIX

Dr. Selim Abdul-Hak, Delegate of the Syrian Arab Republic, Director-General of Syrian Antiquities and Museums, informed the Committee that a Bill regulating every aspect of the protection of cultural property in the event of armed conflict in Syria was now before the authorities of that country. The Bill provides for the setting up of a Syrian Committee, defines its powers and duties, places it under the chairmanship of the Minister for Culture and National Guidance, appoints the Director-General of Antiquities and Museums as his country's representative for cultural property, organizes an Executive Office in the capital under his command, with branch offices in the provinces, defines the duties of these offices for the protection of cultural property in time of peace and in the event of armed conflict, lists the civilian and military personnel attached to them, the privileges and indemnities they enjoy and the penalties to which they render themselves liable should they refuse or fail to execute the tasks assigned them, and describes the distinguishing marks they bear. In conclusion, the Bill defines the functions of the Executive Office and the branch offices in all circumstances, and makes provision for the funds they require to work effectively.

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