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**UNITED NATIONS EDUCATIONAL,
SCIENTIFIC AND CULTURAL ORGANIZATION**

**THIRD MEETING OF THE HIGH CONTRACTING PARTIES TO
THE CONVENTION FOR THE PROTECTION OF CULTURAL PROPERTY
IN THE EVENT OF ARMED CONFLICT (THE HAGUE, 1954)**

UNESCO House, Paris,- 13 November 1997

FINAL REPORT

1. Following the resolution of the second meeting of the High Contracting Parties to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict (Paris, 13 November 1995) which invited the Director-General "to convene during the period of the twenty-ninth session of the UNESCO General Conference a meeting of the High Contracting Parties. to discuss and possibly decide on matters related to the strengthening and the implementation of the Convention", this meeting took place at UNESCO Headquarters on Thursday, 13 November 1997. The representatives of the following sixty-five High Contracting Parties of the total number of ninety took part in the meeting: Argentina, Armenia, Australia, Austria, Azerbaijan, Belarus, Belgium, Brazil, Bulgaria, Burkina Faso, Cambodia, Cameroon, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Ecuador, Egypt, Finland, the former Yugoslav Republic of Macedonia, France, Gabon, Georgia, Germany, Ghana, Greece, Guatemala, Holy See, Hungary, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Italy, Kazakhstan, Kuwait, Lebanon, Libyan Arab Jamahiriya, Luxembourg, Madagascar, Mexico, Morocco, Myanmar, Netherlands, Nicaragua, Nigeria, Norway, Pakistan, Panama, Poland, Qatar, Romania, Russian Federation, Saudi Arabia, Slovak Republic, Slovenia, Spain, Sudan, Sweden, Switzerland, Syrian Arab Republic, Thailand, Tunisia, Turkey and Ukraine. The meeting was also attended by observers from Canada, Colombia, Denmark, Nepal, the United Kingdom and the United States of America. Representatives of the United Nations, the International Committee of the Red Cross (ICRC), the International Council of Museums (ICOM), the International Council on Monuments and Sites (ICOMOS), the International Council on Archives (ICA) and the International Federation of Library Associations and Institutions (IFLA) also participated. A copy of the list of participants is attached.

2. On behalf of the Director-General, the meeting was opened by Ms Lourdes Arizpe, Assistant Director-General for Culture. In her presentation she summarized the activities undertaken by the Secretariat since the second meeting of the High Contracting Parties in order to promote the Hague Convention. In particular, she stressed the importance of joint UNESCO-ICRC training seminars on international humanitarian and cultural heritage protection law, the significance of the International Register of Cultural Property under Special Protection and the need for further exchange of information between States Parties on the

implementation of the Convention. In conclusion, she highlighted the main results of the review process of the Convention.

3. In conformity with the provisional agenda, the meeting elected by consensus Mr Adriaan Bos (the Netherlands) as Chairperson and adopted its agenda and Rules of Procedure by consensus. The meeting then elected its four Vice-Chairpersons (Argentina, Gabon, Lebanon and Thailand) and Ms Halina Niec (Poland) as Rapporteur. The Chairperson then invited the Secretariat to introduce the discussion by underlining the main points of the review process since 1993: the results of the four previous expert meetings (The Hague - July 1993, Lauswolt - February 1994, Paris - November and December 1994 and again Paris - March 1997) and the second meeting of the High Contracting Parties (Paris, November 1995). In particular, the Secretariat stressed the significance of the draft provisions for the revision of the Hague Convention elaborated at the meeting of governmental experts in March 1997 and forwarded before this meeting to UNESCO Member States with a commentary of the Secretariat in the form of an information document (UNESCO document CLT-97/CONF.208/2, Paris, October 1997). The previous meetings have revealed that there are several common issues which will need further clarification: military necessity, precautionary measures, the regime of special protection, sanctions for violations of the Hague Convention, archaeological excavations in occupied territory, institutional issues (a permanent Intergovernmental Committee or a Bureau of States Parties elected by the meeting of States Parties) and, finally, the form of the new instrument.

4. The Chairperson's and the Secretariat's presentations led to a general debate on various aspects of the review of the Hague Convention in which representatives of the twenty High Contracting Parties (Argentina, Austria, Belgium, Croatia, Czech Republic, France, Greece, Holy See, Hungary, the Islamic Republic of Iran, Iraq, Israel, Italy, Lebanon, Libyan Arab Jamahiriya, Netherlands, Poland, Russian Federation, Spain and Turkey), one State which is not party to the Convention (Canada) as well as observers from the International Committee of the Red Cross (ICRC) and the International Committee of the Blue Shield (ICBS) took the floor.

5. The main points of this debate may be summarized as follows:

(I) the desirability of adopting a new instrument which would supplement the provisions of the Hague Convention

Delegates were in favour of adopting a new instrument which would bridge the existing gaps in the Hague Convention, thus reinforcing the protection of cultural heritage before and during hostilities. They pointed out, however, that the present draft provisions for its revision elaborated at the meeting of governmental experts last March are not yet sufficiently final for adoption by a Diplomatic Conference and, consequently, a further expert meeting is required. During the debate two countries (Austria and the Islamic Republic of Iran) informed the participants that they were exploring the possibility of hosting such a preparatory meeting. With regard to the venue of the Diplomatic Conference, the delegate of the Netherlands stated that her government intended to host such a Conference in March 1999.

(ii) **military necessity**

When discussing this issue, a majority of speakers expressed their wish to keep this notion inserted in the new instrument. However, it was recalled that military necessity must not be confused with military convenience. Several delegates also pointed out that one has to take into account past and recent development of international humanitarian law. One delegate suggested that this notion should be defined and regulated more precisely and narrowly in order to prevent its abuse and retain its applicability only in a limited number of cases such as for the protection of human lives or self-defence. It was also recalled that, with regard to cultural property under special protection, military necessity must be as strictly interpreted and applied as possible. One participant asked for a greater role for military professionals in the drafting of the new instrument in order to achieve a draft acceptable from the military point of view. There was a consensus that the proposal for a strict definition be explored further.

(iii) **precautionary measures**

There was a general consensus that the taking of precautionary measures should be included in a new instrument. The participants stressed that such measures must be taken also in time of peace in order to be effective and not only in time of armed conflict when it may be too late.

(iv) **individual criminal responsibility**

Two points of view emerged during the discussion. Some participants were in favour of further elaborating provisions on this issue in order to prosecute and punish persons who committed crimes against cultural property, thus supplementing Article 28 of the Convention which had proved to be insufficient. Others preferred to link this issue to the work of the International Law Commission or the United Nations Preparatory Committee on the Establishment of an International Criminal Court with the aim of avoiding duplication.

(v) **institutional issues**

As during the second meeting of States Parties in 1995, the participants underlined the desirability of establishing a supervisory body which would monitor the implementation of the Convention, thus making it more effective and more visible for the international community. A majority of speakers on this point were in favour of creating a permanent Intergovernmental Committee which would be vested with large responsibilities as reflected in Option I of the draft provisions for the revision of the Hague Convention elaborated by the March 1997 expert meeting. Some delegates opposed this concept, invoking the costs of such a Committee, the existing mandate of UNESCO and the need to prevent overlaps between activities of the various units of UNESCO.

(vi) **conflicts not of an international character**

A few delegates speaking on this point expressed their wish not to proceed with the discussion of this issue, stating that this matter is sufficiently regulated by Protocol II of 1977

(Non-International Armed Conflicts) to the four 1949 Geneva Conventions.

(vii) **form of the new instrument**

It was proposed to draft a new instrument independent of the 1954 Hague Convention (but having close relationship with it). States wishing to obtain an enhanced level of protection would become party to it. It was agreed that States Parties to the 1954 Hague Convention wishing to keep the present level of protection would be still bound by the provisions of that Convention. States which are not yet party to this instrument and wishing to have the basic level of protection would be still able to join. Most of the delegates expressed the need to carefully consider the question of the relations between the two instruments when drafting the new text.

6. The Chairperson concluded the debate and opened discussion on a draft resolution which he had prepared, with the assistance of the Secretariat, on the basis of the views expressed so far. The main points of the draft resolution were discussed. The participants proposed a number of amendments as to the draft resolution which was then adopted. A copy of the resolution is attached.

**Third meeting of States Parties to the Convention for the Protection
of Cultural Property in the Event of Armed Conflict
(The Hague, 1954)**

Paris, 13 November 1997

“ The High Contracting Parties to the Convention for the Protection of Cultural Property in the Event of Armed Conflict (The Hague, 1954);

Recalling the Resolution adopted at the second meeting (13 November 1995) of the High Contracting Parties to the Hague Convention which invited, inter alia, the Director-General ‘to convene during the period of the twenty-ninth session of the UNESCO General Conference a meeting of the High Contracting Parties to discuss and possibly decide on matters related to the strengthening and the implementation of the Convention’;

Thanking several High Contracting Parties to the Convention which have given support to the Secretariat for the strengthening of activities related to the review and the implementation of the Convention;

Thanking the Secretariat for its efforts aimed at a better implementation of the Convention, in particular by organizing training seminars, by disseminating the Convention to the general public and to the military and by coordinating its action with non-governmental organizations ;

Noting with interest the results of the meeting of twenty governmental experts on the review of the Convention which took place in Paris in March 1997 and during which draft provisions for the revision of the Convention were prepared;

Welcoming the offer of the authorities of Austria and that of the Islamic Republic of Iran to consider the possibility of convening in the first half of 1998 a preparatory meeting of governmental experts to further prepare a draft of a new instrument for the protection of cultural property in the event of armed conflict ;

Welcoming the intention of the Government of The Netherlands to convene a diplomatic Conference in its country possibly in March 1999 ;

1. **URGE** States not yet Parties to the Convention to join this instrument and to harmonize their legislation with its provisions;
2. **INVITE** all States Parties to give their full consideration to the proposed draft provisions for the revision of the Convention and to inform the Secretariat of the comments of their relevant authorities by 1st February 1998;
3. **EMPHASIZE** the importance of pursuing the drafting of such provisions on the basis of the existing reports and comments and **INVITE** the Chairperson of the present meeting of High Contracting Parties to ensure the convening of a preparatory meeting in 1998 and to report on its work to the Director-General;

4. **REQUEST** the Director-General to transmit the report of the preparatory meeting to the Executive Board of UNESCO, to the High Contracting Parties to the Hague Convention, to the Member States of UNESCO, to States with an Observer status, to all other interested States and to international organizations concerned with a view to the convening of a Diplomatic Conference of all these States, possibly in the first half of 1999;
5. **REQUEST** the Director-General to distribute the report of the present meeting of High Contracting Parties together with this resolution to the High Contracting Parties to the Hague Convention, to all UNESCO Members States, to States with an Observer status, to all other interested States and to international organizations concerned;
6. **REQUEST** the Director-General to convene during the period of the thirtieth session of the General Conference a fourth meeting of the High Contracting Parties to the Hague Convention.”