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

**FIFTH 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 Headquarters, Paris, 5 November 2001

FINAL REPORT

I. Opening of the meeting

1. Following the resolution of the fourth meeting of the High Contracting Parties to the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict 1954 held in Paris on 18 November 1999, which invited the Director-General "to convene during the period of the thirty-first session of the General Conference a fifth meeting of the High Contracting Parties to the Hague Convention or earlier if the Director-General received a request from at least one-fifth of States Parties to the Convention", the fifth meeting took place at UNESCO Headquarters on Monday, 5 November 2001. The representatives of the following sixty-three High Contracting Parties (of the total number of one hundred and one) took part in the meeting: Argentina, Australia, Austria, Belgium, Bosnia and Herzegovina, Brazil, Cambodia, Canada, China, Colombia, Costa Rica, Cyprus, Czech Republic, the Democratic Republic of the Congo, Dominican Republic, Egypt, El Salvador, Finland, France, Germany, Greece, Holy See, Hungary, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Italy, Kazakhstan, Libyan Arab Jamahiriya, Lithuania, Luxembourg, Madagascar, Mexico, Monaco, Morocco, Netherlands, Nigeria, Norway, Pakistan, Panama, Peru, Poland, Portugal, Qatar, Romania, Russian Federation, Saudi Arabia, Senegal, Slovakia, Slovenia, Spain, Sweden, Switzerland, Syrian Arab Republic, Thailand, Tunisia, Turkey, Ukraine, Uzbekistan, Yugoslavia (Federal Republic of) and Zimbabwe. The meeting was also attended by observers from the International Committee of the Red Cross (ICRC), the International Centre for the Study of the Preservation and Restoration of Cultural Property (ICCROM), the International Council on Archives (ICA), the International Council of Museums (ICOM), the International Council on Monuments and Sites (ICOMOS) and the International Federation of Library Associations and Institutions (IFLA). The IFLA observer

represented the International Committee of the Blue Shield as well. A copy of the list of participants is attached.

2. The meeting was opened by the Director-General Mr Koïchiro Matsuura. In his opening speech the Director-General reiterated the importance of standard-setting instruments for the protection of cultural property. Referring to the destruction of the Bamiyan statues, he emphasized the significance of sanctions against those who deliberately destroy or damage cultural heritage, be it in international or non-international armed conflict or during occupation. He informed the meeting that in response to such threats, the thirty-first session of the General Conference of UNESCO had invited him to prepare a “Draft Declaration against the Intentional Destruction of Cultural Heritage”. According to the Director-General, the present meeting pursued three principal objectives:

- to assess the implementation of the Convention and its two Protocols since the last meeting of States party to the Convention (November 1999);
- to identify problems in such implementation; and
- to seek possible solutions.

In conclusion, he stressed the need for rapid entry into force of the Second Protocol as well as for the adoption of all the necessary domestic administrative, legal, military and technical measures implementing the Convention, with the full involvement of civil society.

II. Election of the Chairperson

III. Adoption of the rules of procedure

IV. Adoption of the agenda

V. Election of four Vice-Chairpersons and the Rapporteur

3. The meeting elected by consensus Mr Adul Wichiencharoen (Thailand) as Chairperson, adopted its Rules of Procedure and approved the Agenda.

4. The meeting elected also its four Vice-Chairpersons (Madagascar, Panama, Romania and Iraq) and Ms Bénédicte Selfslagh (Belgium) as Rapporteur.

VI. Introductory statement of the Secretariat

5. The Chairperson then invited the Secretariat to introduce an outline of its activities on the implementation of the Convention and to provide an update of the status of the Second Protocol to the Convention. The Secretariat recalled that there were now 101 States party to the Convention, 83 of which were also party to the 1954 Protocol. Since the last meeting of States Parties, five countries (China, El Salvador, Portugal, Republic of Moldova and Rwanda) have become party to the Convention and three countries (China, Panama and Republic of Moldova) have acceded to the 1954 Protocol. As to the Second Protocol (1999), it has been signed by 39 States and ratified or acceded to by 9 of them: Azerbaijan, Belarus, Bulgaria, Cyprus, Libyan

Arab Jamahiriya, Nicaragua, Panama, Qatar and Spain. To enter into force, an additional 11 instruments of acceptance, accession, approval or ratification are therefore needed. The Secretariat expressed its hope that all the States participating in the meeting will consider becoming party to this new instrument and urged those States that are currently unable to become party to the 1999 Protocol to compare their national legislation with the provisions of the Protocol in order to make such legislation compatible with the provisions of this Protocol. The Secretariat also encouraged all States party to the Convention to consider translating the Second Protocol into their national language(s) in order to make it widely known to the general public as well as to target groups such as cultural heritage professionals, the military or law enforcement officers.

6. To facilitate the work of States considering becoming party to or implementing the Convention and its two Protocols, the Secretariat:

- prepared an information note “Arguments for becoming a party to the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict 1954 and its Protocols”;
- commissioned a series of studies on different aspects of the implementation of the Second Protocol, with the Netherlands financial support;
- is finalising the next periodic report on the implementation of the Convention consisting of twenty-six national reports presented in a thematic way;
- is developing Draft Guidelines for the Protection of Cultural Property in the Event of Armed Conflict, in co-operation with the ICRC; and
- prepared, together with the ICRC, in response to offences committed against cultural property in Kosovo, a leaflet setting out the basic principles for the protection of cultural property addressed to the local population concerned as well as international personnel.

7. The Secretariat also mentioned a number of meetings organized for the promotion of the Convention and the Second Protocol:

- the joint UNESCO-ICRC Regional Seminar for Southern Africa Development Community States and Madagascar on Implementation of International Humanitarian Law and Cultural Heritage Law (Pretoria, South Africa, 19-21 June 2001). The proceedings have already been published.
- a study day on the “Protection of Cultural Property and the Evolution of the Cultural Property Protection Law” organised by the International Society for Military Law and the Law of War (Brussels, 27 October 2000);
- a meeting on the “Heritage under Fire: The Protection of Cultural Property in Wartime” organised by the British Red Cross (London, 26 June 2001); and
- the NATO/Partnership for Peace Seminar on the “Protection of Cultural Property in the Event of Armed Conflict – a Challenge in Peace Support Operations” organised by the Austrian Federal Ministry of Defence with active co-operation of the Austrian Society for the Protection of Cultural Property (Bregenz, 24-28 September 2001).

8. To conclude the general presentation, the Secretariat drew the attention of the participants to the gap existing between the ratification of different cultural heritage conventions and its

implications. Of 188 UNESCO Member States and 164 States party to the World Heritage Convention, many are not yet party to the Hague Convention.

VII. General discussion

9. Following the Secretariat's introduction, the Chairperson presided over a general discussion on various aspects of the Convention in which participated representatives of twelve High Contracting Parties as well as the Observers of the International Committee of the Red Cross and of the International Federation of Library Associations and Institutions (IFLA). The latter took the floor on behalf of the International Committee of the Blue Shield.

10. The main points of the discussion may be summarised as follows:

(i) Ratification of or accession to the Second Protocol to the Convention

The representatives of eleven States (Austria, Bosnia and Herzegovina, Brazil, Canada, China, the Federal Republic of Yugoslavia, Islamic Republic of Iran, Italy, Netherlands, Norway and Russian Federation) stated that their authorities are considering the provisions of the Second Protocol with a view to joining this agreement.

(ii) Implementation of the Convention and its two Protocols

Delegates taking the floor stressed the importance of national implementing legislation and some of them informed the meeting that preparation of such legislation was under way in their countries. In particular, they underscored the importance of multidisciplinary co-operation and the need for further exchange of information and practical experience in the implementation of the Convention because many partners concerned have different background.

(iii) Dissemination of the Convention within the military

The representatives of Austria introduced the recommendations of the recent NATO/Partnership for Peace Seminar on the "Protection of Cultural Property in the Event of Armed Conflict - a Challenge in Peace Support Operations". In particular, they emphasized the importance of including protection of cultural property in the framework of civil military co-operation, the mandatory involvement of Cultural Property Protection Officers in all phases of military operations and the need to develop common understanding of the Convention and its Protocols as well as to identify a set of tools for its efficient application. They went on to say that the next seminar will take place in Styria (Austria) in 2003. Several States expressed their satisfaction and interest in participating in such activities.

(iv) National advisory committees on the implementation of the Convention

The representative of the Islamic Republic of Iran mentioned the functioning of the Iranian National Advisory Committee on the implementation of the Convention, established under Resolution II of the 1954 Hague Intergovernmental Conference and

invited all countries which have not yet established such a Committee to do so. He suggested that a regional co-operation system between the already existing National Advisory Committees and future ones be established in order to exchange experience and promote national and regional activities.

(v) International and national Committees of the Blue Shield

The representatives of Canada, Italy, the Netherlands and Norway informed the meeting of the creation, or of the contemplated creation, of a National Committee of the Blue Shield following the experience of the International Committee of the Blue Shield (ICBS). ICBS welcomed this news, stated that it had elaborated criteria for the recognition of such National Committees and confirmed its availability to assist them.

(vi) International Committee of the Red Cross

The representative of the ICRC highlighted the importance of a joint co-operation of UNESCO and the ICRC in times where the number of ethnic conflicts is increasing and the cultural heritage used as a target. She also underlined the need to develop appropriate measures in peace time and confirmed the willingness of her organisation to continue its co-operation with UNESCO.

VIII. Marking of cultural property with the distinctive emblem of the Convention

11. As to the question of the marking of destroyed cultural sites with the distinctive emblem of the Convention (cf. working paper Ref. CLT-99/206/INF.2 and final report of the fourth meeting Ref. CLT-99/Conf. 206/4), the representative of Bosnia and Herzegovina informed the participants that the authorities of his country which initially raised this question at the beginning of 1999, were no longer in favour of submitting this issue to the International Court of Justice for an advisory opinion and proposed to withdraw the item from the agenda of the meeting.

12. Evoking the example of the destroyed Kaiser Wilhelm Gedächtnis Church in Berlin, whose ruins have been left untouched in order to remind future generations of the horrors of war, the representative of Germany stated that the possibility of marking destroyed cultural sites with the distinctive emblem of the Convention should not be excluded from the outset. The representative of Argentina recalled that the purpose of marking cultural property with the distinctive emblem is, in fact, to protect it, in other words, to reduce the possibility of its destruction during an armed conflict. Consequently, when a cultural property has already been totally destroyed, it would seem pointless to mark it, since the object of protection – the cultural, tangible value of the property, set forth in Article 1 of the 1954 Convention - have unfortunately disappeared. Following the same reasoning, he added that, when a cultural property has been partially destroyed, its remains may still need protection. In such a case, though, evidence should be provided of the need to identify the remains – for instance, by means of documents supplied by the concerned party or the conclusions of inspections carried out by UNESCO to assess the condition of the property partially destroyed. He was also of the view that there is no need to submit this question to the International Court of Justice and suggested that the meeting of States Parties prepare a resolution or an explanatory statement based on the analysis of the State Parties and/or the assessment by the UNESCO Secretariat. The representative of Poland, finally, evoked

the considerable freedom of the High Contracting Parties in determining which cultural sites should be covered by the general protection framework of the Convention and may therefore display the distinctive sign of the Convention.

13. Following these statements, the Chairperson proposed to maintain the issue of marking of destroyed cultural property with the distinctive sign of the Convention on the agenda of the next meeting of States party to the Convention. The Secretariat then requested the participants to provide it with substantial contributions, thus allowing it to prepare a working document for next meeting.

IX. Adoption of a resolution

14. The Chairperson opened discussion on the draft resolution prepared with the assistance of the Secretariat and the Bureau on the basis of the views expressed in the meeting. The participants proposed a number of formal amendments to the draft resolution, which was then adopted. A copy of the resolution is attached in annex 1.

IX. Other business

15. Following a suggestion of the representative of Argentina, it was agreed that resolution on the Acts constituting a crime against the common heritage of humanity, adopted by the thirty-first session of the General Conference of UNESCO in Paris in November 2001, and resolution on the Protection of the cultural heritage of Afghanistan, adopted by the General Assembly of States Parties to the World Heritage Convention at its thirteenth session in Paris in October 2001 would be included in the report of the meeting (see annexes 2 and 3).

16. Taking into account that disseminating information amongst military people and the civil society is one of the key issues for the success of the implementation of the Convention and its Protocols, the representative of Argentina asked the Assembly to consider an amendment of article 13 of the Rules of Procedure allowing Spanish to be a working language. The need for translation of the reports and working documents was supported by other delegations. The Secretariat recalled that in the context of budgetary constraints ("zero growth"), it was a matter of choices. The Chairperson concluded that working documents would be translated "in principle" and that the final report of the meeting be available in all six official UNESCO languages. The Secretariat took note of this request and confirmed that the report would be published in those languages.

17. The Chairperson concluded the meeting by thanking all participants and the Secretariat for their useful contributions.

ANNEX I

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

Paris, 5 November 2001

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 fourth meeting (18 November 1999) of the High Contracting Parties to the Hague Convention, which *inter alia* invited the Director-General to convene during the period of the thirty-first session of the General Conference a fifth meeting of the High Contracting Parties to the Hague Convention;

Thanking all High Contracting Parties to the Convention, as well as intergovernmental and non-governmental organizations, for their active participation in the promotion and dissemination of the Convention and its two Protocols;

Thanking the Director-General for all his efforts aimed at improving the promotion and implementation of the Convention and its two Protocols;

Expressing their hope that the Second Protocol will shortly enter into force;

1. **WELCOME** the efforts of the Director-General to provide States with information and experience in order to facilitate the ratification process and the implementation of the Convention and its two Protocols;
2. **TAKE** note of the experience of some States Parties in organizing practical field exercises, establishing a National Advisory Committee, and in adopting legislation to implement the Convention and its two Protocols and call on other States to follow these examples;
3. **ENCOURAGE** States not yet party to the Convention to join this agreement and to adopt relevant national legislation;
4. **NOTE** that those States party to the Convention which have signed the Second Protocol should ratify, accept or approve that agreement;
5. **NOTE** that States party to the Convention that have not signed the Second Protocol should consider acceding to it;
6. **INVITE** the Director-General to distribute the report of the present meeting of High Contracting Parties, together with this resolution, to all High Contracting Parties to the Convention, to all UNESCO Member States, to States with Observer status, to all other interested States and to international organizations concerned;

7. **INVITE** the Director-General to convene a sixth meeting of the High Contracting Parties to the Hague Convention, as soon as twenty States have deposited instruments of acceptance, accession, approval or ratification to the Second Protocol; noting, however, that the Director-General could convene a meeting sooner should he receive a request to do so from at least one-fifth of the States Parties to the Convention.

ANNEX II

Acts constituting a crime against the common heritage of humanity¹

The General Conference,

Thanking the Director-General for his report on his continued activity to protect threatened cultural heritage,

Noting the recommendations of the Bureau of the World Heritage Committee to the thirteenth General Assembly of States Parties to the World Heritage Convention for continued action in this regard,

1. *Calls on* all Member States and all other States of the world which are not yet party to the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict to join that Convention and its two Protocols of 1954 and 1999, as well as the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, the 1995 UNIDROIT Convention on Stolen or Illicitly Exported Cultural Objects, and the 1972 UNESCO Convention for the Protection of the World Cultural and Natural Heritage in order to maximize the protection of the cultural heritage of humanity, and in particular, against destructive acts;
2. *Notes* the fundamental principles included in these instruments to prevent the destruction of the cultural heritage including looting and illicit excavations;
3. *Reiterates* the principles set out in these conventions in relation to the protection of the cultural heritage to which all Member States of UNESCO are committed and which must serve for the guidance of governments, authorities, institutions, organizations, associations and individual citizens; and
4. *Invites* the Director-General to formulate, for the 32nd session of the General Conference, a Draft Declaration concerning the Intentional Destruction of Cultural Heritage based on those principles and on the debates on this item at its 31st session.

1. Resolution adopted on the report of Commission IV at the 20th plenary meeting, on 2 November 2001.

ANNEX III

Resolution on the protection of the cultural heritage of Afghanistan adopted by the General Assembly of States Parties to the World Heritage Convention at its thirteenth session (Paris, 30-31 OCTOBER 2001)

Recalling the invitation of the Executive Board of UNESCO at its 161st session to the World Heritage Committee to identify the means of ensuring better protection of the common heritage of humanity;

Noting the provisions of the Convention for the Protection of Cultural Property in the Event of Armed Conflict (The Hague, 1954) and its Protocols, the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1970), the World Heritage Convention concerning the Protection of the World Cultural and Natural Heritage (1972), the UNIDROIT Convention and other relevant international legal instruments;

Appreciating the attempts made by the Director-General of UNESCO, UNESCO Member States and various organizations and individuals to convince the Taliban forces to protect the cultural heritage of Afghanistan;

Condemns the wilful destruction of the cultural heritage of Afghanistan by the Taliban forces, particularly the statues of Bamiyan, as "crime against the common heritage of humanity";

Appeals to all States Parties to the World Heritage Convention to become signatories to the Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict, its Protocols, the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, the UNIDROIT Convention and other international legal instruments protecting cultural heritage, if they have not yet done so;

Invites the Director-General of UNESCO to inform the World Heritage Committee, at its twenty-fifth session, on the chronology of events related to the nomination for inclusion on the World Heritage List of the statues of Bamiyan and other Afghan cultural heritage properties by the Government of the Islamic State of Afghanistan currently in exile;

Invites the World Heritage Committee, at its twenty-fifth session, to consider:

- a) ways and means by which the implementation of the World Heritage Convention can be reinforced, especially in relation to the other relevant UNESCO Conventions for the protection of cultural heritage;
- b) measures for enhancing the promotion of education, awareness raising activities and communication concerning the irreplaceable values of the cultural heritage of humanity;
- c) improved mechanisms for promoting the scientific documentation of potential and existing world cultural heritage properties;

Invites States Parties to inform the World Heritage Committee, at its twenty-fifth session, on any steps they have taken to protect the cultural heritage of Afghanistan;

Invites the Director-General of UNESCO to inform the Secretary-General of the United Nations when the common heritage of humanity is threatened with wilful destruction so that he/she may propose necessary actions to protect this heritage.