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I. INTRODUCTION

Cambodia occupies a very unique and specific position on international and regional level when it comes to the implementation of the “1954 The Hague Convention”. This uniqueness and specificity may be the result of three factors:

1. Very early on as soon as the late 19th Century, Culture Heritage Conservation projects are being executed in and around the site of Angkor, paving the way for a heritage minded national policy, quickly adhering to the international “scene”.
2. In the late 1960’s, early 1970’s the country is plunged in approximately 30 years of international conflict and civil war, and
3. Cambodia has gone through a remarkable and rapid recovery process as off the early 1990’s.

These three factors have had a tremendous impact on the protection of cultural goods and property in Cambodia over the last century and especially during the last 50 to 60 years.

In 1907, with the founding of the “École Française d’Extrême Orient” and “La Conservation d’Angkor”, an official start was made with the conservation, preservation and restoration of the Angkor Monuments in Cambodia by the French government. Major conservation efforts were carried out the following decennia with careful documentation and data collection on many sites in and outside the Angkor area. These tireless efforts can still be observed today and were mainly carried out during the 1950’s and 1960’s.

It is also during this period, in the midst of post- war policy making and the decolonization process that Cambodia is recognized as a mature member of

the international community, becoming a member state of UNESCO as early as 1951, gaining official independence in 1953 and ratifying the “1954 The Hague Convention” on the 04th April 1962. The 15th June 1962 also marks the decision of the International Court in The Hague, attributing the Temple of Preah Vihear to Cambodian territory ending a half century long dispute between the Thai and Cambodian neighbors. Even the 1970 Convention on Illicit Trafficking is adopted 26th September 1972 during the very difficult political climate and in the aftermath of a military coup d’état in 1970, in an attempt to protect cultural goods and sites.

But it is from then on that things start turning the other side, giving less and less possibility, because of situational and circumstantial events, to abide by the 1954 and 1970 international conventions. Positive and meaningful decisions in the field of Culture Heritage protection gradually fade late 1960’s and early 1970’s.

In 1970 after the missions conducted by V. Elisseief and A. Noblecourt on behalf of The Director General of UNESCO to protect sites in and around Angkor in conformity with the 1954 Convention, measures are taken to protect cultural sites and museums. The 1954 Convention’s distinctive sign is also put on several monuments at Angkor and on the National Museum in Phnom Penh. In 1972 however, an attempt to protect the temples of Angkor, Roluos, the Conservation d’Angkor, Phnom Bok and Phnom Krom under article 8 of the Convention fails. Cambodia’s involvement in the Vietnam war, and subsequent civil war ceases all further attempts including the efforts of the Conservation d’Angkor in 1973. In a souring political and military climate the government nevertheless puts the distinctive 1954 Convention sign on several sites and decides to move the most precious artifacts from all over the country to Phnom Penh by military convoy also bearing the distinctive 1954 convention sign. The situation gets more and more difficult and ultimately culminates in a take over by the Khmer Rouge

Regime in 1975, characterized by the most horrible human rights abuses since the second world war resulting in millions of death.



The country would from then on be submerged in a period of horror till 1979 and civil conflict in its aftermath till the 1990's. Angkor was forgotten for nearly 25 years, monuments in and outside the Angkor area were systematically looted and occasionally even destroyed. In the



1980's and 1990's civil war and territorial disputes eased the pillaging and transfer of numerous cultural artifacts onto the illegal and international art markets.

In 1989 however, His Majesty King Norodom Sihanouk (then His Royal Highness Prince Norodom Sihanouk), requested UNESCO to coordinate all international assistance for Angkor. This appeal leads to an "Aide Mémoire of Cooperation" signed between UNESCO and the Supreme National Council (SNC) of Cambodia on the 29th November 1991 under which UNESCO was requested, amongst other things, to co-ordinate all activities

related to the safeguarding and development of the site of Angkor. This “Aide Mémoire” announced the start of a whole series of initiatives that would help the Kingdom of Cambodia in a renewed effort to protect, conserve and preserve its cultural heritage and again adhere to the 1954 The Hague Convention, which it ratified in 1962.

II. THE SAFEGUARDING OF CULTURAL HERITAGE

1. Initial Measures

As soon as peace within Cambodia was in sight, His Majesty King Norodom Sihanouk launched an appeal in 1989 to UNESCO to safeguard Cambodia’s Cultural treasures at Angkor. This memorable initiative leads, almost immediately after the “Paris Peace Accords” of 23rd October 1991 to the “Aide Mémoire” signed 29th November 1991 between the SNC and UNESCO “to safeguard and develop the site of Angkor”. This agreement includes the signature of the “instruments for the 1972 World Heritage Convention”. As a result negotiations opened for an inscription of Angkor into the World Heritage List and in 1992 during its 16th session, the World Heritage Committee at Santa Fe, USA inscribed an area of 402 Km² in and around Angkor onto the “World Heritage List in Danger” and “The World Heritage List” with very specific recommendations for the SNC to be followed:

- i). “...in order to the guarantee protection of the site for a three years period (1993-1995), the Committee has decided that a special in-depth study will be made of the Angkor site, and that reports will be presented to the Bureau and the Committee on the status of the monuments and the protective perimeter...”

- ii). In order to deal with the urgent problems of conservation quickly and effectively, the Committee has inscribed the site of Angkor on the

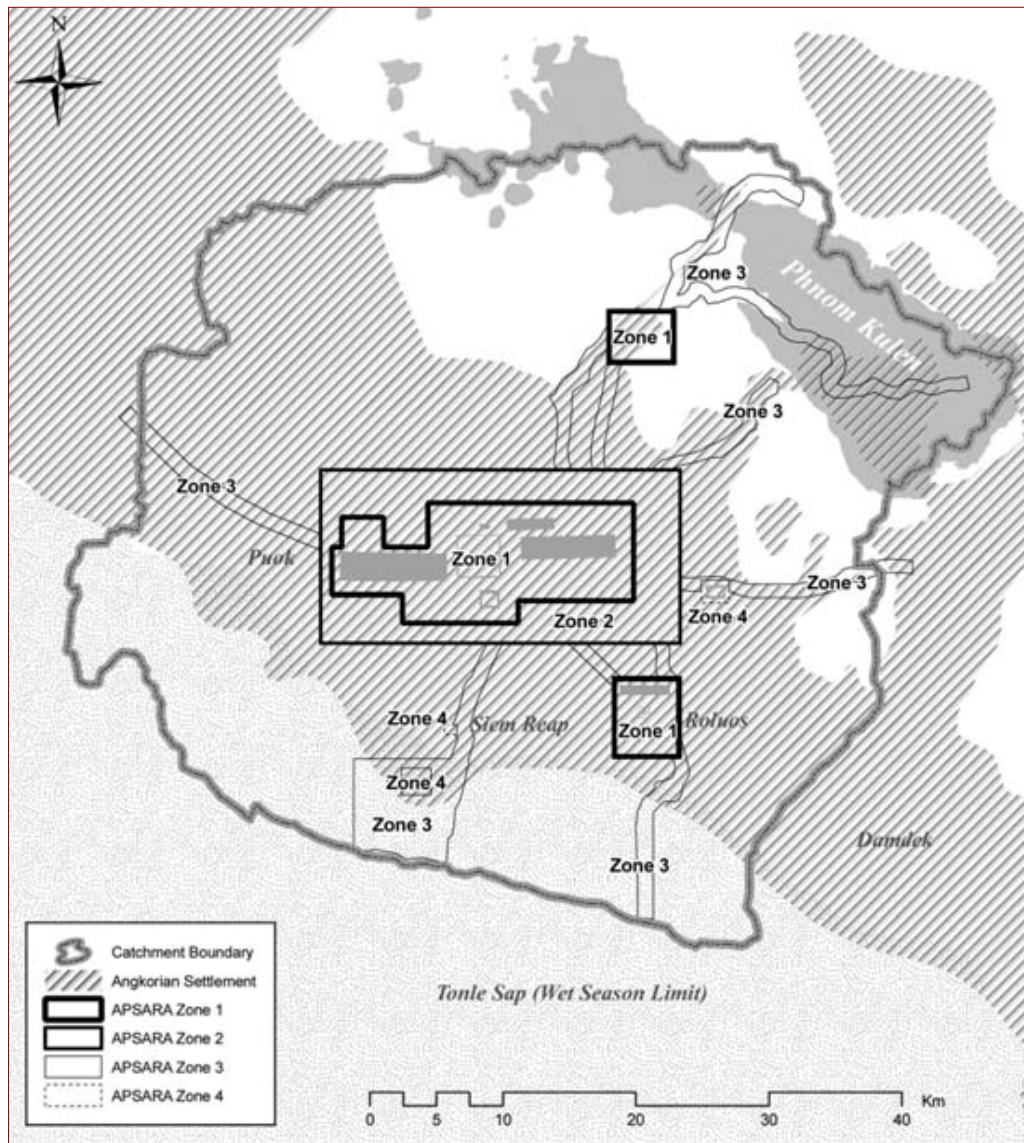
List of World Heritage in Danger, and has requested, on the recommendation of ICOMOS, that the authorities concerned take the necessary steps to meet the following conditions:

- a). enact adequate protective legislation;
- b). establish an adequately staffed national protection agency;
- c). establish permanent boundaries based on the UNDP projects;
- d). define meaningful buffer zones;
- e). establish monitoring and coordination of the internationally conservation effort.

The inscription of Angkor onto the World Heritage List completed the obligations of the Royal Government of Cambodia, deriving from the both earlier ratified conventions of 1954 and 1970.

In response to the recommendations:

- a. A national legislation was put in place in 1993 to protect the area.
- b. The specialized government institution APSARA, responsible for the protection and development of the site of Angkor was created in 1995.
- c. A National Decree on the boundaries was adopted on the basis of the zoning and Environmental Management Plan (ZEMP) project (UNESCO/UNDP).
- d. A zoning system of five protective zones was established.
- e. An intergovernmental conference for the safeguarding of the site of Angkor was organized in 1993 at the initiative of Japan and with the support of France.



Meanwhile, and with the help of the international community, amendments were made to the national law to protect the national cultural heritage and punish perpetrators committing illegal actions against cultural property in Cambodia. The National Law was adopted 10th February 1993 and promulgated in 1996.

2. The ICC-Angkor

The intergovernmental conference for the safeguarding of Angkor, held in Tokyo 1993, results in the “Tokyo Declaration”.

The Tokyo declaration:

- advocated the use of strong international mobilization.
- set up the International Co-ordinating Committee (ICC), co-chaired by France and Japan, whose secretariat is ensured by UNESCO, a body for proposals, evaluation, and monitoring of international aid.
- advocated a holistic and interdisciplinary approach.
- encouraged the adoption of legislative measures for the preservation of the site and the establishment of an overall program of Cambodian staff training at all levels required.
- recommended the establishment of an institutional framework for management by the Cambodian authorities.
- proposed holding, after 10 years, a second intergovernmental conference to draw up the balance of the ICC actions.



The majority of goals and challenges in Cambodia were identified, including the creation of the APSARA Authority in 1995, a public institution responsible for managing the Angkor World Heritage Site.

The first decade (1993-2003) under the banner of safeguarding opened the way for a new decade 2003-2013 under the banner of sustainable development and the fight against poverty. A second intergovernmental conference in Paris (14-15 November 2003) led to the adoption of a statement, which bears the name.



The Paris Declaration:

- confirmed the prominent role played by ICC and has extended its activities for the next decade.
- broadened its response to archeology (previously focused on the restoration and preservation of architectural heritage) and opened its expertise in sustainable development through the creation of a Technical Committee in its midst.
- has strengthened and expanded the mandate of the APSARA Authority to meet the new goals of sustainable development set by the international partners.
- recommended the promotion of ethical and sustainable tourism by involving local people.
- reiterated the need to ensure the transfer of know-how of international experts and their Cambodian counterparts and coordinate all initiatives in the area of field training.

Because of the management, conservation and restoration successes obtained, the Site of Angkor was removed from the World Heritage List in danger in 2004.

In 2006 the sustainable development component was translated into reality and fully integrated in the operation of the ICC-Angkor since 2007. The inclusion of the sustainable development component helped with the establishment of the Siem Reap Water Working Group (SRWWG) through a PRAKAS or national law. The Working Group is to observe all issues related to water in and around the site of Angkor.

To date, there are more than 30 different projects being implemented in Angkor, supported by more than 15 different countries and institution. The ICC-Angkor has also kept on growing with a continues large interest of the international scientific community and an ever larger participation of the Royal Government of Cambodia.

As of 2007, APSARA, and consequently the ICC-Angkor, also got a bigger responsibility with sites outside Angkor such as Boeng Mealea and Koh Ker, which were cleared of landmines during the past few years. This extension again enlarges protection and conservation activities.

3. The Temple of Preah Vihear

In 1962, a decision by the International Court of the Hague ruled that the Temple of Preah Vihear was laying Cambodia territory. Small conservation works were executed at the time, but were of little significance to the overall structure of the site. The Vietnam War and internal conflicts however, turned the area in a military zone as of the late 1960's, early 1970's, locking the heavily mined area for almost 30 years to civilian presence. This had its advantages, as no developments took place that could hurt the temple site. On the other hand, weak structural stability caused collapse and further degradation of the physical structure.



In 2001, H.E. Samdech Hun Sen, Prime Minister of Cambodia addressed a letter to former Director General of UNESCO, Mr. Koïchiro Matsuura, requesting the inscription of the Temple of Preah Vihear onto the World Heritage List. The request came only three years, after the security the Northern provinces of Odor Meanchey and Preah Vihear, where Khmer Rouge military activities continued till 1998, was secured.

Several Sub-Decrees and Royal Decrees were passed to secure protection of the site leading up to the submission of the World Heritage Nomination document:

1. Sub Decree on the establishment of Protected Forest for the Conservation of Plants and Animal Genetics, "Preah Vihear"- 30th July 2002.
2. Royal Decree on the Establishment of Preah Vihear Temple Site (NS/RKM/0303/115) -11 March 2003.
3. Royal Decree on the Delimitation of the Sites of Preah Vihear Temple- 13th April 2006.
4. Royal Decree on the Creation of ANPV – 1st June 2006.
5. Sub Decree on the layout and Management of the Site of Preah Vihear Temple -31st July 2006.
6. Sub Decree on the Establishment of the Administrative Board of the ANPV – 26th July 2007.
7. Sub Decree on the Nomination of the High Counselors to the Administrative Board of NAPV – 31st December 2007.

The World Heritage Nomination document was completed and submitted in 2006. At the 31st Session of the World Heritage Committee in July 2007 in Christchurch, New Zealand the importance of the site is recognized, but it was referred to the 32nd session for inscription.

Decision of the 31st Session (July 2007) -31.COM 8B.24Rev:

1. The World Heritage Committee, Having examined documents WHC-07/31.COM/8B and WHC -07/31.COM/NF.8B.1,
2. Having taking note of the following statement by the Chair of the World Heritage Committee which has been agreed to by the Delegation of Cambodia and the Delegation of Thailand:

- “The State Party of Cambodia and State Party of Thailand are in full agreement that the Sacred Site of the Temple of Preah Vihear has outstanding Universal Value and must be inscribed on the World Heritage List as soon as possible. Accordingly, Cambodia and Thailand agree that Cambodia will propose the site for formal inscription on the World Heritage List at the 32nd Session of the World Heritage Committee in 2008 with the active support of Thailand.
- They also agree that the site is in need of urgent attention and requires international financial and technical assistance and close cooperation between them.
- They further agree that it is essential to strengthen conservation and management at the site including by the development of an appropriate management plan, as required under paragraph 108 of the Operational Guidelines, that will ensure the future protection of the property.

- They understand, following consultation with the World Heritage Centre, that financial and technical assistance for the development of a management plan will be available through the World Heritage Centre's International Assistance programme.
3. Recognizes that the Sacred Site of the Temple of Preah Vihear is of great international significance and has Outstanding Universal Value on the basis of criteria (i), (ii) and (iv), agrees on principle that it should be inscribed on the World Heritage List and notes that the process for inscription is in progress;
 4. Requests the State Party of Cambodia to strengthen conservation and management plan, which progress in developing an appropriate management plan, which progress will enable its formal inscription by the committee at its 32nd Session in 2008;
 5. Further requests the State Party of Cambodia to submit a progress report to the World Heritage Centre, by 1 February 2008.

Chairperson statement

At the 31st session of the World Heritage Committee
Christchurch, New Zealand

This decision means that the committee has agreed that this Sacred Site deserves to be included in the World Heritage List and that its formal listing will take place at its next session in 2008, and I request that my remarks are included in the final report of this meeting along with the decision.

The following months the Royal Government of Cambodia, its newly established National Authority for the Protection and the development of the Cultural and Natural site of the Temple of Preah Vihear (NAPV) and an international team of experts gathered by UNESCO worked at the elaboration of a “Progress Report” while enhancing protective measures in and around site. The conclusions were presented to the World Heritage Centre in January 2008 (Dossier Relatif a la mise en oeuvre de la Décision 31 COM 8.24 Rev du Comité du Patrimoine Mondial) and April 2008 (Conservation et Gestion, Rapport Complémentaire établi sur la base du rapport d’etape remis le 28 janvier 2008 au Center du Patrimoine Mondial), and the Temple of Preah Vihear was officially inscribed onto the World Heritage List during the 32nd Session of the world heritage committee, 08 July 2008, Quebec, Canada.

Decision of the 32nd Seession (July 2008) 32 8B.102:

The World Heritage Committee,

1. Having examined Document WHC-08/32.COM/INF.8B1. Add2,
2. Recalling Decision 31 COM 8B.24, which recognized’ that the Sacred Site of the Temple of Preah Vihear is of great international significance and has Outstanding Universal Value on the basic of criteria (i), (iii) and (iv), and agreed in principle that should be inscribed on the World Heritage List’
3. Having noted progress made by the State Party of Cambodia towards the development of Management Plan for the property, as requested by the Committee by its Decision 31 COM 8B.24 in Christchurch, New Zealand,

4. Expressing gratitude to the governments of Belgium, the United States of America, France, and India for providing support for the work of experts to assist in this effort, and to governments of China and Japan, as well as ICCROM, for providing valuable expert input to this process.

5. Recognizing that the Joint Communiqué signed on 18 June 2008 by the representatives of the Governments of Cambodia and Thailand, as well as by UNESCO, including its draft which was erroneously referred to as having been signed on 22 May 2008 in the document WHC-08/32.COM/INF.8B1. Add.2, must be disregarded, following the decision of the Government of Thailand to suspend the effect of the Joint Communiqué, pursuant to the Thai Administrative Court's interim injunction on this issue,

6. Noting that the State Party of Cambodia submitted to the World Heritage Centre the revised graphic plan of property (RGPP) included in WHC-08/32 COM/INF 8B1. Add 2 (hereinafter called "RGPP") indicating a revised perimeter of the area proposed for inscription on the World Heritage List,

7. Decides, on an exceptional basis, to accept, in view of the multilateral process leading to the elaboration of the supplementary report submitted in May 2008 by the State Party of Cambodia at the request of the UNESCO World Heritage Centre, the information submitted by the State Party beyond the deadline established in the paragraph 148 of the Operational Guidelines;

8. Recognizes that Thailand has repeatedly expressed a desire to participate in a joint nomination of the Temple of Preah Vihear and its surrounding areas;

9. Notes that the property proposed for inscription is reduced and comprise only the Temple of Preah Vihear and not the wider promontory with its cliffs and caves;

10. Considers further that archaeological research is underway which could result in new significant discoveries that might enable consideration of a possible new Trans boundary nomination, that would require the consent of both Cambodia and Thailand.

11. Encourages Cambodia to collaborate with Thailand for safeguarding the value of the property, in view of the fact that peoples of the surrounding region have long treasured the Temple of Preah Vihear, and agrees that it would be desirable in the future to reflect its full values and landscape setting through a possible additional inscription to the World Heritage List that could capture criteria (iii) and (iv), which had been recognized by the Committee in its Decision 31 COM 8B.24.

12. Inscribes the Temple of Preah Vihear, Cambodia, on the World Heritage List under criterion (i);

13. Adopts the following Statement of Outstanding Universal Value:
The Temple of Preah Vihear, a unique architectural complex of a series of sanctuaries linked by a system of pavements and staircases on an 800 meter long axis, is an outstanding masterpiece of Khmer architecture, in terms of plan, decoration and relationship to the spectacular landscape environment.

14. Requests the State Party of Cambodia, in collaboration with UNESCO, to convene an international coordinating committee for safeguarding and development of the property no later than February

2009, inviting the participation of the Government of Thailand and not more than seven other appropriate international partners, to examine general policy matters relating to the safeguarding of the Outstanding Universal Value of the property of the property in conformity with international conservation standards;

15. Requests the State Party of Cambodia to submit to the World Heritage Centre, by 1 February 2000, the following documents:

- a) A provisional map providing additional details of inscribed property and a map delineating the buffer zone identified in the RGPP;
- b). Updated Nomination dossier to reflect the changes made to the perimeter of the property;
- c). Confirmation that the management zone for the property will include the inscribed property and buffer zone identified in the RGPP;
- d). Progress report on the preparation of the Management Plan;

16. Further requests the state Party of Cambodia to submit to the World Heritage Centre by February 2010, for submission to the World Heritage Committee at its 34th session in 2010 a full Management Plan for the inscribed property, including a finalized map.



On 15th October 2009 Thai military crossed the international border with Cambodian and tried to occupy a zone to the immediate North of the temple site. Cambodian forces retaliated and a consensus was reached whereby 10 Thai soldiers stayed in the pagoda to the immediate North-East from the

temple site. This situation remained for months with both countries positioning military units on both sides of the international border.

In the immediate aftermath of the incident, the Royal Government of Cambodia decides to use the distinctive sign of the 1954 Convention. The sign is put at the entrance, alongside and onto the roof of the Temple site. Preparations were also made to organize a national awareness training and capacity building workshop on the 1954 Convention and its implementation.



The training workshop took place 02-06 March 2009 in Phnom Penh and on the archaeological site of Tonle Bati in Takeo province, as the situation at Preah Vihear did not allow for training onsite.



On the 1st April 2009 a second attempt was made by the Thai military to cross the international border, this time with more serious consequences. Several military casualties are recorded on both



sides, the market at the bottom of the Northern monumental staircase of the monument is destroyed and several parts of the temple are hit by bullets and shrapnel. After the incident military from both sides withdrew to both sides of the international border again but their presence in the vicinity of the temple area stayed a reality.



Despite these extremely difficult circumstances the Royal Cambodian Government and NAPV, aided by the team of international experts have continued their efforts to protect and preserve the site, and on 02 April 2009 (as part of an experts mission 28 March – 02 April 2009) a series of recommendations were formulated by the international experts team:



Recommendations PV meeting 02.04.09:

1. A proposed revised protected green, forested, environmental and cultural area is outlined in addition to the existing Royal Decree on the general management plan (attached) to be further defined by appropriate national legislation. The area is composed of man made structures and natural elements where biodiversity ought to be respected and the balance in the ecosystem should be reestablished.
2. The village of Saem will be the entrance to the proposed protected area. All tourist services for the site, such as eco- friendly shuttles to the site, general tourist services such as restaurants, coffee shops, souvenir shops, interpretation center and conservation center (this conservation center may operate at the national, regional and international level) should be concentrated in the appropriate management zones.
3. The new road to the East side of the Temple of Preah Vihear should be brought back to a width of 7-9m and should be reforested so that the environmental panorama will be restored. The visit to the temple area via the historical staircase may commence at the newly constructed visitors center. The actual location of the visitor center needs to be reviewed to integrate into the natural environment.
4. The visit from the East side could further continue by crossing the restored stream and NOT from the bottom of the historical staircase. A small bridge for pedestrians needs to be constructed over the river to access the historical staircase, and should be adapted to accommodate an emergency vehicle.

5. The conservation, restoration and eventual restitution of the historical staircase, including the provisional staircase should be started as soon as possible. Furthermore, the forest at the base and vicinity of the historical staircase should be restored and protected. The study leading to the proposal for the works on the provisional staircase should be finalized between April and the end of 2009.
6. The Royal Cambodian Government, which has sufficient human resources, should urgently constitute an inter-disciplinary team within the ANPV consisting of archaeologists, architects, engineers, hydrologists, environmentalists and demining services, including a permanent core technical team. This team should immediately start working on the process to restore the historical staircase. This effort should not infringe on the spiritual value of the site, meaning to retain the historic character of the East access to the temple area.
7. All available information should be collected to create an appropriate database for scientific interpretation of the site and to guide the heritage management process. Wherever possible, modern technologies such as aerial photography, satellite imaging and 3D-laserscanning should be used within the framework of an integrated documentation system.
8. Problems with water drainage on all Gopuras of the temple are causing major structural problems at different parts of the monument. It is thus very important that this problem is addressed immediately. This problem is particularly urgent at Gopura V. As there is no immediate national or international support foreseen, it is proposed that visitors are kept at a safe distance while a possible partial dismantling could be investigated.

9. Experts observed that an old structural situation at the Eastern side of Gopura III is aggravating the stability of the temple. To ensure safety on site and to restore the structural stability of the monument it is suggested that civil and military presence be moved to a safer location, the holes be filled and concrete basin be removed. An archaeological diagnosis should also be continued at the Western side in view of conservation, chronology and eventual reuse of the ancient pond. A monitoring system should be installed to observe the evolution of the monument. A signal system should also be put in place on site to avoid any use of heavy equipment.

10. Urgent attention should be paid to the pollution and waste management at the site and its larger surroundings.

11. The Forestry Department of ANPV should pay special attention to the cutting and the planting of the trees and decide on the species to be used with relation to the stability of the monument, the drainage of water on the site, the observation points for visitors, and taking into account local belief systems with relation to the sacredness of certain plants and trees.

12. As indicated in 2008 progress report to the WH Committee part of the structural problems on-site are caused by the existing drainage system. There is the specific problem of the cleaning of the area around the temple and the cleaning of the causeways. While the cleaning is good for drainage, erasing or total removal however can cause erosion. Removal of the ground cover and the use of heavy equipment should be avoided as it contributes to erosion.

13. Water retention has become a serious issue because of the permanent presence of people on site. However the problem could be solved after measuring the quantities of water that can be contained in

existing reservoirs and studying the topography. In more general terms, the authenticity of the water drainage system which includes the West Baray at the bottom of the promontory should be restored.

To date, the recommendations have been and are being implemented by the NAPV in close collaboration with the international experts team, and several subsequent missions have been organized to follow-up and evaluate the works being carried in and around the site (28-02 April 2009: ICOMOS/UNESCO, 11 May 2009: FSP/INRAP/UNESCO, 13 December 2009: ICCROM/ILO/UNESCO, 17-18 December 2009: ICCROM/UNESCO).



In June 2009, during the 33rd Session of the World Heritage Committee in Seville, Spain, an additional range of recommendations were formulated for the Site of Preah Vihear to be complied with by the 34th Session of the World Heritage Committee in Brasilia, Brazil, 2010.

Decision of the 33rd Session (June 2009) 33 COM 7B.65:

The World Heritage Committee,

1. Having examined Document WHC-09/33.COM/7B.Add,
2. Recalling Decisions 31 COM 8B.24 and 32 COM 8B.102, adopted at its 31st session (Christchurch, 2007) and 32nd Session (Quebec City, 2008) respectively,

3. Notes the developments that have occurred at the property since its inscription on the World Heritage List, the information contained in the State Party report and the preliminary findings of the Reinforced monitoring mission;

4. Requests the State Party to submit to the World Heritage Centre, by 1 February 2010, a report on the progress made in the implementation of the recommendations by the Committee in its Decision 32 COM 8B.102, for the examination by the World Heritage Committee at its 34th session in 2010.

The report on the progress made (Dossier Relatif a la Mise en Oeuvre de la Décision 33 COM 7B.65 du Comité du Patrimoine Mondial, janvier 2010) and the Management Plan for the Site of Preah Vihear, were both submitted by the Royal Government of Cambodia to the World Heritage Center in



January 2010 (Annex 1: management plan for the World Heritage Site of the temple of Preah Vihear, p.35).

The submission of this report was done during very turbulent times as on the 24th of January 2010 a new exchange of rocket fire took place between Thai and Cambodian troupes stationed at the border area. Apart from injuries no casualties or other damages were reported. This exchange of fire was repeated a bit further from the Temple Site on Friday 29 January 2010, at a zone about 35 to 40 km, with one casualty reported on the Thai side.

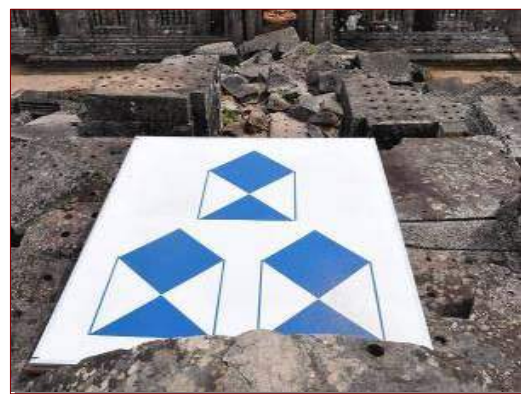
III. MILITARY MEASURES

To protect cultural heritage sites from further pillaging and destruction a Heritage Police Force was technically created in 1994, becoming officially operational in 1997. The Heritage Police Force Units are particularly deployed in the Angkor and Preah Vihear vicinities. These special police units are judicially placed under the Ministry of Interior and work in very close collaboration with national institutions such as APSARA and ANPV.



IV. DISTINCTIVE SIGN

On numerous occasions, the distinctive sign of the 1954 Convention has been and is being used at cultural heritage sites in Cambodia. Those signs have always been put in good faith and in difficult circumstances to protect Cambodia's Cultural Heritage starting in the 1960's with sites in and around Angkor, Banteay Chmah, the "Conservation d'Angkor" e. a. Latest they have been deployed at the temple of Preah Vihear in 2008.



V. DISSEMINATION OF THE CONVENTION

In the framework of our assistance to the Ministry of Culture and Fine Arts and related governmental institutions (APSARA National Authority and National Authority for Preah Vihear), UNESCO Office in Phnom Penh organized a training session on the 1954 The Hague Convention. The Training was scheduled from 02 to 06 March 2009 at the Ministry of Culture and Fine Arts.



Professor Jiri Toman and his 55 trainees at Bati Temple

1. Organizing Committee

- **UNESCO Phnom Penh Office**
 - Philippe Delanghe, Programme Specialist
 - Keo Sereineath, Culture Unit Assistant
 - Lim Bun Hok, NPO for ICC-Angkor
 - Hong Makara, NPO for Intangible Cultural Heritage
 - Prom Chak, Project Coordinator
- **Ministry of Culture and Fine Arts**
 - Prak Sonnara, Deputy Director General of Cultural Heritage
 - Heng Sophady, Deputy Director General of Cultural Heritage

2. Participants

- **Trainer**

Professor Jiri Toman jurist from the Santa Clara University (USA)

- **UNESCO Phnom Penh Office**

- Philippe Delanghe, Programme Specialist
- Keo Sereineath, Culture Unit Assistant
- Hong Makara, NPO for Intangible Cultural Heritage

- **Council of Ministers**

1. Mrs Hor Sokuntheary
2. Mrs Hae SocheatRithy

- **Ministry of Culture and Fine Arts**

1. Mrs Chhun Sokha
2. Ms Chea Sopheary
3. Ms Huot Nora
4. Mr Heng Sophady
5. Ms Kheng Phary
6. Mr Khann Mony
7. Ms LY Trouurpleak
8. Mr Ly Sophat
9. Mr Nourn Kimnann
10. Mr Nay Sophea
11. Mr Ouk Sokha
12. Mrs Ok Socheata
13. Mr Pen Phiwath
14. Mr Pel Vithar
15. Ms Roeung Kannytha
16. Mr Thoem Sam Ol
17. Mr Voeun Vuthy
18. Ms Vong Kalyan
19. Mr Yim Phalleang
20. Ms Ngoy Sona
21. Mr Mauth Sokha

- **Cambodian National Commission for UNESCO)**

1. Mr Samreth Viseth
2. Mr Muong Sowath
3. Mr Lay Angkora

- **APSARA National Authority in close collaboration with The Cultural Heritage Police**

1. Mrs Bun Kanhara
2. Mr Hor Ritheanou
3. Mr In Sovann
4. Mr Phoeung Dara

5. Mr Sok Sorun
7. Mr Meng Vanny

6. Ms Ang Sokun
8. Mr Oun Srong

• ***Preah Vihea National Authority***

1. Mr Heap Sokun
3. Mrs Pon Sothy
5. Mr Say Sophearin
7. Mr Tea Bunleng
9. Mr Chhy Chheang

2. Mrs Loch Sunhill
4. Mr Top Khem
6. Mr Sarin Kunakor
8. Miss Nget Soumonisela
10. Mr Oeun Channthan

• ***National Museum***

1. Mr Chea Socheat
3. Mr Hor Kosal
5. Mr Oum Porn
7. Mr Sok Soda

2. Mr Chhoun Sareth
4. Mrs Kong kuntheary
6. Mr Sor Sovan
8. Mrs Sam Thida

• ***Tuol Sleng Genocide Museum***

1. Mr Chey Sophearom
2. Mr Ke Soponnaka

3. Training Programme

This training consists of three parts:

- a) Theoretical course that was held at the Ministry of Culture and Fine Arts from Monday 02 to Wednesday 04 March 2009 [See annex 2: Codification of International Humanitarian Law, p.97; Annex 3: History of the Law of War and Protection of Cultural Property, p.111; Annex 4: Protection of Cultural Property (1954 Hague Convention), p.125; Annex 5: Execution of the Convention (Control System), p149].
- b) On site course at Tunle Bati site, in Takeo province.
- c) Synthesis and Certificate Delivery on Friday 06 March at the Ministry of Culture and Fine Arts.

4. Training Activities

Professor Jiri Toman started his course by providing the context of the Hague Convention 1954. The Geneva Law (1864-1949) was mentioned as well and Philippe Delanghe gave

several examples from his own experiences in Iraq.



Taprum Temple is located in the Bati district in Takeo province, around 55 kilometres in the south of Phnom Penh. Professor Jiri Toman listened the brief of the temple story by a

representative of the Ministry of Culture and Fine Arts and explained how and where the emblem of protection signs should be put. Moreover, he provided trainees with several recommendations regarding site management and preservation.



Trainees and Professor Jiri Toman during the field study in the Taprum temple in Takeo Province



Professor Jiri Toman, Philippe Delanghe and Trainees during certificate delivery

5. Propositions

- The Ministry of Culture and Fine Arts asked UNESCO Phnom Penh Office to organize more training on other International Conventions for their staff and the staff of related governmental institutions.

6. Perspective

- The Ministry of Culture and Fine Arts in Close Collaboration with UNESCO Phnom Penh Office will encourage national and local authorities to put the emblem of the 1954 Convention.

As follow up a training course on 1954 The Hague Convention and its implementation will be organized for the Military High Command March 2010.

VI. OFFICIAL TRANSLATION

The 1954 Convention was officially translated into Khmer before the submission to the parliament for ratification in 1962 (Annex 6: Translation of the Convention, p.175).

VII. SANCTIONS

Sanctions in the national law have only been foreseen in relation to the 1970 Convention on Illicit Trafficking. The government is however considering applications with regard to the 1954 Convention.

VIII. (FIRST) PROTOCOL OF 1954

Cambodia has never invaded nor occupied another country.

IX. RESOLUTION II OF THE HAGUE CONFERENCE 1954 – NATIONAL CONSULTATIVE COMMITTEE

In accordance with the text of Resolution II, the Cambodian Government established a National Commission for the Protection of Cultural Goods in the Case of Armed Conflict, 24th June 1970. The current National Commission is composed of:

1. H.E. Mr. Ros Borath, Advisor, Council of Ministers and Deputy Director-General of the APSARA National Authority, as Director of the Commission;
2. H.E. Mr. Chan Tany, Secretary of State, Council of Ministers, as Deputy Director;
3. H.E. Mr. Long Visalo, Secretary of State, Ministry of Foreign Affairs and International Cooperation, as Deputy Director
4. H.E. Mr. Hang Soth, Secretary-General of the National Authority for Preah Vihear, as member;
5. H.E. Mr. Yos Eang, Deputy Secretary-General of the Cambodian National Commission for UNESCO, as member;
6. H.E. Dr. Bong Sovath, Rector of the Royal University of Fine Arts, Ministry of Culture and Fine Arts, as member;
7. Ms. Chau Sun Kerya, Director of Department of Cultural Development , Museums and Heritage Norms;

8. Dr. Ly Vanna, Director of Preah Norodom Sihanouk Angkor Museum, as member;
9. Mr. Hab Touch, Director of the National Museum of Cambodia, as member;

With four high advisors:

1. H.E. Mr. Var Kimhong., Senior Minister, Director-General of Boundary Affairs Commission;
2. H.E. Mr. Chuch Poeurn, Secretary of State, Ministry of Culture and Fine Arts, and President of the National Authority for Preah Vihear;
3. H.E. Ms. Tan Theany, Secretary-General of the Cambodian National Commission for UNESCO;
4. H.E. Mr. Bun Narith, Director-General of the APSARA National Authority.

X. ANNEXES

Annex 1: Management Plan for the Temple of Preah Vihear World Heritage Site

Cambodia



Prepared by:

Divay Gupta
Conservation Architect & Heritage Management Specialist, India

Commissioned By:

National Authority for the Protection and the Development of the Cultural and Natural Site of the Temple of Preah Vihear (ANPV)

Supported by:

Royal Government of Cambodia
Cambodian National Commission for UNESCO
UNESCO Office in Cambodia at Phnom Penh



January 2010

FOREWORD

At the request of the Kingdom of Cambodia, and in its capacity as owner of the property and responsible for its management and protection, the TEMPLE of PREAH VIHEAR was listed as a World Heritage property by the World Heritage Committee on 07 July 2008, because it «is an outstanding masterpiece of Khmer architecture. It is very 'pure' both in plan and in the detail of its decoration». (Decision 32COM 8B.102, 32nd ordinary session of the Committee, Quebec, Canada).

The Temple occupies a unique position as a wonder of Khmer civilization. By its conception and execution, and by its elaborate plan of five gopuras, it stands as a remarkable architectural composition of master the builders of the Angkor Empire. Situated on a cliff of the Dangrek Range, this magnificent complex served as a rallying point for a number of hermitages and temples in the region.

Since its inscription, in the short period of one and a half year, several experts, both national and international, have contributed to the understanding of this architectural masterpiece to strengthen the values and sacredness of the monument. In the meantime, the National Authority for the Protection and Development of the Cultural and Natural Site of Preah Vihear (Public institution established by Royal Decree) recruited an interdisciplinary team consisting of architects, engineers, archaeologists, hydrologists, environmentalists, and technicians in order to effectively implement the programme of conservation and, especially, the Recommendations made by a group of senior international experts on April 02, 2009.

In addition to the even-growing corpus of studies on this monument of international repute and universal value, the present MANAGEMENT PLAN FOR THE WORLD HERITAGE SITE OF THE TEMPLE OF PREAH VIHEAR offers a holistic and guided approach for the conservation of the architectural, archaeological, cultural and natural wealth of the World Heritage site, in accordance with the *Operational Guidelines for the Implementation of the World Heritage Convention*. Far from being only prescriptive, this comprehensive document is an all-inclusive framework for the cultural heritage conservation and management of the Temple. Happily, the PLAN goes beyond the theoretical realm of ideas. It charts out practical ways and means to insure the implementation of the key issues on the ground as well as to achieve the set goals. Moreover it involves a cycle of long-term and day-to-day actions to protect, conserve and enhance the values and sacredness of the Temple of Preah Vihear.

I am delighted to congratulate the author of this Management Plan, Dr Divay GUPTA, Conservation Architect and Heritage Management expert (India). He was entrusted by ICOMOS to prepare the 2007 ICOMOS evaluation report on the nomination of the Temple of Preah Vihear, then by the National Authority of Preah Vihear as member of the Ad Hoc international experts group.

Based on some four years of work experience with the sacred site of the Temple, this Management Plan will help the National Authority to ensure the best conditions and a comprehensive approach for the conservation and enhancement of the values of the monument and its site.

Phnom Penh
January 2010



SOK An

INTRODUCTION

This document seeks to advise and influence the conservation and management of the World Heritage Site of the Sacred Site of The Temple of Preah Vihear.

This document provides the framework for managing and conserving the cultural and natural heritage of the Temple of Preah Vihear, Cambodia. Its purpose is to explore ideas and help establish how these cultural resources might contribute to the enhancement of understanding and appreciation of the Cambodian cultural heritage by the World.

This assemblage of sacred architecture in Cambodia dates back to the 9th century and represents an outstanding example of human endeavor. The temple and its immediate surroundings remain substantially intact, and represent a unique cultural landscape in Cambodia and the World.

The site of Preah Vihear has long been recognized as containing significant historical and cultural resources. For centuries this has been a sanctuary and a landmark for Khmer people and has provided them with a sense of history. Because of its unique properties the site has been decreed a National Monument through Royal Government of Cambodia. Based upon the recommendations of the Supreme Council on National Culture of Cambodia (SCNC), the site was nominated to UNESCO for a World Heritage status in 2006 and was inscribed in July 2008.

With this in mind, the following document will promote a holistic and guided approach for the conservation and management of the archeological, architectural and cultural heritage of the site. It will provide a forum for documentation and interpretation of the cultural and natural heritage of the site. However the challenge is to incorporate new changes to make it a vibrant place especially for heritage and eco-tourism promotion.

The plan will also promote the ecological aspects of the site, which have been created by the surrounding natural setting. This in turn can provide for interactive natural educational opportunities for the visitors and local communities alike.

ANPV which has commissioned this Management Plan for the WHS now needs to continue to work to implement its aims and objectives to secure the protection of the WHS, and its Outstanding Universal Value and related significances for future generations. The implementation of the Management Plan's objectives requires the support and participation of many national and international partners, other organizations, individuals and funding bodies. The Plan itself can provide the focus for coordinating this effort, but it requires a significant level of continued commitment and resources if it is to succeed.

It is hoped that the conservation of the site will bring considerable prestige to the site and enhance the quality of life of the local communities. However this plan is not prescriptive but aims to propose a framework for the effective management and conservation of the site in a coordinated and comprehensive manner.

ACKNOWLEDGMENTS

I am grateful to all the international experts for providing their valuable inputs and insight in preparation of this management plan, especially Mr. Michel Verrot, the Technical Advisor, Mr. Eric Llopis, Mr Richard Sussman, Mr. Antoine Bruguerolle, Mr. Koen Van Balen, and Mr Hang Peou.

I am also grateful to the Chairman of ANPV, H.E. Mr. Chuch Phoeurn, and Mr. Hang Soth, Director General ANPV for their support and encouragement. I thank the staff of ANPV for their assistance and in providing me with the relevant information, especially Mr Uk Top Botra, Director Monuments & Archeology and his team of Archeologists and Architects, Mr. Pheng Sam Oeun & Mr. Hem Sinath and Mr. Long Kosal, Director Tourism and his team. I am also grateful to all those who devoted their time discussing the issues of the site and accompanying me to the site.

I also express my thanks to Madam Ms. Tan Theany, Secretary General of the Cambodian National Commission for UNESCO, H.E. Mr.UK Someth, Deputy Director General of the APSARA, and Madam Chau Sun Kerya.

I am also indebted to the advice and guidance provided by UNESCO Culture Advisor Prof. Azedine Beschouch without his interventions this document would not have been possible. The support of UNESCO Office in Phnom Penh was critical and many thanks are due to Mr Teruo Jinnai, Philippe Delanghe, Bun Hok and Blaise Kilian. Thanks are also due to Prof. Sahai for his inputs and suggestions to the Management Plan.

I owe a particular debt of gratitude to the HE, Mr. Sok An, Deputy Prime Minister and Chairman of the Cambodian National Commission for UNESCO, for his guidance and confidence in this mission.

Divay Gupta

Conservation Architect & Heritage Management Specialist

January 2010

Abbreviations used

ANPV- *National Authority for Protection of Preah Vihear (Autorite Nationale pour la Protection et le Developpement du site culturel et naturel du Temple de Preah Vihear)*

CMAC – *Cambodian Mine Action Center*

CNC- *Cambodian National Commission for UNESCO*

ICC - *International Coordination Committee*

ICOMOS- *International Council for Monuments and Sites*

ICCROM- *International Center for the Study of the Preservation and Restoration of Cultural Property*

JBC - *Joint Border Commission*

MCFA- *Ministry of Culture and Fine Arts*

MCC - *Monitoring and Conservation Committee*

PV - *Preah Vihear*

RGC - *Royal Government of Cambodia*

SCNC - *Supreme Council on National Culture*

UNESCO – *United Nations Educational, Scientific and Cultural Organization*

WHC - *World Heritage Committee*

WHS - *World Heritage Site*

Glossary

Baray	Ancient Water Tank or Reservoir generally rectangular
Gopura	Entrance Pavilion generally built on high plinth.
Linga	Stone Phallus symbolizing Shiva
Naga	Multiple hooded mythical snake
Prasat	Temple

1.1 Background

This document is prepared with the intentions of establishing the Management Strategy and for the protection and conservation of the World heritage site of Sacred Temple at Preah Vihear. It is hoped that this document will be instrumental in facilitating better management and conservation of the site.

The Sacred Temple Site of Preah Vihear was nominated as a cultural heritage site on 30th Jan 2006 by Cambodian government under World Heritage Site criteria (i), (iii), & (iv). Though its outstanding universal value was recognized by the WHC and its inscription was agreed in principle in Christchurch (2007), site was finally inscribed in Quebec (2008) under criteria (i) (*represent a masterpiece of human creative genius*) only, with reduced boundaries. A defined management framework besides other requisites is part of the essential conditions for sustainable conservation of site such as Preah Vihear as a World Heritage Site as per the operational guidelines for WHS. The same has also been requested from the state party as per the decisions of the WHC.

Under the Franco-Siamese Treaty of 1904 and 1907, the line of frontier between Cambodia and Thailand along the Dangrek Mountains was marked. In 1963 following the decision of the International Court of Justice at The Hague the Preah Vihear Temple and its vicinity was handed over to Cambodia by Thailand since the Temple was officially found to be situated inside the territory of Cambodia and under its sovereignty.

1.2 Need for the Management Plan

In recent years it has been recognized that active management of heritage sites is essential for its long term protection, conservation and presentation. Preparation of management plan or framework is also recommended by UNESCO to meet with the essential condition as per operational guidelines for inscription of a site on the World Heritage list. For Preah Vihear such a document has also been requested by the WHC through its decisions.

In particular situation of Preah Vihear where there are many partners, stakeholders and levels of significance, a management plan will be a valuable tool for strategic co-ordination and effective protection and management for Preah Vihear temple site. The plan will be especially useful for the National and local Authorities.

This document is thus necessary to establish a basis for the long term conservation and presentation of the sacred site of the Temple of Preah Vihear. To fully achieve this objective many more studies and explorations of the site and its surroundings needs to be carried out. Some of these studies are under-way and in the last one year significant and substantial new information has come to light due to archaeological exploration and other studies being undertaken by various international experts. This has contributed substantially to the better understanding of the site. Besides, to assist the above task it is also necessary to prepare digital topographic maps and relief model for the entire site and its surroundings (core and buffer zones). However for this it is important to achieve the present de-mining efforts to eradicate them from the entire area on high priority.

1.3 The Management Plan Strategy

The proposed management plan aims to provide a framework to conserve the cultural heritage assets of the proposed World Heritage Site. This will include protection & conservation of the architectural, archaeological, landscape, natural & sacred assets, and their geological settings, improving an understanding of the site, its interpretation and ensuring and supporting local community in its cultural, social and economic vitality.

This plan attempts to outline all the key issues and challenges confronting the site. These issues will identify the vulnerability and threats, gaps in present management and opportunities to benefit the site.

The plan also sets out objectives which arise in response to the identified issues and are designed to achieve comprehensive management of the site. The implementation of these objectives would be achieved through a series of actions and programmes in a phased manner as per an agreed priority.

However it should be kept in mind that the proposed management plan is not prescriptive or binding, but rather aims to set a framework for coordinated management and development of partnerships. In this way the plan intends to build upon the nomination dossier and enhance the existing statutory tools like the Royal Decrees and will serve to inform and guide the future conservation and management requirements of the site.

1.4 The Management Approach

Though the site has been inscribed under criteria (i), there are many other interlinked values of the site which need protection and conservation; thus the main approach for this document has been to look at the heritage of the site in a more inclusive and holistic way based on the present established international heritage concepts like that of Value Based Conservation. With this in mind, the document proposes to promote comprehensive conservation and management of the archaeological, architectural, natural and cultural heritage of the site.

As the site can be perceived, experienced and interpreted from many different perspectives - ecological, historical, political, cultural etc. there are also multiple ways to “read” the site, illustrating the challenges of managing such complex sites.

The main approach for the preparation of this document has been of **‘Integrated Heritage Landscape Management Approach’**. This approach is based upon a comprehensive assessment of all the above factors and cultural resources like archaeological, historical, environmental and living traditions. It focuses on the connections and interrelationships between historic sites within their wider context, both physical and symbolic, for example visual experiences, environmental systems and associated cultural linkages and values. Thus this approach relates the site with its immediate landscape, buffer and broader geographic surroundings. This helps define the **significance of the site** which needs special conservation and management.

With this approach one can see that Preah Vihear’s primary strength is not only as a historic or archaeological site or a tourist attraction but equally as a sacred site, Cultural Sanctuary or a Cultural Landscape.

The plan developed through this approach will help define what heritage resources are in their inclusive sense and will indicate measures to conserve sustain and enhance them with minimum intervention.

1.5 Project Limitations

This document is the management plan based on a strategy plan done earlier. It established the various criteria, objectives and guidelines based on which this management plan has been created. This document was based primarily on the various missions, including the one for evaluating it as WHS in Oct 06' undertaken for ICOMOS and the other in Nov 07', Jan 08', April 09' and Nov 09' for ANPV. The management plan borrows heavily from various other reports undertaken by many international experts on various aspects of the site compiled as the "Progress Report" by the UNESCO Phnom Penh Office in January 2008 and report submitted to the WHC by the Cambodian National Commission for UNESCO in January 09'.

This document focuses primarily on the management aspects and consideration impacting the management and conservation of the site. It does not thus deal in details on the history of the site or architectural description as the same are outside the scope of this document. These aspects are only introduced in Chapter 2 to provide with an over view of the site.

All maps and drawings were provided by the National Commission for UNESCO, Royal Government of Cambodia and ANPV. International borders shown between Thailand and Cambodia in the documents are indicative only and will be determined by the Joint Border Commission (JBC).

1.6 Structure of the Management Plan

The document is divided into seven chapters. The first chapter deals with the management approach, chapter two introduces the site and establishes its significance, and chapter three establishes the criteria and objectives for the management plan. In chapter four various issues and challenges confronting the site are identified based on which broad recommendations are proposed. Assessment and strategy for the conservation of the monument is dealt with in chapter five. Proposed implementation strategy along with a proposed administrative and institutional framework is given in chapter six. Chapter seven is the program for action, where the recommendations are summarised and their priority is indicated. The document is supported with the World Heritage Committee (WHC) decisions, organizational chart of ANPV, credits and bibliography as annexure.

CHAPTER 2 - The Cultural Heritage and Significance of the Temple of Preah Vihear

2.1 Location of Preah Vihear

Situated on the edge of a plateau that dominates the plain of Cambodia, the Temple of Preah Vihear is dedicated to Lord Shiva. Preah Vihear Temple is perched on the edge of a giant cliff, about 625 meters above sea level. It is located in pleasant environment with an attractive countryside slightly east of the mid section of the Dangrek Mountains in the northwest of the Preah Vihear province in the commune of Kantuot and district of Choam Ksan, some 414 kms from Cambodian capital Phnom Penh. The Temple of Preah Vihear lies just inside the territory of Cambodia.

Geographic Coordinates: N14 23 18 E104 41 2

2.2 Historical Evolution

PRASAT PREAH VIHEAR (the temple of the sacred mountain) as it is locally known is considered to be a triumph of art and architecture, a cultural jewel in Cambodia, with a history spanning millennia of Khmer empire. For almost 1200 years Preah Vihear has dominated the surrounding plateaus. The story of Preah Vihear goes back to the 9th century, when prince Indrâyudha son of King Jayavarman II began work on the original temple dedicated to Shiva as *Shikarashwara* (lord of the summit).

He installed there a portion of the great *lingam* from Vat Phou. However, the origins of Preah Vihear were probably earlier when a hermitage was set at the site. Indrâyudha's building was perhaps a modest wooden structure. What he started resulted in spiritual developments, increased political prestige and economic growth of the Khmer empire; this was naturally reflected in the Temple which underwent more than 300 years of construction with great deal of remodeling under subsequent Kings. Suryavarman I (1002-1050) and his son Udayadityavarman II (1050-1068) carried on, laying most of the monolithic features present today.

There are four Khmer and Sanskrit inscriptions from the property that provide valuable dating material, confirming the close association of King Sûryavarman I with the erection of the present complex. He erected engraved pillars at various points in his extensive lands, bearing his name and title, *Sûryavarmeshvara* (Lord Sûryavarman), and one of these was raised at Preah Vihear at the beginning of the 11th century, again at the command of Shiva. This was sited next to the earlier temple, which was soon rebuilt in sandstone as part of the overall campaign of extension and improvement of the temple.

King Jayavarman VI (1080-1107), Dharanindravarman I (1107-1112) and Suryavarman II (1113 – 1150) further added to the temple. This increased patronage naturally changed the original small sanctuary into one of the greatest Khmer temples of all times. This temple has one of the finest in situ carving that depicted the highest standards of unique Khmer architecture.

Unlike many other Khmer temples where temples were abandoned when the king who built them died, Preah Vihear received continuous patronage for more than four centuries (9th – 12th cent) as seen in its various phases of construction and architectural evolution. This illustrates the special significance of the site as a spiritual sanctuary.

Also unlike many other Khmer temples in Angkor planned concentrically, Preah Vihear, responding to the natural context, is planned in a linear progression of levels. The temple has four

levels and four courtyards which comprise of five *Gopuras* (entrance pavilions). Each level has a different architectural character and experiential quality while one progresses towards the inner temple sanctum. The temple became a place of pilgrimage and worship for kings and commoners alike, as it is stylized representative of 'Mount Kailash' home to the Hindu God Shiva, to whom the temple is dedicated.

Several inscriptions have also been found at Preah Vihear, the most interesting one is known as the "Stele of Preah Vihear" or "*Stele of Divakar*". The inscription is written in Sanskrit and Khmer and dates probably between 1119 and 1121 AD. This inscription is found engraved on a stele inside the "*mandapa*" and narrates the order of Suryavarman II who entrusted the royal Guru Divakara to carry out ritual sacrifices, improvements and repair works to the temple. Another inscription located at *Gopura IV* southern door narrates story of local personage, *Sukarman* who carried out duties of recorder of the sanctuary. Another inscription from 1024 AD at eastern palace portico at third level tells a story of *Tapasvindra- pandita*, head of hermitage who disposed presentations in favour of *Shikarshwara* the main God of the temple. Another inscription from the temple dated 1047 AD refers to Suryavarman I and is presently in the National Museum in Bangkok.

Ownership of the property was the subject of considerable negotiation in the 19th and early 20th centuries between the French and Thai Governments. A treaty of 1904 assigned it to France, of which Cambodia was at that time a protectorate. It was reclaimed by Thailand in 1934 and occupied six years later. It was not until 1962 that the International Court of Justice in The Hague confirmed ownership by the newly independent state of Cambodia.

The site was closed from the 1970s because of the troubled history of Cambodia during more than two decades. Fortunately, its remoteness meant that Preah Vihear suffered very little damage over that period, even though it had been mined by the Khmer Rouge, who did not move out until 1998.

2.3 Architecture of Preah Vihear Temple

The property is situated on a promontory of the Dangrek Range, 547m above the Cambodian Plain, known as Phnom Preah Vihear (Sacred Hermitage Mountain), close to the modern border with Thailand. It is roughly triangular in shape, defined by steep cliffs. The southern extremity of the promontory juts out to form a natural recess that is a sacred place, commanding a vast panorama, the wide expanse of land lying to the south up to Mount Koulên, the cradle of the Khmer civilization. The northern part of the property is an almost horizontal sandstone platform, c.100m long north-south and 50m wide, which gives access to the Temple and to the village of Phnom Kulên.

The Temple is composed of a series of sanctuaries linked by a system of pavements and staircases over an 800 meter long axis aligned north-south axis which is somewhat unusual considering that other Angkorian temples are facing the east.

The sandstone blocks that were used posed enormous handling problems, and there is some indication that the entire south-west part of the property was in effect worked as a quarry.

The temple can be reached through two monumental staircases, one from the East and one from the North. The temple thus has an orientation East-West, North-South, characteristic of most Khmer temple sites. To the north the 54m monumental stairway with 159 steps leads to a 25m long pavement flanked by enormous rampant *nâgas* (snakes). From here three steps reach the first of the *Gopuras* i.e. *Gopura V*. This is cruciform in plan and originally had a pitched wooden roof supported on pillars. Two paths join here, the staircase from the North and the staircase

from the East, starting in the Cambodian plain. This last stairway, partially cut in rock and build of sandstones is 10m wide, and 1,4 km long, dropping some 400m steeply on the eastern flank of the promontory.

From *Gopura V* another long pavement rises to *Gopura IV* (similar in form to *Gopura V*), with a large rock-cut water tank with steps around. There is another, smaller tank beside the pavement leading to *Gopura III*. This, too, is cruciform in plan. On either side of the main gateway there are symmetrical U-shaped galleries ending in a long hall of a type known from other sites. Their function is unknown; the custom has grown up of calling them 'palaces,' although they were in all probability monastic. *Gopura II* is reached at the end of another pavement, also lined with *nâgas*. It is similar in form to No. 3, but without the 'palaces.' It opens on to a large rectangular hall with rooms on either side, designated 'libraries', built in sandstone with a brick vaulted roof.

The sanctuary is enclosed by two groups of galleries laid out in cloister form, foreshadowing the 'cruciform cloisters' of Angkor Vat. The central enclosure is accessible only by the three passages coming from *Gopura I* and two small openings to east and west. The southern side is closed by *Gopura I* and the northern side by a structure which is in effect a false gate. Instead of opening out on the vast spaces of the Cambodian plain, it presents a blank face. The layout thus presents an increasingly closed aspect, until at the end all that is visible is the sky. The central sanctuary is flanked by two buildings on both eastern and western sides.

2.3.1 The architectural decoration

The finest decoration is to be found on the *Gopuras*, many of which are in an excellent state of conservation and clearly visible. The compositions of the sculptures on the lintels, pillars, pilasters, and elsewhere are varied, complex, highly detailed, and harmonious, representing Hindu Gods such as *Shiva, Vishnu, Indra, and Krishna*.

2.3.2 Constructional techniques and materials

The principal material of all the buildings at Preah Vihear is sandstone from the site itself. Structurally they have load-bearing outer walls integrated with alignments of monolithic columns linked by monolithic lintels that are decorated with religious or mythical scenes. Laterite blocks faced with sandstone are used where foundations were needed for columns. Where the ground had to be raised because of the steep slopes, sandstone rubble was used. Brick was also used at Preah Vihear because it was easier to bring up from the plains on the Cambodian side than the sandstone from the site itself. Small bricks were used for the construction of corbelled vaulting. Apart from the central sanctuary, all the buildings had wooden roofs covered with fired tiles.

2.4 Regional Linkages

Shiva was worshipped as the Lord of the peak (*Shikhareshwara*) at Preah Vihear. His foot prints (*Shivapada*) were worshipped to the east at Prasat Neak Buos and to the west at Prasat Ta Meuan along the Dangrek. There are many other temples spread over a vast territory of the Angkorian Empire believed to be associated with Preah Vihear. These temples are not only located within Cambodia (Choam Ksan, Kampot) but are also found in Thailand and Laos. This distribution shows that Preah Vihear was the center of cultural and ritual network in the largest sense of term. Linkages of Preah Vihear and Vat Phou are also known through inscriptions from Baphuon.

2.5 Symbolic Composition

The sanctuary opens to the sky and the massif projects onto the territory it dominates. To the north, the landscape is quickly blocked as if wedged against a series of hills. The staging of the site is specifically meaningful, as it has a symbolic and religious dimension. It is believed that entire mountain range of Dangrek is representative of the in the Himalayas with Preah Vihear as Mount Kailash, thus providing it with the spirituality and holiness associated with the abode of Shiva.

Culminating at 600 meters high, the naturally spectacular distribution of the three nearest summits overlooking the plain could have - according to some experts - recalling the beliefs of the ancient Khmers and Hindu, divine trident of Vishnu, Shiva and Brahma. Moreover the trident is also associated with Shiva as his primary weapon according to the Hindu mythology. The landscape thus seen contributes towards the symbolic value of the site and would thus be meaningful.

Another theory is that the entire complex has been conceived as an open air theater where Shiva dances in the sky and the entire universe joins him in this cosmic dance. A vision of the Shiva dancing as the destroyer of evil forces is the end result of an arduous climb to the peak. Other dancing figures are prominently featured in the temple complex on the ornamentations and carvings on the *Gopuras*. Krishna is shown dancing on the head of mythical *Kaliya naga* on *Gopura IV*; dancing figures are also seen mainly on the tip of the gables of *Gopura I, II and V*.

New insight in the spatial management of the cliff helps to decode the symbolic meaning of the sacred complex. It is the architecture of the spiritual path that has been realized at the cliff by the master builders of Angkor. The avenues that link the *Gopuras* on various landings of the cliff are not roads or thoroughfares of this material World but are the architectural expression of mankind's quest for the way to reach the ultimate goal. In Khmer it is called Preah Thnal which means sacred path.

2.6 The Landscape

The Preah Vihear temple is built on a rocky spur projecting to the South. The temple crowns the rocky massif dominating the plain.

The view from the Preah Vihear spur opens to the south onto the plain. The panorama, opening infinitely from the site reveals the whole plain. To the south-west, the recent village of Kor 1 "K1" can be easily seen. The site can also be approached from the plain. The approach road from the village of Saèm, 17 km to the south as the crow flies, routes in the plain and opens perspectives on the Preah Vihear hill, at first to the south-west then from the south and then to the east in the village of Kor 1 "K1". This approach through successive views enables a gradual discovery of the whole site.

The panoramic view stretches infinitely to the south. It is limited to the east and west by the rocky massif framing it. The staging of the site extending the visual boundaries of the monument to the plain includes the plain landscape more meaning. The five mountains of the site can only be seen from the village of Saèm 17 km away. From village of Svay Chrum about 5kms, the site perception is limited to the hill of Preah Vihear.

The best approach for discovering the grandeur of Preah Vihear is from the plain to the south. The plain wedged between the rocky massifs supporting it on both sides, constitutes a landscape of the highest cultural and natural value. A clear interpretation of the staging of the temple on the

site has to be guaranteed by stringent protection rules and management of the plain landscape. The natural landscape of the plain is characterized by a native forest which in several areas has been cleared due to logging or agriculture. The most significant example of unorganized human settlements to the disadvantage of the natural landscape is the recent village of Kor 1 "K1" to the south-west on the approach road to the Preah Vihear temple.

2.7 Hydrological Aspects of the Temple

The Hydrological Aspects of the Temple have to be accurately studied following comprehensive topographical measurement of the site. There are many historical reservoirs and *Barays* (rectangular ponds), several others ponds built over times which are scattered along the plateau.

The natural water flow has been altered by the conditions of the structure, especially the causeway causing water stagnation and ingress.

2.8 Archaeology of the site

Several archeological components still not documented have come to light due to recent explorations done at the site. These will need to undergo detailed studies for a better understanding of the organization and functioning of the site. Most of these discoveries are towards the west of the temple, some of them are the dyke and tiered pond near the monumental stairs, causeway near *Gopura V*, *Linga* terrace to west of *Gopura iv*, several quarries zones, ponds, canals, pottery sites suggesting occupation zones etc.

Many other monuments and structures are scattered on the plains near the Preah Vihear spur like the *Prasat Toch* with its pond, the eastern and western *baray* to the main temple axis. Pottery from Angkorian period has also been found at many places at the site. Other structures are mentioned by the locals but are inaccessible presently due to mines.

2.9 Reading the Site

A site like Preah Vihear can be 'read' in many ways, which not only depends upon the purpose of the inspection but also the site characteristics. Some of the contributing factors to the character of the site could be categorized as:

- **Natural Heritage – Ecological & Environmental, Vegetation, Water systems.**
- **Sacred landscape**
- **Built heritage- Historic buildings, features and archaeology.**
- **Traditional community practices – farming, forest products, Vernacular Architecture.**
- **Living heritage – intangible aspects- Festivals, Rituals.**
- **Landscape experience - Approach(s) to the site**

Looking at the above characteristics of Preah Vihear one can see the site as a Cultural Sanctuary or a Cultural Landscape.

2.10 Outstanding Universal Value of the Site

The Preah Vihear temple site represents a unique example of the integration of a temple complex with the natural landscape. It is especially significant because of the complex planning necessary to situate the temple in relation to the mountain topography for maximum effect. The architectural and artistic design with the majestic location of the temple on top of the mountain in a magnificent landscape setting reinforces its role as a supreme expression of royal power coupled with Buddhist and Hindu cosmology. The significance and greatness of the Preah Vihear site lies not only in the architectural and artistic grandeur, but also in its enduring sacredness. The temple and its associated landscape will always stand as an important spiritual and religious site, as the abode of the Gods and a centre for faith and pilgrimage for people through the centuries. This complex is one of the largest sloping mountain architectural ensembles and has, no doubt, one of the most remarkable sites of all temples in Southeast Asia.

The Temple of Preah Vihear, a unique architectural ensemble made up of series of sanctuaries linked with series of pavements and staircases on an axis of 800 mts, is an outstanding masterpiece of Khmer architecture, in terms of plan, decoration and relationship to the spectacular landscape environment.

The site was inscribed on the World heritage list under criteria I with the following OUV – "**Preah Vihear is an outstanding masterpiece of Khmer architecture. It is very 'pure' both in plan and in the detail of its decoration**".

2.10.1 Integrity & Authenticity

The original plan of the Temple of Preah Vihear developed in the 9th- 12th century, and all its component parts have survived to the present day so that it is possible to trace its complex history. Tough parts of the structure have partially collapsed, but the architecture has retained all its original characteristics.

In terms of the way the buildings and their materials express well the values of the property, has been established. The attributes of the property comprise the temple complex; the integrity of the property has to a degree been compromised by the absence of part of the promontory from the perimeter of the property. The protective measures for the Temple, in terms of legal protection are adequate.

This site is particularly well preserved, mainly due to its remote location. The site is exceptional for the quality of its architecture, which is adapted to the natural environment and the religious function of the temple, as well as for the exceptional quality of its carved stone ornamentation.

2.10.2 Other Values and Significances of the site

In addition to the Outstanding Universal Value of the Site, the WHS also contains a number of related significances. These include its role as an important reservoir of valuable heritage information like the skills of stone masonry and joinery. The site is also a sacred sanctuary, held to be a spiritual place by the local communities. This temple is the only one where Shiva is known to have been worshiped as *Shikereshwara* (Lord of the peak).

The promontory at the end of Dangrek Range dominating the Cambodian plains is an exceptional testimony to the cultural heritage of the hermitages. The presence of the hermitage led to the foundation of a sanctuary at the beginning of the 9th century on the promontory, from which the sacred ensemble visible today developed. Preah Vihear also demonstrates an important

interchange in human values and development in art, architecture, planning and landscape design.

The Preah Vihear ensemble also consists of the integral connection between the built and natural environment. The position of the temple on the cliff edge is particularly impressive. The construction system, stairs, (which are partially rock cut), the water system and historical access surviving for over a thousand years show a sophisticated technological understanding of the Khmer builders. The whole site demonstrates the high point of a significant stage in human history.

Since the temple of Preah Vihear is inseparable from its natural setting, it is justifiable to categorize the site as cultural landscape, the boundaries of which may even go beyond the present limits of the sites.

The site also embodies within it some intangible heritage aspects; many traditions and rituals are performed at the site especially by the local communities. Worship is still performed at the central sanctuary and the hermitage cave at the rear of the temple. Local people put sticks in the rock under the cave in the belief to prolong their life. The sacred history and continual religious practice at the site are central intangible qualities of the Site.

The environment of the site is also home to the local ethnic tribe of Kui, who have a distinct lifestyle and are vested with traditional knowledge. Not only do they have their own language set but they have their own distinct music and dance tradition, like the warrior dance, vernacular architectural traditions and crafts. The Kui were also known for their very special relationship to the Khmer court as blacksmiths and for the capturing and taming of wild elephants.

Based on the above values the site could also be considered for additional criteria of iii, iv and even v, this could be done in the future when the core zone could be enlarged to reflect its full values and landscape setting of the site.

CHAPTER 3 - Management Strategy

The tool of Management Plan provides an opportunity to achieve Holistic and Integrated Conservation and Management of the site.

3.1 Vision

The Cultural & natural assets of Preah Vihear and their associated values and significance will be conserved and safeguarded for this and the future generations through promoting sustainable management.

The site will celebrate its unique value and significance and be accessible to all through enhanced understanding and experiential quality.

It will continue to thrive as a living religious site and will use its universal values to support peace and further the socio-economic and cultural vitality of its local community.

The site hopes to create an example for heritage management and conservation founded on partnerships of local, national and international communities, institutes and organizations.

3.2 Defining Aims & Objectives

Based on the criteria developed above the main aim of the management plan should be:

- Promote effective and 'sustainable' management of the site by developing partnerships with the local community and other stakeholders.
- Ensure that the significance and values of the site are conserved for the future generations.
- Sustain and conserve the values of the site identified through consultation with multiple stakeholders and experts
- Ensure that the significance and values of the site are understood and communicated to the visitors and is shared by the local community.
- Improve access and interpretation of the site and encourage all to respect, enjoy and understand the site.
- Encourage partnerships and linkages of local, national, regional and international communities, institutes and organizations to establish the site as center of excellence in conservation and management.

3.3 GUIDING PRINCIPLES

The above aims should be supported by the following GUIDING PRINCIPLES:

I. All policies, proposals, decisions, interventions and actions should contribute to the protection, conservation and sustenance of the site including its cultural and natural assets, its character, quality, fabric, and authenticity.

II. All policies, proposals, decisions, interventions and actions related to the conservation of site should be based on International accepted Conservation norms and practices especially the ICOMOS charters and declarations and principles of sustainability.

III. All policies, proposals, decisions, interventions and actions related to the management of the site should be based on the clear understanding of the significance and values of the site.

3.4 Establishing Criteria and Objectives for Preparation of the Management Plan

The key considerations and objectives of the plan could be defined as follows:

3.4.1 Consensus on Values Recognized:

One of the primary purposes of the Management Plan is to ensure that the values identified at the site are conserved and managed through adoption of appropriate measures. Though the site has been inscribed under criteria (i) (the site was originally nominated with criteria iii and iv, there are many other interlinked significances and values of the site. The determination of these values needs to be undertaken through research and discussions with the multiple stakeholders involved in the site based on which the zones of the site could be enlarged in the future to reflect the full values of the site.

Various values and significance of the site can include:

- **Cultural/Sacred Values** – to be defined by the contemporary users (monks, pilgrims, indigenous tribes, traditional users of forest produce, agricultural)
- **Historical Value** – defined through archival as well as field research
- **Architectural Value** – defined through architectural research on Khmer architecture and the significance of this site within the larger context of Khmer Architecture
- **Archaeological Value** – to be defined through preliminary non-invasive archaeological investigations to understand the significance of the site thus shedding light on an important period of Cambodian history
- **Natural/Ecological Value** – to be defined through studies on traditional flora and fauna of the buffer zone and geological studies.

3.4.2 Understanding the Contemporary Function and Use of the site based on the assessment of values:

The current assessment of the site should include an understanding of how the site is currently used and the function it performs for the multiple stakeholders including the immediate community, tourists, pilgrims as well as the State and the larger region. This understanding can serve as a base through which changes can be assessed and monitored. **For example:** As a sacred site which is used by pilgrims the site performs a specific function. This function needs to be understood and appropriately planned for in the Management Plan. Equally, the site also serves as an important research tool for furthering an understanding of ancient Khmer history, art and architecture and therefore to preserve this role of the site, appropriate measures would need to be developed and adopted to safeguard archaeological remains.

3.4.3 Managing change: administrative, funding, risk management, monitoring, boundary, statutory protection and planning, traditional systems of management, religious management, monitoring change, development.

- The management and administrative arrangement for the site should be appropriate for effective ongoing implementation of the Management Plan. The management structure itself would need to be tiered involving representations from all stakeholders and clearly delineating responsibilities for the management, conservation and development of the site. It should also encourage active participation and involvement of the local community and enable greater coordination between various partners and stakeholders who are also responsible for securing the required funding levels from various local, national and international sources.
- Make a thorough assessment of the potential risks to the site and place comprehensive and effective risk preparedness and mitigation measures.
- Make full use of the modern technology to develop interactive data base like GIS for effective management and monitoring of the site.
- Develop proposals for establishing appropriate activities within the various zones and review various boundaries of core and buffer, when appropriate, as per new findings and understanding of the site.
- Statutory and non- statutory designations should be kept relevant and effective to afford the best possible protection to the site.
- Respecting that the site is sacred and linked to people's religious belief. Balance between this aspect and various conservation, tourism and management interventions should be maintained.
- Establish base line data on the present condition and the status of the site and its various components and develop systems to continually monitor the same.
- Establish detailed assessment of the character and values of the site to define limits of acceptable change within the core and buffer zones. Put mechanisms in place to provide framework based on which interventions and development proposals can be assessed.

3.4.4 Conservation: conservation plan, skills, funding, historic environment, buildings, landscape, archaeology, cultural and natural resources, capacity building.

- Create a broad conservation plan for the immediate core zone with specific plans for significant historic structures and features within the core and buffer area. The plan should include documentation, prioritization of conservation works, establishing conservation needs, and identifying appropriate conservation interventions and techniques to secure the authenticity and values of the site.
- Appropriate skills, techniques and expertise will be required for the scientific conservation of the various structures, assets and properties within the site, the same will need to be acquired and accessed through partnerships, technical assistance and capacity building of the local communities and conservation staff.
- Adequate funding will need to be made available and will need to be used appropriately as per set priorities for the conservation of the site and its assets.
- All conservation works including that for enhancement, maintenance, repairs or restoration, to be carried out within the site should be of the highest standards, appropriate to the international importance of the site, using materials, design and workmanship appropriate to the authenticity, value, significance and character of the site.

- Conservation work should follow the **value based** and **minimum intervention** principle where appropriate.
- Conservation interventions should be appropriate taking into account the character and values of different areas / zones of the site.
- Assess the availability and sustainability of materials required to conserve the value and authenticity of the site.
- Encourage use of periodic maintenance programs in conjunction with the conservation plans to avoid any loss of historic fabric and authenticity through repairs or restoration works.
- Carry out preventive conservation training programs with the ANPV staff and other custodians of the site to ensure that there is periodic maintenance and timely interventions in addressing conservation issues.
- Ensure that the landscape and natural as well as '*living heritage*' OR **INTANGIBLE HERITAGE** elements of the site are acknowledged and understood as integral part of the site's value and are managed and conserved accordingly.

3.4.5 Interpretation, education and research: information management, site interpretation and information, site as educational tool, awareness building, and research

- Ensure that all information on the site is collected, stored and analyzed in a way that it assists the management of the site, as well as help in better understanding of the significance which is disseminated amongst its various managers and users.
- Establish accurate understanding of the current interpretation available for the site, including traditional and informal systems and ensure that there is interpretation accessible for all thus presenting a comprehensive view of the values and significance of the site.
- Interpretations should not be limited to a single view point, rather it should be inclusive highlighting the multiple views and facets of the sites.
- Ensure that the site is used as a comprehensive educational and training tool with access to all.
- Continually improve understanding of the site through appropriate and coordinated research and scientific studies.
- Increase understanding and awareness of the site in order to inform management decisions and improve comprehensiveness and accessibility of this understanding and information through appropriate dissemination measures.
- Consider creation of awareness/education/tourist materials for various interest groups (tourist brochures, cultural/natural trails, pilgrim maps, school educational aids etc.) based on the site understanding and research.

3.4.6 Community participation and involvement: local community, common community spaces and areas, local knowledge systems

- Recognizing that the true custodians of the site are the local communities protecting and safeguarding it for many centuries without any formal protection, their full participation and involvement in the conserving and managing the site is important for which appropriate measures should be developed.
- Ensure that the site enriches the cultural, social and economic activities of the local community and encourage communities to engage with the site by raising awareness of

its values, vulnerabilities, limitations and opportunities offered especially since it is a World Heritage site.

- Identify and implement positive measures for the enhancement and appropriate development of the site to improve the quality of life of its local communities through improving physical conditions, infrastructure, and presentation of the site to generate cultural and economic opportunities for them.

3.4.7 Visitor and pilgrim management: visitor facility, dispersal, marketing, local community, eco – rural tourism, home stays. Visitor access – vehicular, pedestrians, parking, entrance points, access for all.

- Identify and implement opportunities to encourage visitors to explore the site both intellectually and physically, ensuring that the necessary infrastructure is in place to manage the effect of increase in visitors' numbers especially in the areas currently under or not visited.
- Ensure that the environment and availability of information at the entry / access points to the site are of highest quality and are appropriate to welcoming the visitor and pilgrims alike to the site.
- Identify opportunities for encouraging eco- tourism and rural tourism in consultation and involvement of the local communities to increase visitors' awareness and contribution towards the site.
- Ensure that the visitor facilities and information available are appropriate, reflecting international standards.
- Ensure that wherever possible visitor services and facilities also benefit the local communities and are managed in a sustainable way in keeping with the sensitivities of local community.
- Encourage local communities in benefiting from the economic activities generated by the increased visitors through appropriate measures like creating home stays, promoting local crafts and capacity building and training local communities to participate in conserving and managing the site.
- Seek to provide access to all to the site and suitable for all mobility needs, ensuring that the solutions are appropriate and do not distract from the values of the site.
- Restrict vehicular access to the site and encourage pedestrian access and movement with the aim to safeguard the physical and visual condition of the site.

It is recognized that there are substantial overlaps in the above objectives, reflecting the complexity of managing this WH site.

CHAPTER 4 - Identifying Issues and Recommendations

For the site as complex and significant as the Preah Vihear there are many needs and interests to be reconciled and issues to be addressed. This chapter tries to consider the ways in which the site could be vulnerable to irreversible changes and has identified certain issues for the conservation and management of the site.

These issues reflect the concerns for the site addressed in the nomination dossier. Resolving several of these issues will mean working with multiple stakeholders to build consensus on the approach to be followed. However it should be noted that most of these issues are not mutually exclusive and there are many overlapping aspects in most of them. This further demonstrates the complexity in the management of a site like Preah Vihear and the importance of a management plan and framework for an effective conservation and management for its long term survival.

The main issues and concerns for the site could be categorized as:

- **Conserving the special character and values of the site.**
- **Emergency Stabilization and Conservation of Archeological Remains and historic structures.**
- **Access and visitor management.**
- **Management of Natural environment.**
- **Planning & Policy Framework.**
- **Research and Further studies.**
- **Local Community Participation.**
- **Site Management framework and administrative structure.**
- **Risk management.**

Each of the above issues needs to be addressed in light of the overall criteria and objectives established in this document.

4.1 Conserving the Special Character and Values of the Site

i. The special character of the site is susceptible to erosion and changes both through the forces of nature and the impact of the activities of people. The area's character is strongly rooted in its cultural past and sacredness. The distinctive characteristic of the site consists of two distinct areas, one of the temples on its rocky spur and the other of its historical, cultural landscape including the range of natural and rural landscape. Maintaining a balance between these very distinct and related elements is important.

ii. Another important aspect of the site is that the site is 'living' and can not be seen as purely an archeological site. The evolution of this site due to continued royal patronage may have ended in the 13th century, but the site still retains its character as a sacred sanctuary and is revered as a holy place and is still in active use and worship. Though the nature of this temple has changed from an originally Shaivite to a current Buddhist site, its sacred character has endured and as such must be preserved.

iii. Many **traditions** and **rituals** continue to be practiced at the site, some of which may be earlier to introduction of the temples at the site. Some these activities are facilitated by monks who are residents of the monastery within the site. The sacred aspect of the site needs to be understood and incorporated within the management of the site.

iv. Though the site has been inscribed under criteria (i), the site was originally nominated with criteria iii and iv, there are many other interlinked significances and values of the site, based on which the core and buffer zones of the site could be enlarged in the future to reflect the full values of the site.

4.1.1 The property of the Site

The inscribed World Heritage site is shown in the enclosed RGPP as on page 52. The different zones as shown in the RGPP are temporary zones, to reflect the present circumstances of the site. In the future, there is a possibility to expand these zones to include other criteria to capture the full values and significance of the site.

i. Perimeter of the Temple

The perimeter consists mainly of the temple remains (11 hectares) **as inscribed in the World Heritage List**. No new construction is to be permitted within the core zone. The theme of this zone will be restoration, conservation and stabilization of the monument.

ii. Buffer Zone

The present buffer covers an area of 644.113 hectares. However the buffer does not include the areas to the north and west of the temple. This should be considered as provisional since the final demarcation of the buffer will be fixed according to the result of the JBC between Cambodia and Thailand.

It is proposed by this Management plan to enlarge the buffer to include the east and west baray, situated to the South of the temple at the foot hill, Prasat Toch and its pond and the high potential archeological areas near K1 village within the buffer of the site. It is also important that the buffer be extended towards the South side also for consistency, historical and environmental considerations.

Only minimal construction for the purpose of visitor facilities, amenities, administration and protection of the site should be allowed within this zone. This construction should also only be allowed if there are no adverse cultural, environmental or visual impacts to the site. No large scale construction or development for any purpose should be allowed within this zone.

iii. Landscape Protection Zone

A third level of protection is also proposed; the boundaries of this landscape protection area are suggested to ensure that all natural, cultural and historical resources and values of the Preah Vihear site are taken into account. The main access, the "gateway to the site", can be located close to the village of Saèm, 17 km to the south, bordering the landscape protection zone. This can be the starting point of the visitors' circuit and site discovery leading to secondary visitors centre starting from the eastern staircase. A global museum, interpretation center and botanical garden are being constructed at main entrance point. A global museum, interpretation center and botanical garden are being constructed at main entrance point.

Only some construction for the purpose of protection of the site should be allowed within this zone. No large scale construction or development for any purpose should be allowed within this zone.

Recommendations

- ***Review of the zones to reflect full values of the site.***
- ***Establish landscape protection zone and create royal decree in its support.***
- ***Develop and build consensus on land use and zoning parameters in various zones.***

- *Encourage community based cultural resource mapping of the site to understand contemporary values and elements of the landscape recognized by the community.*
- *Establish national and international linkages with other associate sites like Vat Phou and include it in site interpretation.*
- *Establish monitoring mechanism.*

4.2 Emergency Stabilization and Conservation of Archeological Remains and Historic Structures

a. The last major conservation work on site was carried out in 1929; thereafter some conservation and repairs were carried out in 1963 once the Temple and its vicinity were handed over by Thailand to Cambodian Authorities. However urgent conservation and emergency measures are required at the site to stabilize many of its historic structures. Some of these measures are being implemented by the ANPV, as per the recommendations made by the international experts team 02nd April 2009.

b. Due to years of civil wars as well as of neglect most of these stone structures are showing signs of deterioration and many of them are out of plumb. Some of these are in complete collapsed condition, like the main Central Sanctuary- (Gopura I) of Temple. Since most of the original building stone is lying at site and it may not be difficult to re-assemble them by anastylosis following principles of international conservation charters like Venice, Nara and Burra Charters. However a policy and priority needs to be worked out which should be part of the overall conservation plan for the site. This has been dealt with as part of the conservation study presently being developed for the site. Emergency stabilization of monuments has been now undertaken.

c. Problems with water drainage are causing major structural problems at different parts of the monument. The situation is aggravated due to depressions in the ground and presence of old bunkers in the basements which allows water ingress into the foundation causing instability and ultimate collapses. It is thus important that this problem is addressed immediately.

d. There are also specific problems related to the day to day maintenance of the monument like the cleaning of the areas around the temple and causeways. While the cleaning is good especially for better drainage, erasing or total removal, however can cause erosion. Removal of total ground cover and use of heavy equipment should be avoided as it contributes to erosion.

e. The conservation plan should be supported by full measured drawings and condition assessment and decay mechanisms for all the historic structures of the site.

f. The eastern staircase which is planned to be a primary access needs major conservation efforts after its documentation. Though the area has been cleared of mines and vegetation growth, conservation efforts are still to be undertaken. The proposed provisional staircase being built in wood along the eastern staircase should use 'good' stretches of the existing stone staircase where ever possible to minimize time, efforts and resources.

g. Another aspect of concern is the ground instability; there are evidences of damage of certain archeological heritage of the site due to this, especially when some of the construction is done to include the natural rock as its base or plinth. However to ascertain anything conclusively proper scientific studies will need to be carried out.

h. There are certain inherent problems in the construction of the temple which are conservation challenges. Also since the temple was constructed over many centuries many structures have been built adjacent to each other without much bonding, this is also a cause of instability though this can not be corrected due to historical reasons, these sections will need to be stabilized for structural safety of the monument.

i. As the full extend of the site is still not known there are strong possibilities of many other heritage structures coming to light if proper exploration and survey of the site are conducted after de-mining. Already an ancient ponds (Baray) and temple (Prasat Toch) ruins have been located during the last survey within the village; all these structures are at risk. Based on the archeological exploration many temple related structures are found towards the western side on the cliff. There are other temples believed to be on hill tops and main axis as per local belief.

j. The "Prasat Toch" set back behind the houses of K1 village, is not accessed easily and is hidden. The area around Prasat Toch also needs to be enhanced, it will be important to free the space along with the associated baray (pond). Its conservation and enhancement are also necessary due to its historic and panoramic links with the Preah Vihear temple.

Recommendations

- ***Identify monuments and sites at risk.***
- ***Documentation and survey of all historic structures.***
- ***Make conservation plan, maintenance and repair schedule***
- ***Complete restoration after dismantling of Gopura V and Gopura I (central sanctuary) of the temple as pilot projects should be undertaken on priority.***
- ***Visitors should be kept at a safe distance from sections which are dangerous or instable like the Gopura V.***
- ***Complete survey and documentation of all historic buildings within the site.***
- ***Prepare water management plan for better water disposal and harvesting.***
- ***Filling of old bunkers to stop water ingress into the foundations of the monuments.***
- ***Identification of archeology potential areas to declare them protected zones***

Further Details on Conservation assessment and strategy are given in Chapter 5.

4.3 Access, Presentation and Visitor Management at the Site

Ensuring that there is satisfactory access to and within the site is of importance to both the local residents and visitors alike. The present de-mining exercises are very encouraging and need to be achieved on high priority. The Core Zone has been completely eradicated of the mines and de-mining in the buffer zones is on-going and evolves well.

a. The construction of a better road linking it to Siem Reap and other major towns in Cambodia is under construction with assistance from China.

b. Most of the visitors access the site through the road from K1 village till the pagoda. The main temple site is accessed through a series of linear terraces in progression from there. There are many collapses within these ancient causeways and stairs; to facilitate smooth public access wooden staircases are being provided over them. Some of these also need repairs and need to be made as per comfort level of today's visitors.

c. Beside the northern monumental staircase there is also a monumental eastern staircase. This

access is a long flight of stairs cut into the mountain and is a treacherous climb of about 1.4 kms to the top most of which is very steep. Sections of this staircase are badly damaged , a provisional staircase along the ancient staircase is under construction. A visitor center is also under construction at the base of this staircase.

d. It is proposed that the vehicular access to the site is restricted at the visitor center for the eastern staircase and till the pagoda for the road coming from K1 village. A car park is also proposed near present K1 Village.

e. There are basic toilet facilities and temporary stalls catering to **basic amenities** like cold drinks and snacks to visitors. However this is only an informal arrangement. It is proposed that new toilets be constructed at certain locations on the site. They should be constructed so that they merge with the surroundings and are not visually obtrusive.

f. There are no places to stay at the site. The nearest village Saem offers some basic accommodation which should be supplemented perhaps by a Community Home Stays program. This aspect needs attention and proper tourist infrastructure and facilities need to be provided in a planned and sensitive manner within the proposed eco-compatible village.

g. Tourism is seen as a major contributor to the national economy of Cambodia and there is a national campaign to increase visitor numbers. This, coupled with the inscription on the World Heritage List of the site, is predicted to increase visitor numbers to Preah Vihear. This document recognizes the importance of a sustainable approach to tourism at the site. Moreover the site offers many possibilities of **heritage and rural eco-tourism**.

h. Public / private enterprise or Co-operative models are recommended for an effective partnership to promote and market this concept at site. Adequate hospitality, hygiene and visitor interaction training would need to be imparted to local families engaged in this. In addition developing eco- resorts for high-end tourists can also be considered using appropriate environmental friendly design guidelines. These are planned to be located within the eco-compatible village.

i. Also community members will need to be trained for tourism. This may include **home stays**, local community **knowledge center (museum)**, **herb/botanical garden**, **craft center** etc. the community members could also be trained in tourism hospitality. The objective of this partnership will be to develop tourism in a sustainable way benefiting the local communities directly.

j. An additional dimension of the site is its **religious** aspect, which attributes it a '**living character**'. Because of this many visitors to the site are pilgrims, who may have a distinctive need and requirement than a tourist. Varied typologies of the visitors need to be recognized and catered to within the visitor Management Plan. Pilgrim facilities like meditation or religious center can also be considered to be appropriately located within the site.

k. There are no proper **site interpretation** or **presentation facilities** at the site. These are urgently required to disseminate the significance of the site as well as increase awareness towards the importance of the site within the visitors. There is a proposed museum at the first entry to the site near Saem village, there is a proposal to house interpretation gallery there along with multimedia presentations on Preah Vihear. A visitor center is also under construction at eastern staircase which is proposed to be the primary pedestrian access to the site. From here information on cultural and natural values of the site can easily be disseminated.

l. There is some **signage** at site but they are generic awareness messages related to nature and cultural heritage conservation. A proper site sensitive and specific signage need to be designed and implemented for both information and directional signs within the implementation of the tourism valorization program.

m. A new means of interpretation additional to physical visit and to publication and audio visual presentation is the opportunity opened up by the spread of internet. There are already numbers of websites featuring the site of Preah Vihear, this resource can be supported with sufficient details and research to make the internet more informative and disseminate the significance and values of the site.

n. The site offers many distinctive and varied experiences, like at the core is the temple and, within the buffer zone an active Buddhist monastery an ecological area rich in bio diversity and within the landscape zone are indigenous Kui villages with a vibrant rural landscape. All these can help disperse the visitors within larger area of the site thereby reducing impact on core of the site as well as bring in economic gains to local communities in a sustainable way. Specific tourism proposal for the same needs has to be developed and detailed out.

o. An important aspect of the site is the survival of a long sequence of archeological and architectural remains and their supporting features in dynamic landscape. Many of these have potential to be developed as '**stepping – off**' points for visitors to follow many interesting **footpaths and historic tracks**. Access to the site therefore will include not only the intense focused experience of the ancient temples but also wider enjoyment of the landscape and settlements within it. Exciting opportunities exist to improve the coordination among these various aspects of the site and their wider interpretation and dissemination. Much of these can be achieved through use of **sympathetic and high quality signage** as well as developing designated **Heritage Walks and Trails** within the site.

p. To improve the accessibility of Preah Vihear new roads are proposed or are being built. This could result in impact on the environment as well on visual continuity of the plains from the top of the cliff. To mitigate this impact it is proposed that the new roads should be constructed only when absolutely necessary and should not be more than **7 mts** in width and should be tree lined on both sides.

q. The physical impact of visitors on historic sites have been subject of many studies, however for the site of Preah Vihear adequate safeguards to mitigate its effects, need to be built in the monitoring indicators, the conservation plan as well as visitor Management Plan. Some of these aspects are already addressed by **restricting vehicular entry** and **visitors' dispersal** within the site. An important aspect in this regard is **on-site and pre-visit information** in promotional literature, internet and key interceptions points within the site, helping visitors' orientation and respect for the site.

r. Preah Vihear was the center of cultural and ritual activity of the region with many associated sites linked with the temple like Prasat Neak Buos in Choam Ksan District, Angkor in Siem Reap(Cambodia), Vat Phou in Laos etc. The cultural geography of the site goes beyond today's international borders. Re- linking these sites as a cultural axis for tourism circuit will allow exchange of ideas, mutual collaboration and flow of visitors.

s. An air strip is also proposed 25 kms away from Preah Vihear for better accessibility to the region and the site.

Recommendations

- *Achievement of De-mining of the site*
- *Regional road linkages to Koh Ker, and other associated sites of Shivapada and temples in Choam Ksan should be considered.*
- *International links to associated WH sites like Vat Phou in Laos and Mi- Son in Vietnam can be created as a cultural axis.*
- *The eastern staircase will become the primary pedestrian access to the site.*
- *A provisional staircase in wood to be constructed at places where the original ancient Eastern staircase can not be used by the visitor.*
- *Multiple entrances. Ticketing counters*
- *Visitor center proposed at eastern staircase*
- *Eco Global Museum and a botanical garden etc. proposed at main entrance point*
- *Setting up of an interpretation gallery at the Eco-Gobal Museum*
- *Visitor Management Plan to look at both tourists visiting the site as well as pilgrims.*
- *Develop an Eco-Rural tourism plan and look at possibilities for developing home-stays in the surrounding villages, eco resorts etc.*
- *Develop Heritage trails and walks in the core and buffer zones and train local youth as guides to run these*
- *Signage and interpretation*
-
- *Restricting new road to parking near monastery.*
- *Develop programs specifically for the youth such as guides training for cultural / nature trails*
- *Examine possibilities for community based eco - tourism opportunities, home-stays in vernacular dwellings, cultural festivals, etc*

4.4 Management of natural environment

a. The natural setting is an integral part of the site and is a more dominating factor than the historic constructions at site. The natural setting also provides the site with visual continuity and view sheds. There are also evidences of **water networks** and **rain water harvesting** from historic times.

b. Some of the old photographs suggest the site to be having **more trees** especially along the main temple access. However no tree planting policy was available for review but it is suggested that only authentic species of trees are planted within the core and buffer area. Also for the new trees to be planted local belief system with relationship to the sacredness of certain plants and trees needs to be taken into account. Moreover the original landscape design through research could be re-created around the main temple complex at least in selected areas.

c. Adequate **training** would need to be imparted to the staff of ANPV and local communities in **environmental management** to engage them in this aspect. In addition, measures for Rain water harvesting, Restoration of water bodies, Social forestry, etc, will further help create better environment and generate economic benefits to local communities.

d. Even with limited visitor numbers presently there is substantial solid waste being generated at the site, which due to lack of any proper **waste management** is being dumped in accessible areas of the site. This potentially is not only a health hazard but is also creating environmental pollution. There are many new and conventional means of proper and eco-friendly means of solid waste disposal, like eco sanitary fills, wet lands, waste segregation etc. There is a need for exploring appropriate measures to be adopted for waste management.

e. Moreover further research is also needed in the environmental aspect of the site. Since the setting of the site is integral to it, it is important to establish its **cultural geography** as well as develop **educational and eco-tourism strategies** for the area.

f. Water retention has become a serious issue because of the permanent presence of people on the site. However problem could be solved by proper water collection in the present reservoirs on the site and the **revival of old baray** in core and buffer zones, also new reservoirs could be created in the landscape protection zone after studying the topography. This will not only solve the problem of water scarcity in the summers but will also improve the environmental quality of the site. However ancient water network first needs to be surveyed and studied along with the hydrology of the site before their repairs.

Recommendations

- **Create landscape protection zone.**
- **Study and research on ecological and environmental aspect of the site**
- **Publication on environmental educational aspect of the site**
- **Reforestation using authentic plantation.**
- **Landscape studies and its revival.**
- **Prepare landscape plan for the historic core.**
- **Water revival on ancient water system and bodies.**

4.5 Planning, New Development and Policy Framework

a. Due to limitations of a comprehensive archaeological data and planning control some areas of the site are being used for **inappropriate activities** like military housing and encampment, public utilities etc. All these activities though may be essential for the protection and the development of infrastructure at site; however their placement and location should be determined through proper planning and after the archaeological investigations and evaluation of visual impact of the intervention.

b. The overall design of the temple complex and its associated cultural landscape has changed little since the 13th century when it was at its zenith, and more recent buildings such as the Buddhist monastery and some village houses are in traditional vernacular styles and give the site a **'living continuity'**.

c. Within the core area there are also number of small houses and barracks mainly belonging to the locally stationed army and police. The army encampments from the core zone are proposed to be controlled or shifted from within the core area and rehabilitated elsewhere in the site.

d. Some of the buildings may have potential for **"reuse"** especially for visitor and administrative facilities, for example the **disused barracks** near the small tank can be developed as ANPV's site office with research and guest house facilities.

e. A **statutory planning system** is the primary means to ensure that the new development within or near the site are consistent with the site's historical significance. It is thus proposed to have a **planning policy**; also a **detailed zoning and land use** along with **activity plan** is needed to be established for the site.

f. The planning system has the potential to make a significant and positive contribution to the protection and enhance the character and appearance of the site. By using the planning policy of **Development Controls and Building Bylaws** imaginatively and creatively the ANPV can

ensure that the new development within the site enhances the character of the site and provides continuity to the local traditional and indigenous architecture. For example, key development sites like **interpretation center**, visitor center etc. can be identified and developed as **model** projects to achieve this objective.

g. It is also recognized that the development controls imposed on the site may not be well understood by the **local communities**, it is thus important to make them **participate** in a planning consultative process from the very beginning; also the ANPV who will be responsible for the site will need to provide them and other agencies with **guidance** and **technical assistance** to help them comply with the development controls.

h. Re-organization and Rehabilitation

The existence of a new K1 village and market at the base of monumental staircase are worrying since both of them are disturbing the archeology of the area. The market area also needs to be rehabilitated there by liberating the archaeological esplanade. Some of the local dwellers could be relocated in the proposed new eco-compatible village.

near Saem which is proposed to be the main access to the site, however some souvenir shops can be designed but out of the sight of the monument where buildings and facilities would be subject to a strict design controls and integration to the site. According to a 2006 census the Kor1 "K1" villages is comprised of: 144 houses; 270 families / 760 inhabitants. Some of the houses are makeshift, and made of poor quality materials; moreover they are spread sporadically in the landscape without any planning or design. This part of the site is rich in archeological deposits, part of the village has even encroached the ancient baray. The K1 village inhabitants are being transferred to the eco-compatible village. There are also three more ancient small villages (Svay Chrom, O Angkrong, Bantey Youn) within the landscape protection area. These villages are of ethnic Kui tribe and contribute to the intangible heritage value of the site and thus should be retained.

i. ECO-COMPATIBLE VILLAGE

A new settlement outside the landscape protection zone is proposed near Saem village called eco-compatible village or the Eco-Village of Samdech Techo Hun Sen. The houses and families from the Market and K1 villages are proposed to be transferred to this village. Within this settlement there will be space for 2000 families, beside the community facilities and social infrastructure. All the tourism infrastructure developments like hotels, guest houses, shopping etc. are also proposed within the Eco-Village.

j. A **long term development plan** is also under preparation especially in the light of the proposed eco-compatible village. Many issues like electricity waste management etc. need to be addressed in the plan. It is proposed that the long term development plan be based on sustainable development principles with use of environmental friendly technologies like solar and wind power etc. The natural water sheds and existing water bodies like the lotus pond at Svay Chrom should be protected.

Recommendations

- ***Prepare zoning plan with Land use and activity use plan***
- ***Establish planning policy and developmental controls for the site.***
- ***Rehabilitation of market and K1 village to eco-compatible village.***
- ***Designate areas for army use.***
- ***Restrict development on archeological sensitive areas and high visual areas.***
- ***Setting up of a community center in eco-compatible village.***
- ***Promote traditional lifestyle gallery in proposed new museum.***

- *Study of local vernacular architecture*
- *Develop special Building Bylaws to promote vernacular architecture of the region.*
- *Guidance and Technical assistance to local communities for complying with development controls.*
- *Incorporate aspects of sustainability and ecology in development plans.*

4.6 Research and Further Studies

a. Significant work on the **research and documentation** of the historic and cultural landscape character and to extend our understanding of site needs to be taken up. Only limited Archaeological research in the form of excavations and survey has taken place at site. Since 1929, no major research or site excavations have taken place besides certain repair works undertaken in 1962 at the time of handing over of the site to Cambodia from Thailand.

b. However due to the process of its nomination as a World Heritage site many studies and research were undertaken by many national and international experts. A well researched publication on Preah Vihear has recently come out of the efforts of ANPV and UNESCO. Some trial archeological explorations and excavations were also carried out and some are being undertaken by ANPV now. To assist them in this venture there is a proposal for Italian archeological experts to be associated with ANPV.

After the site was inscribed on the World Heritage list the ANPV has undertaken many measures for the consolidation and maintenance of high risk areas at the site.

c. There is an urgent need for an **Architectural documentation and Archaeological research Program** for the Site as part of the Conservation Plan. This should concentrate on the recording of all visible remains and of sub-surface remains, using modern **geophysical techniques** preferably, ground radar and infra-red remote sensing. One of the most important objectives should be to establish how far the structures associated with the main temple extend into the landscape. As a pilot project 3D Laser scanning of Gopura V was undertaken by Lieca, other structures of the monument also needs to be scanned for creating proper digital documentation set for the site. This will help in defining appropriate conservation measures to be adopted for the site.

d. The excavations should be kept to a minimum and orientated to problem-solving, rather than the exposure of large areas of remains. Moreover further research is also needed in the environmental, religious, and symbolic aspects of the site. Since these are also integral to the site and its setting it will establish its cultural geography.

Recommended Research, survey and studies

Physical Surveys

- I. Archaeological survey mapping
- II. Current land use survey mapping the core and buffer zones
- III. Architectural and art historical documentation of the temples including its iconography, symbolism etc.
- IV. Detailed Architectural Documentation and Condition assessment of built elements at the site.
- V. Vernacular architecture documentation in the satellite and other villages in the region
- VI. Natural heritage documentation of Bio diversity
- VII. Cultural resource mapping including both cultural and natural elements.
- VIII. Topographic studies - to include hydrology, geology etc.
- IX. GIS and 3D laser scanning of the monument.

Research surveys

- I. Historical research through maps, inscription, oral history, written history, old photographs, archival material, decrees etc associated with the site.
- II. Understanding of the sacred, symbolic and natural landscape.
- III. Understanding the cultural geography of the site including its regional linkages.
- IV. Tourism and pilgrim Survey – including: profile/ origin/ numbers/days/festivals/Facilities/ duration/accommodation/ movement/ linkages with other pilgrimage sites etc.
- V. Transport and communication survey
- VI. Risk assessment survey
- VII. Community survey- demography, education, awareness, skills, crafts, traditional administrative structures (lay/monastic).
- VIII. Infrastructure survey – electricity, water, communication, community facilities, health etc.
- IX. Educational and awareness programs
- X. Funding and resources- national and international schemes, scholarships and grants.

4.7 Local Community Participation

a. An important aspect which relates to many of the site issues is that of **community participation**. Though this document addresses many interrelated aspects in the above issues, it further emphasizes the importance of a **community consultative** and **inclusive framework** for a successful and meaningful management of a site such as Preah Vihear.

b. Around the temple zone, there is an **active and working community**. It has a **population** of about **1500** in the two villages, out of which most of them get direct employment because of the site. The site also supports wide range of basic community facilities, like primary school, health center, herb garden etc. A lot of these facilities and community infrastructure is in need of up gradation. Moreover some of the **basic community facilities** like electricity, portable water, communication, public transport, health and education needs improvement in their accessibility to the local community. It is hoped that the site through the development of the Eco- village will bring in the much needed improvement in quality of life to the local communities.

c. The local community like the Kui tribe also vests itself with the **traditional knowledge**, especially related to medicinal plants, crafts, vernacular architecture, performing arts etc. These aspects also merit documentation and conservation, especially as knowledge bank for the use of community themselves. The proposed museum could also act as a repository of this knowledge.

d. The Temple can be used as an **educational tool** for not only the local school but the entire region. Possible studies for these can include geography, geology, natural history, as well as history and architecture. In this way the site can contribute positively towards initiatives in literacy.

Recommendations

- **Consultative meetings with community group**
- **Identification of current management systems, in addition to the National Authority for Protection of Preah Vihear (ANPV), within the perimeter and buffer zones which impact the site (traditional monastic frameworks, traditional community representative bodies, guides and transporters bodies, etc) and create consultative discussions with them**

- *Identification of various community groups and stakeholders*
- *Development of education aids or programs for local schools to impart heritage education.*
- *Village and settlement pattern study of indigenous villages of the Kui ethnic tribe.*
- *Children gallery / area in interpretation gallery*
- *Community center should be developed in the new the eco-compatible village near Saem.* This center will hold cultural and social events for tourism promotion and generate self-esteem among local people through social interaction and economic benefits.
- *Infrastructure up gradation - electricity, public transport, communication, education, health etc.*

4.8 Site Management framework and Administrative structure

a. As described in the Sub Decree concerning the application of the Royal Decree on Establishment of Preah Vihear Temple Site it establishes the **National Authority for the Protection and the Development of the cultural and Natural Site of the Temple of Preah Vihear (ANPV)** which will have overall responsibility for the management of the site. Its main office is proposed to be stationed at the site near K1 village. (Its organizational chart and present staffing is given in annex 2)

b. There is also a proposal to set up a **Preah Vihear Conservation Office** under the Department of Monument and Archeology ANPV at the site, which can be housed in the disused barracks.

c. Also an advisory body as **Preah Vihear Conservation / Consultative Board of Directors** comprising of representatives from all concerned ministries as well as Preah Vihear Provincial Authorities has been set up at Phnom Penh. A **Task Force** for the development of Preah Vihear has also been set up by the Royal Government of Cambodia..

d. The guiding aspect for the ANPV will now be this **Management Plan**. However based on the identification of issues and objectives established in this document the authority will need to review their staffing requirements like museum staff will be required for the new proposed eco-global along with curator and conservators for the museum collection. A more detailed management structure is proposed in chapter 6.

Recommendations

- *Identification of multi - tiered levels of management ensuring adequate representation and involvement of multiple stakeholders*
- *Capacity building of ANPV staff.*
- *Training of local community members to be involved in plan implementation.*
- *Review staffing needs for ANPV*
- *Develop interactive data base like GIS*
- *Setting up of site office with archive and guidance unit under site coordinator.*
- *Develop data base on the site from existing information and establish information management system.*
- *Establish periodic monitoring regime.*

4.9 Risk Management

a. An important theme which relates closely to a number of the above issues is that of **Risk Preparedness**. This document recognizes that the site can be at risk of damage from variety of sources ranging from normal wear and tear to natural or man- made disasters. Though the plan identifies and addresses many of these risks in the above issues, other potential risks are armed conflict, forest fire and **water logging** which could affect both the cultural and natural elements of the site.

b. Since the site is situated within a dense forest there is a **risk of fires** especially in the dry seasons; however no known incident response or local fire fighting is existing at the site presently.

c. Since the temple is built on an elevation on a rocky spur, there is a natural gradient towards north and west to drain the rain water; some of this water is collected in the ancient water tanks built at various elevations mainly towards the east. **Ancient network of gutters and canals** can still be seen which was built for this purpose. However most of them are now blocked or damaged, this creates a potential risk of water logging resulting in water ingress into the monument's foundation. The consequence of the same can be seen in many collapsed and damaged structures at the site. This aspect needs urgent attention and a proper drainage plan for the site needs to be worked out.

d. **Armed conflict** – Soon after the property was inscribed on the WH list, troops from Thailand moved into the area close to the temple. There have been some incidents of exchange of fire near the temple including rocket firing; some casualties have also been reported. Minor damages to the temple have also resulted as a result of the firing; the market at the foot of the monumental staircase was also burned down. Continuous presence of the troops around the property entails a risk of possible further incidents and damage to the temple structure. In order to ensure the sound long term management of the site, the process to resolve the relationships between the boundaries of the property and the relevant national border should continue.

e. In accordance with the recommendations made by the international experts team an **emergency plan** for risk preparedness and mitigation is proposed to be developed in the future for the site. This will identify risks as well as clear responsibilities, infrastructure and actions for responding to major incidents at the site.

Recommendations

- **Emergency Response Plan**
- **Repairs Of Ancient Water Network**
- **Water Drainage Plan.**
- **Risk Mapping And Planning**
- **Prepare Risk Preparedness Plan.**
- **Demarcation of borders by JBC**

CHAPTER 5 - Conservation and Archeology – Assessment and Strategy

5.1. Preservation Status

The general condition of the structures is in good state of conservation given the age of the building and as compared to the usual state of similar monuments of the time. However there are some areas of the complex that show significant deterioration.

Most of the parts of the main temple complex are still present at the site though sometimes dilapidated. Some of the important parts of the original structures are not present, like the roofs which would have contributed to the actual state of preservation of the site.

5.2 Conservation Strategy

This management plan stresses the need for proper maintenance, conservation and management of the monument.

The main guiding principle for conservation will be **minimum intervention**. All interventions will be based upon a scientific assessment of the significant and representative character of the site. The intervention will be based on the need for structural stability and long term conservation of the monument.

Based on this approach it is not advisable to undertake large scale or conjectural restoration and reconstruction at the site. It is proposed to keep the site in its present state of ruins. Some of the structures demonstrate a high aesthetical and historic value as a ruin. They testify to the evolution of the site until present; thus some of the ruined parts should be conserved as such. No re-roofing of the structure is proposed as it will amount to conjecture. However the site has a set of heritage values that may justify partial restoration of some of the structures.

Restoration of the structures will require identifying a solution for the stability of the foundation of those structures and proper water evacuation of the area.

All repairs proposed are to be done with sympathetic materials and techniques. The temporary bracing and supporting material should be able to resist to the weathering (rain, heat, wind) such as local hard wood called *Korki*.

A more detailed survey is recommended and needed to ascertain the detailed condition and conservation state of the different components of the monument. More tests and monitoring are also required to establish any significant structural damages to the structures

The structures will need to be continued to be monitored to deepen an understanding of buildings and to ensure that interventions are well managed and problems are rapidly identified and addressed.

An inspection regime for the resident conservators will need to be developed for the same. Based on these regular inspections further conservation related works can be identified for the site. These will need to undergo a systematic consultative process and approvals. Mechanisms for their implementations can then be organized.

5.3 Types of Defects and Causes

One of the main reasons for the damage that occurs in the structures is due to the settlement of the platform on which the constructions are placed. This is mainly due to water infiltration and the resulting erosion. Overall quality of the stone is good and probably large parts of the stones were quarried from the site itself. Parts of the buildings are also rock cut where they have been made by shaping the natural rock to become walls or floors. Rocky foundations are common in many structures in the complex.

General defects in the structure can be classified in four major types:

1. Structural Movements and masonry displacement due to ground instability and rock fissures.
2. Natural Ageing and Weathering.
3. Water Infiltration and erosion of the base.
4. Inherent construction problems and material behavior.

Though, there may be same defects at different parts of structures they may occur because of different causes.

The main reasons for the above defects could be due to the following reasons:

- Possibility of water ingress in foundation
- Fragile fragmented remains of sculpture and stone panels exposed to the weather.
- Long period of neglect during Civil war.

5.4 Conservation Assessment and interventions

The objective of the conservation assessment is to identify short term and long term aspects of structural risks in the temple complex. This will contribute to the value assessment that will help to identify the overall conservation strategy for the WHS. The short term recommendations should be addressed with the next one – two years, however the long term measures can be undertaken within the time frame of five years.

The assessments of conservation status in the structures of the temple complex are explained below. Based on this assessment conservation interventions are proposed on short term or long term basis.

Central Sanctuary

The central part of the main temple has partially collapsed towards the south side, the reason for this collapse is not known. Due to this collapse, galleries are in danger of damage especially towards west. It seems that most of the dismembered stone blocks are still present; they may have been broken when falling. These conditions make it possible to consider re-erection of the collapsed part of the building as a systematic anastylosis is possible, though it is not one of the priorities of the site.

Interventions:

Short term

- ***Monitoring of cracks and joint opening in the standing part of the central sanctuary.***

Long term

- ***Anastylosis of the collapsed part can be considered.***

Gopura I and the 1st Enclosure

Entrance to the gallery on the north part is leaning, though it does not present any urgent or dangerous situation at the moment. The wall has settled by approx. 30cms at the north eastern point of the courtyard, beams and pillars are also slanting to the east; the water remains stagnant during rains and is probably the cause of this settlement.

The south gallery is situated on the rocky bed. The portico of the south wall is detached; this may be inherent construction flaw as the portico may have been constructed without bonding with the main building. This also seems not to be in any dangerous situation that requires immediate action. The brick vaulted roof of the southern gallery is also missing and the gallery has bricks on its floor.

Disorganization can also be seen in south west corner of the gallery. There is also opening of joints on the west wall. Settlement of the plinth can also be seen at the North West corner, this is due to the proximity of the tree to the building.

There are also evidences of stone deterioration, cracking and spalling especially on the window pillars on southern gallery. This kind of damage is localized and can be related to quality of stone used or some previous mechanical damage.

Interventions:

Short Term

- ***Repairs may be necessary of the north eastern corner of the gallery.***
- ***Water evacuation from the enclosure needs to be taken up urgently. The water may need to be pumped out mechanically, as the original water canal has been obstructed.***
- ***Bracing and propping will be required for some of leaning walls.***

Long Term

- ***Trees may need to be removed under archeological supervision.***
- ***Dismantling and re-erection of the disordered section can be considered.***

Eastern Building to Gopura I

This building is built on the overhanging cliff especially its south east part. There is a very high deformation in this corner and is in risk of collapse, which can result in falling of the building block from the cliff. The south entrance of the building is in unstable condition with very limited support of stones on each other and is in the risk of collapse. The other parts of the building are also in disorder. The north east section of the building has partially collapsed. The east wall towards the south section is highly deformed. The pillars inside are slanting and are out of plumb. Due to this the lintels are overhanging causing stress concentrations. The situation is aggravated with stagnation and infiltration of water.

Interventions:

Short Term

- ***Partial dismantling of the south eastern corner of the building.***
- ***Bracing and supporting the rest of the structural members of the building.***
- ***Supporting the eastern wall to avoid slanting.***
- ***Props are needed under the overhanging lintels.***

Long Term

- ***Repairs of the disordered section can be considered.***

Western Building to Gopura I

This building is partially rock cut especially its east wall. From the construction it also seems that the building was never fully completed. There is a long term disorder due to the leaning walls. Its settlement is due to instability of the foundation. The risk is enhanced due to recent water tank built inside the building; this should be removed. Dismantling and restoration is possible; however there is no immediate risk involved.

Interventions:

Short Term

- ***Water tank should be removed.***
- ***Water evacuation from the building and around it should be done on priority.***
- ***Leaning wall needs to be braced.***

Long Term

- ***Restoration of disordered section can be undertaken.***

Gopura II

This is the entry into the second enclosure which leads into the main sanctuary. The structure is installed on a narrow terrace. The main gopura is in good condition though the north-west corner is in disorder. Its pediment has fallen to the ground. The plinth of the north porch also has disorganized stone steps. Some walls are also out of plumb. Probably water stagnation is the cause of this problem. The support of lintel on the west bay has fallen and thus needs support. The western pilaster of the central North gate should also be put back in place to avoid its collapse. This is possible by sliding the top stone back in place on top of the actual wall. Water stagnates at the East entrance because the building does not have a roof; it causes erosion and settlement of the ground because of which cracks in the north doorframe can be seen.

The gopura is attached with L- shaped galleries on both sides forming an enclosure. The gallery is on a high plinth. This gallery's roof is missing now because of which the columns of the colonnade are free standing, some of which are leaning or have fallen. However there is no immediate risk involved. The columns can be straightened and re-erected at a later date.

Interventions:

Short Term

- ***Support to the lintel on the west bay needs to be done urgently.***
- ***Reposition of the pilaster of northern gate.***
- ***North porch needs to be closed for public.***

Long Term

- ***Repair of the North Porch.***
- ***Anastylosis can be considered.***
- ***Columns in galleries can be re-erected and made in plumb.***
- ***Clearing of fallen stones from the main axis to central sanctuary.***

Pillared Hall

This is a long pillared hall attached with the Gopura I on the north face. The building must have had a wooden roof with terracotta tiles historically, but is missing now. The pillars are in fine condition now, though the lintels on the north side are de-stabilized. South lintel has cracked due to loading of deformed masonry on the top.

Interventions

Short Term

- ***Propping of the un-supported and cracked lintels.***
- ***Monitoring of the cracks in lintels.***

Long Term

- ***Repair of overhanging stones and deformed masonry.***
- ***Partial re-erection is possible from fallen stones.***

The "Libraries"

Both the libraries on east and west are in fine condition. The roof like most of the other structures is missing. Both the libraries are enclosed by a U- shaped wall at its rear, which is a later construct. Vegetation at the entrance of the western library is a problem and needs attention. Water also stagnates at the west side of the western library causing erosion and settlement of its enclosure wall. The enclosure wall of the eastern library has partially collapsed at the south east corner. The east wall of this enclosure wall is also badly leaning out. The situation on the enclosure wall of the west library is also comparable.

Intervention:

Short Term

- ***Tree between west library and pillared hall should be cut.***
- ***Leaning walls of library enclosures should be braced.***
- ***Water evacuation from the western library should be done on priority.***

Long Term

- ***Repairs and restoration of the enclosure walls could be done at a later stage.***

Causeway between Gopura II & Gopura III

This is the smallest causeway and links Gopura III with Gopura II. It has a railing of short pillars and a naga balustrade on both sides. Some of the short pillars are missing or are fallen; some are in their original position. The naga heads on both sides are missing. There is some disorder in the naga body stones; in the west naga some stones have fallen from their place. Some stones from east naga are also missing. A platform is there towards the east. Towards the west of this causeway in front of the west palace there are evidences of a pond; its exact location and orientation will need to be determined by archeological studies.

Interventions:

Short term:

- ***Archeological diagnosis to determine location of west ponds and its water network.***

Long term

- ***Re-fixing of short pillars and naga balustrade.***

Gopura III

This is a cruciform Gopura flanked by U- Shaped buildings and palaces on either side. The building has no roof. It is supported on a large terrace with embankments. The terrace is invaded by trees which are altering the stability of the terrace. The east side has a big tree growing on it which has dislocated its stone, though the main gopura is in good condition. However the second pediment which is located in the central cruciform (facing north), the layers of Naga head sandstone have cracked. The lintel below the east pediment at the second entrance facing to the North is also cracking because of heavy weight of blocks stone and perhaps poor quality of stone.

Water also stagnates at the Gopura's entrance after rains; this is resulting in opening joints of the structure.

The U-Shaped buildings on either side are also in good state. The west side building requires no special treatment. However some interventions may be necessary for the eastern building. There is an old bunker at the north-east corner of the building, which is a treat to its stability. The pediment over the east wall of the gopura is leaning on the pediment of the eastern u-shaped building. There is a tree growing at this place. It is in no major risk, and can be corrected at a later stage. The masonry over the lintel on the south entrance to east building is overhanging and lacking support. This should be provided lateral support to stones above. People should not be allowed to walk under this as long as this support is not provided.

The stairs to the north seem to suffer from ground instability and rock movement.

There is a small temple tower on the eastern terrace of the Gopura III. The floor of the temple is below the terrace level. A tree is growing out of the temple top. However there is no major risk to the temple at the moment, though water evacuation from the area should be done.

Intervention:

Short Term

- ***Removal of vegetation***
- ***Water evacuation especially from the terrace.***
- ***Provision of timber staircase structure for easy access towards the north side.***
- ***Support to cracked stone lintel on the second entrance facing north needs to be supporting by wood.***
- ***Water evacuation from small temple on the terrace.***

Long Term

- ***Removal of Trees from the terrace.***
- ***Correction of leaning pediment of eastern wall of gopura.***

The "Palaces"

South of the U – Shaped buildings are two building on both east and west side called 'palaces'. Both the palaces are in bad condition with major disorder in its masonry.

The western 'palace' is completely deformed and overgrown; it has fallen and leaning walls. Foundation at the west side is on natural rock. East dislocation of the foundation has occurred, resulting in local collapses of the north wall. This is probably due to water infiltration into the foundations. Though the building is in bad condition it is not accessible, thus this part of the site could be left untouched, just maintained. However some interventions may be necessary to south west corner and east entrance to avoid them from further collapse.

The eastern 'palace' is also in unstable condition. The west end of the building has partially collapsed and is leaning towards the west. This needs urgent interventions to avoid the portico and part of the masonry supported by it to fall in the west direction. Provisional bracing that allows tying back of the portico should be introduced. No access to visitors should be allowed. However the north wall of the building is fine and requires no special treatment.

Interventions:

Short Term

- ***Removal of vegetation, monitoring of cracks and maintenance of eastern palace.***
- ***Bracing and propping of west portico of the east palace.***

Long term

- ***Repairs and restoration can be considered especially for the east palace.***
- ***Bracing a support may be necessary for west palace depending upon its monitoring.***

Causeway between Gopura III & Gopura IV

This pavement is about 150 meters long spanning between Gopuras III and IV with railing of short pillars; there is a minor axis of unidentifiable structures running west to east connecting the square basin (lion head reservoir) these needs to be archeologically studied. The condition of the causeway is fine, it originally had canal on the sides which have disappeared now .The trees are not a problem here as they do not interfere in water movement.

Intervention:

Long Term

- ***Re-fixing of fallen pillars.***
- ***Cleaning of canal under archeological supervision.***

Gopura IV

This gopura is also a cruciform building; it is closed to the south and has open galleries to the north. The gables support two superimposed ornamentations. It is located on a high and narrow terrace with embankments. The terrace has trees growing on it which are a treat to its stability. The terrace also has water stagnation problem. The main gopura is in fine condition however some problems are seen in the north part. Some of the architraves in north side have limited support due to leaning of the columns, this need to be corrected in the long run. There are some disorders seen in the lintel facing north and some interior doorways. The pilaster supporting the lintel of the south facing interior door has cracked. Part of the pediment of the door has also fallen on the ground. The north portico is also leaning towards the west and has deformed masonry on the top.

Interventions:

Short term:

- ***Trees from the east side to be removed.***
- ***Support to lintels in doorways to be provided.***
- ***South interior door needs to be braced to avoid collapse, a support providing horizontal support at deflection points is needed.***
- ***The door to the north needs vertical provisional support to ensure stability of the tympanum.***
- ***Emergency supports are also required at the south entrance and the west entrance.***

Long term

- ***Trees in the square basin to be removed.***
- ***Correcting the lean of columns in galleries facing north.***
- ***Clearing of fallen stones from central axis.***
- ***Fallen architraves and pediments could be re-positioned assuring better preservation.***
- ***Repairs and restoration can be considered.***

Grand Causeway between Gopura IV & Gopura V

This pavement is 244 meters long connecting the gopuras IV and V. It is built against the sandstone block in the northern part and cut into the rock in its southern part. It has railing of short pillars many of which are missing or fallen. The pavement is partially rock cut and has fissures, this creates water blockage. The tree at the south east corner is also disturbing the pavement. The natural drainage is coming from south and following west direction. Due to

disorder in the pavement the water infiltrates, causing dislocation of the supporting wall especially towards the west. However there is no immediate risk involved.

Interventions:

Short term

- **Removal of trees**
- **Diversion of water flow**

Long term

- **Provision of gutter/ canal on the side.**
- **Re-fixing of fallen pillars.**
- **Provision of more trees on the west land to avoid erosion.**

Gopura V

A cruciform building consists of square pillars and gables that once supported a double slide roof made of wood. The building is open on all sides with no intermediate walls in between. It is a busy intersection; the structure is built over a raised plinth which is placed on a terrace. The building is in very fragile condition and is highly deformed. The supporting terrace has several depressions due to settlement. The platform has sunk and deformed at various places due to this. Towards the west side there is an old bunker causing further water infiltration.

The architraves have limited support due to leaning of columns, which is due to the settlement of the plinth.

Due to risk of instability the building should be closed to visitors until it is properly supported temporarily. The building requires priority intervention and could be chosen as a pilot project for restoration.

Interventions:

Short term:

- **Temporary support system should be used to assure the safety of the leaning components of the south west corner, east entrance and south portico.**
- **Architraves with limited support should be additionally supported.**
- **Old bunker should be filled and closed.**
- **Water evacuation should be worked out.**
- **Partial dismantling may be necessary.**
- **Detailed investigation and monitoring should be undertaken.**

Long Term:

- **Restoration should be undertaken.**
- **General correction of the platform will be required, allowing for re-positioning of vertical bearing members.**

East staircase

This staircase begins at Gopura V and descends 400 meters along the east side of the escarpment of the promontory, it is 10 meters wide and 1,4 kms long. The staircase is in poor condition with massive disorder and collapses along its way. An old trench was dug beside the staircase during the civil war. Parts of the staircase are in fair condition and are still being used.

Interventions:**Short term**

- *Provision of a provisional staircase in wood that can be constructed where the staircase has collapsed and is un-usable. Parts which are fine can be used for access after clearing and maintenance.*

Long term

- *Some sections may need to be restored to avoid further collapses.*
- *The trench within the staircase will need to be filled and closed.*

Monumental Staircase & Naga Platform

This grand staircase climbs the escarpment leading to the plateau on which the temple stands. It has 159 steps. Some of the steps are carved in rock others are made up of sandstone blocks. It has terraces on both sides some of which have a lion figure on them. This staircase ends at a 25 meters long pavement, which is flanked by a railing made of gigantic 'nagas'. A pavement towards the west can also be seen from this platform. This is built on the broken slope of the escarpment against the line of sandstone short wall. This was probably constructed to divert the water into the tiered pond near the market.

Some of the steps on the grand staircase are disorganized due to erosion because of water flow. There is also evidence of the canal to the west of the staircase.

The naga balustrade also has some dislodged stones. The west naga head was slightly damaged in the recent firing. The west naga head is slightly leaning towards the east. However there is no immediate risk.

Interventions:**Short Term**

- *Provision of wooden staircase where stone steps are unusable in the grand staircase.*
- *Cleaning of old canal.*

Long Term

- *Correction of leaning west naga.*

Other Monuments

There are some other monuments at the foot hill like Prasat Toch with its pond, Western and Eastern Baray on temple axis, Tiered Pond / Baray near Market. These sites though outside the core zone also need to be conserved due to their association with the main temple complex.

The main problem at Prasat Toch is of tree growth which needs to be controlled. The area around also needs to be demarcated as archeological potential area and new houses from the vicinity needs to be relocated. The western and eastern barays at temple axis at the foothill and the tiered pond also needs to be revived and restored. The western baray has been completely built upon by new houses. These needs to be relocated. The eastern baray has a road cutting its edges; this road needs to be shifted. However these can be taken up as part of the long term planning as there is no major risk to the sites.

5.5 Archeological Explorations and Diagnosis

Programmes in archaeology at the site need to be developed in helping the conservation interventions as well as correlating the original hydraulic system of the site. It will also help in establishing the limits of the site. An archeology map of the site should also be developed for both

core and buffer, locating potential archeological areas to avoid their disruption in any development associated with the site.

Following archeological studies and diagnosis are proposed for the site:

1. Central sanctuary- diagnosis of ancient canals/ drainage system.
2. Diagnostic trench which relates to the foundation of the temple with the west basin/pond.
3. Trench between enclosure to causeway and trench between enclosure and south section of the Gopura II
4. Trench in causeway between Gopura II & Gopura III on two extreme side of the enclosure towards the dyke.
5. Western side trench perpendicular to causeway between Gopura III and Gopura IV to determine ancient occupation of the area and function of the canal
6. Eastern side trench following trench 5 above and excavations at square basin.
7. Trench on west – east axis on causeway between Gopura IV and Gopura V for observation on the water movement towards grand basin.
8. Explorations to determine archeological and occupational potential in area of western causeway connected to Naga platform and market area at the bottom of monumental staircase.
9. Explorations in western plateau of the site near linga terrace.
10. The fallen architectural members on the ground should also be placed properly and labeled.
11. Inscription on site should be protected from further erosion.
12. Preventive archaeology for Prasat Toch, to improve the understanding of the site and understand risks associated with the new developments in the area.

5.6 Summary of Conservation Interventions

As per the above assessment it is clear that one of the main challenges of conservation of the site is the management of water and its evacuation from the structures and provision of temporary supports for the safety of the buildings.

Water infiltration has emerged as one of the main contributing factors of deterioration at the site. Though there are evidences of ancient water networks and canals at site, these are obstructed and dysfunctional. Further studies and archeological excavations are proposed to ascertain the ancient hydraulic system and network of the site. The situation gets aggravated as the roofs of the buildings are missing.

Proper water disposal from the site and structures needs to be taken up on priority. Various means to evacuate the water will be needed, which may include provision of temporary sand bag embankments to direct the flow of water, placement of plastic sheets to cover vulnerable areas from rains and mechanical or physical pumping of water from areas of stagnation where disposal is not possible otherwise.

Areas identified for water evacuation on priority are:

1. Sand sacks to put along the causeway between Gopura IV and V to change the direction of water.
2. Diverting the water towards west side from Gopura V by provision of Sand bags.
3. Diverting the water towards east side from area between small causeway and Gopura III.
4. Water at north porch of Gopura III needs to pump out.

5. Sand sacks at the East of Gopura IV to divert water
6. Water at east west and north portico of Gopura II needs to be pumped out.
7. Water at the West side of the West library of Gopura II needs to pump out.
8. Water at North West corner of 1st enclosure of Gopura I needs to pump out.
9. Water that needs to pump out at the east side of East building to Gopura I.

Following areas have been identified for emergency conservation works mainly dealing with temporary propping, bracing & supports:

1. Western Naga Balustrade on Platform next to Gopura V.
2. East Entrance of Gopura V
3. Eastern beam of the north entrance of Gopura IV.
4. South West corner of the wall of western palace of Gopura III.
5. East Entrance Structure of western Palace of Gopura III.
6. North West corner of East Palace of Gopura III.
7. South East corner wall of Gopura I.
8. South west corner wall of western building Gopura I.
9. North East corner of inner area of Eastern building to Gopura I.
10. North window and wall structure of eastern building, Gopura I.
11. Southern window structure of Eastern Building, Gopura I
12. South East corner of Eastern Building Gopura I
13. South entrance porch of Eastern Building Gopura I.

CHAPTER 6 - Implementing the Plan

The objectives set out in the Management Plan will be implemented through a wide range of actions. These actions are to be undertaken by the agencies and bodies responsible for conservation and management of the WHS based on the legal and management framework as existing and proposed below.

6.1 Legislative Protection

- i.** The national cultural policy of Cambodia is formulated by the Supreme Council on National Culture (SCNC), which is an inter-ministerial body, composed of the seven ministries most concerned by development of the region (Culture & Fine Arts, Public Works & Transport, Economy & Finance, Foreign Affairs & International Cooperation, Tourism, Environment, and Planning).
- ii.** The site of Preah Vihear now inscribed as a World Heritage site (UNESCO) is nationally protected by the Royal Decree on Establishment of Preah Vihear Temple Site (NS/RKM/0303/115) dated 11th March 2003.

It is also supported by a number of other Decrees:

1. Sub Decree on the Establishment of Protected Forest for the Conservation of Plants and Animal Genetics, "Preah Vihear"- 30th July 2002.
2. Royal Decree on the Delimitation of the Site of Preah Vihear Temple - 13th April 2006.
3. Royal Decree on the Creation of ANPV- 1st June 2006
4. Sub Decree on the Layout and Management of the Site of Preah Vihear Temple – 31st July 2006.
5. Sub Decree on the Establishment of the Administrative Board of the ANPV - 26th July 2007
6. Sub Decree on the Nomination of the High Counselors to the Administrative Board of NVPV - 31st December 2007

iii. According to the Royal Decree on the Establishment of Preah Vihear Temple Site, the policies of the SCNC shall be implemented in order to ensure the management, maintenance and protection by allocating the responsibilities among competent institutions; whereas the Ministry of Culture and Fine Arts (MCF A) is responsible for policy implementation according to Article 5 of the Law on the Protection of Cultural Heritage, promulgated by Royal Kram (decision) NS/RK/0196/26 dated 25 January 1996:

iv. As the nominated area especially the buffer zone also falls under the Royal Decree for Protected Forest for the Conservation of Plant and Animal Genetics and under the environmental protection and natural resource management, the Ministry of Agriculture, Forests, Wildlife, and Fisheries and the Ministry of Environment will be major partners in management. The Ministry of Land Management, Urbanization & Construction, the Ministry of Tourism and other national and provincial authorities will also be involved in relevant aspects of the management system particularly within the buffer zone such as land-use, lifestyles, housing & construction, farming, & etc.

v. The Sub Decree concerning the application of the Royal Decree on Establishment of Preah Vihear Temple Site Authority which came into force in June 2006 establishes the National Protection Authority for Preah Vihear (ANPV) on lines of APSARA in Angkor (another WH site in

Cambodia), which will have the overall responsibility for the management of the site.

vi. A Preah Vihear-Conservation Board of Directors (Preah Vihear Consultative Board) comprising of representatives of all concerned Ministries as well as the Preah Vihear provincial authority to coordinate the activities with various local & national authorities and international organizations as well as to provide decision-making for the site, has been established by Sub Decree on the Establishment of the Administrative Board of the ANPV - 26th July 2007

The Board shall report its findings directly to the MCFA and the SCNC after due deliberation and resulting recommendations. The ANPV office will also act in the dual role as the Secretariat for the Board.

vii. Apart from the site specific Decree, all archaeological / cultural remains in Cambodia are protected under the Law for Protection of Cultural Heritage dated Jan 1996 and Natural Heritage by the Royal Decree on Environmental protection and Natural Resource Management dated Dec 1996. These statutes contain provisions for prosecutions and penalties for transgressions that adversely impact archaeological sites and ruins, historic buildings, artifacts, etc. and for unauthorized development projects in protected areas.

viii. The boundaries of such protected sites are defined by Royal Decree at the proposal of the Supreme Council on National Culture (SCNC). The SCNC is responsible for policy formulation in domain of national cultural properties, while Ministry of Culture and Fine arts is responsible for policy implementation. The boundaries of the site of Preah Vihear are defined by the Royal Decree on Delimitation of the Site.

ix. The management system for the Preah Vihear site is described in the Sub Decree concerning the Layout and Management of Site which came into force in July 2006, it states how the site shall be managed, maintained and protected with respect to significance of archaeology, history, environment, national wealth, respect of ownership rights of the people living in the whole area, livelihoods and the promotional value of the site. The detailed description of the property management plan is also stated in this Sub Decree. The objectives of this management plan serve as a guideline for the protected zones with regard to such items as conservation, tourist development, territorial management, cultural protection measures, promotion and development.

The perimeter of the Temple is the most significant consisting of monuments and archaeological sites and as such deserves the highest levels of protection. The Buffer Zone refers to protected cultural and natural landscapes and subject to regulations controlling harmful or disruptive activities that may concern its appearance, land use, varied habitats, historic and aesthetic values. Any development in these zones is prohibited, with the exception of development essential for the protection and enhancement of the site.

It mandates the ANPV to formulate a comprehensive management for the WHS after finalization of a complete survey, review and meetings with both national and international specialists from related area.

6.2 Administrative and Institutional Frameworks

The objectives of this Management Plan are designed to achieve comprehensive conservation and management of the site. The Management Plan will be further supported with conservation plan, risk preparedness plan, visitor management Plan, eco-tourism plan, marketing plan, cultural resource mapping, planning guidelines etc which are proposed to be taken up in the near future.

Achieving successful implementation of the objectives defined in this document will require the continued commitment and efforts of a wide variety of partners. Fundamental to the success of this will be careful coordination of partners and stakeholder. This is essential to ensure that collective efforts are possible and resources are used to their best effect. The implementation will be led by National Protection Authority for Preah Vihear (ANPV), as principle body responsible for the conservation and management of the site as per the Royal sub decree of 2006. ANPV will be supported by the **PV Board of Directors and the PV Task force**.

It is proposed to limit its validity to a span of **TEN years**. The plan is envisioned to be updated regularly and reviewed every FIVE years. The implementation of the plan will be achieved by the ANPV that currently have management responsibilities. However some strategies will require collective action. The public- private partnership to support and contribute to the conservation and management of this important cultural heritage site is fundamental to achieve the objectives of the plan.

6.3 Proposed Management Mechanism

Specific management mechanisms have been proposed to aid the successful achievement of the objectives of the plan:

6.3.1 Preah Vihear Monitoring & Conservation Committee (PV MCC) IS PROPOSED to be set up. It includes representatives from the ANPV, UNESCO ICOMOS, ICCROM, Preah Vihear Task Force, ad hoc experts & advisor group comprising of both international and internal experts who will be responsible for the implementation of the plan and the management of the site in long term. **MCC is proposed to be established under the chairmanship of the president of the Cambodian National Commission for UNESCO.** This will be the main agency responsible for periodic review regarding the effective implementation of this management plan. The MCC is proposed to meet minimum once a year at the site

6.3.2 This committee (MCC) will be empowered to monitor the progress of essential conditions and requirement for the presentation of Preah Vihear site to the WH Committee as well as coordinate the activities and efforts of the various partner countries and institutes to achieve the aims and objectives defined in this document. **PV MCC** will also help develop methods for proactive management, review and monitor the effective implementation of this Management Plan.

6.3.3 Establishment of **PV Technical Panel** that will continue the work on conservation and management of the site. It will further establish **Topic based working groups** to continue work on further studies, research and other technical aspects of the site with support from international partners.

6.3.4 Creation of Museum cell is proposed with museum staff and curators . They will be required for the newly proposed Eco - Global museum and botanical gardens at access point to the site near Saem.

6.3.5 Training and Capacity building Unit – a site like Preah Vihear is very complex and challenging for the staff working there. It also requires high skills especially for the conservation works. It is therefore proposed that a training unit be created with ANPV which will build

capacities of its staff as well as local community members in conservation, maintenance and management of the site.

6.3.6 Coordination committee within ANPV is proposed to coordinate the efforts in conserving and managing the site of Preah Vihear by various departments of ANPV. This committee is proposed to meet monthly to review the progress of work as per agreed plans. The committee will also decide about the fund allocations and requirement for each department.

6.3.7 Sharing best practices - It is also proposed that through planned network such proposed MCC for Preah Vihear, UNESCO system, and agencies like ANPV, links will be established and developed with other sites especially WHS in the region, (Laos, Vietnam,etc.), as means of sharing good practice related to the management of similar sites.

6.3.8 International Coordination Committee (ICC) is proposed to be established for the site in the future.

6.4 Funding

There are many actions identified as per the key considerations and issues identified in this document. Considerable resources will be needed to successfully carry them out. Some of these actions are already underway, being undertaken by ANPV especially with the support of the APSARA National Authority and other national agencies.

As the site has already been declared a protected zone of cultural and natural importance, a state budgetary allocation is being provided for its daily maintenance and preservation. Potential funds are also foreseen from various sources:

- Subsidies from national and provincial authorities
- Donations, legacies and international contributions
- Revenue from ticketing
- Profits from select tourist services

Also based on this management plan and other mutually agreed plans, the Ministry of Economy and Finance will also provide an adequate budget for the ANPV for its overall operation and management of the site.

The Royal Government of Cambodia has already benefited from funding opportunities from various international agencies especially for its existing World heritage site of Angkor, through the efforts of APSARA National Authority. It is hoped that the same funding opportunity will also exist for the site of Preah Vihear. It is recommended to identify potential local, national, regional and international funding and assistance programs which will contribute to undertaking the actions identified in this document.

Besides this, the plan recommends 'partnership approach' to external funding through developing priorities and projects based on which multiple agencies or organization could work in coordination on project implementation through creation of a Trust Fund.

6.5 Organizational Chart and Staffing of ANPV:

As Per Attached File ANPV.

6.6 Review and Monitoring

Conservation and management of the WHS is a dynamic process and does not end with the production of the Management Plan. New information, changed perceptions or priorities can change the emphasis of the plan, for instance the prediction of visitor numbers could alter dramatically or significant new archeological discoveries could be made which will require new management regimes and interpretations. Thus regular review and monitoring is required to provide and incorporate this information.

Proposed validity for this document is of ten years. During this time high priority tasks especially related to establishing management framework is expected to be ready, supported with staffing, actions and information proposed in this document.

It is proposed that the Management Plan be reviewed every five years, to keep it relevant to changing scenarios and conditions, though most of the elements will be relevant for longer, as the plan is drafted with a long term view. The vision, the issues and objectives are expected to retain their relevance for the next five to ten years, depending upon the success of the implementation of the programs.

In order to keep the management plan as relevant as possible a system of periodic review is also proposed. The review process will be the responsibility of the ANPV and will be overseen by the PV MCC. The reviews meetings will be held at least once a year at site where all the members of the PVMCC will be invited and encouraged to attend.

6.6.1 The proposed periodic reviews will consist of:

i. Annual Reviews:

Yearly progress review will be based on annual work plan which will be developed based on the set priorities from the programs of action and the key monitoring indicators derived from the objectives of the plan. This will ensure incorporating short term updates, needed for more effective management of the site.

ii. Reviews every 5 years:

Comprehensive review of the plan in particular the management criteria, issues and programs of action are proposed to be done every five years. This should lead to the production of an updated Management Plan which will again be reviewed as per above methodology.

The review mechanism can also correspond with the 'periodic assessment cycle' for the World Heritage sites.

6.6.2 Monitoring

Measuring the progress is essential to adapt, improve and update the Management Plan. The review process described above is largely dependent on the quality and reliability of the monitoring program.

It is essential to create a base line data for both environmental and cultural assets of the site based on which its condition can be assessed periodically. This should be done on priority as part of the programs for action.

The qualitative annual review, combined with a series of objective monitoring indicators against which the progress of the Management Plan and condition of the site can be measured should produce a balanced monitoring tool. Monitoring indicators are essential for any review or monitoring process, though they in themselves may not produce an accurate picture of the state of conservation or management of the site.

While some indicators may be common to various aspects, they must be tailored according to the characteristic of each individual site, zone or condition.

6.7 Monitoring Indicators

Some of the themes for monitoring Indicators are:

- ***Protection of the site***
- ***Conservation of the site and its heritage assets***
- ***Conservation of natural assets of the site***
- ***Presentation and access to the site***
- ***Community participation in the management process***

6.7.1 Protection of the Site

Indicators for progress on protection will be:

- Reviewing and enlarging core and buffer zone based on the full values of the site.
- Identification of areas of archeological potentials of the site
- Listing and documentation of all cultural assets of the site
- Implementation of this management plan.

6.7.2 Conservation of the site and its heritage assets

Progress on conservation of the site will be gauged with the following indicators:

- Updating and identification of all buildings and spots at risk.
- Review of conservation plan and proposals and their effectiveness.
- Monitoring of structural stability.
- Review of maintenance programme and its effectiveness.
- Review of emergency stabilization and its effectiveness.
- Review levels of funding for conservation.
- Review of impact of site development on state of conservation.
- Review progress on conservation activities and intervention.
- Review inspection regime for the site.

6.7.3 Conservation of the natural assets of the site

- Establishing Royal decree for landscape protection zone.
- Improvements to environmental quality of the site.
- Increase in tree cover of the site.
- Revival of water system of the site

6.7.4 Presentation and Access to the Site

Attempts to monitor progress with presentation and access will be made with the following Indicators:

- A review of the number of facilities available at site.
- Review increase in numbers to visitors to the site.
- Review progress on de-mining activities of the site.
- Review of interpretative material at visitor center and museum.
- A review of the number of visitors visiting the facilities at site like visitor center and the museum.
- Visitor satisfaction with the facilities and access to the Site.
- Number and quality of interpretive publications, interpretation boards, websites and audio-visual material.
- Number of visitors using eastern staircase for access as compared to visitors using vehicular access.
- Visitor survey to ascertain their origin.
- Review progress on implementation of transport proposals.

6.7.5 Community Participation

It will not be straightforward to effectively monitor this particular factor because many aspects of it are subjective and intangible; however following indicators may be helpful:

- Improvement to community facilities.
- Improvement to livelihood and local economy.
- Number of jobs created locally.
- Improvements to living conditions of the community.
- Improvement in levels of literacy.
- Community's satisfaction with the socio-economic and cultural facilities.
- Community's pride towards the site.
- Improvement to forest cover and stopping of illegal tree cutting.

6.8 Administrative Arrangements for Monitoring the Property

The main responsibility of collecting the data for monitoring process will be that of ANPV, the proposed site coordinator can play a coordinating role in the collection and collation of the necessary information from each of the key stakeholders.

The MCC and the ANPV can ensure that any gaps in the administrative arrangements for effectively and regularly monitoring the Site are filled.

CHAPTER 7 - PROPOSED PROGRAMS FOR ACTION

Based on the identified issues and to achieve the objectives set in this document following actions are proposed to be taken up on various priorities. For detailed conservation interventions refer chapter five.

S. No	Proposals	Project Objectives	Priority	Status
1	Conserving The Special Character And Values Of The Site			
1a	Establish MCC to set monitoring framework for the site	For monitoring the effectiveness of the MP & assess change in the site.	High	NC for UNESCO
1b	Create Landscape Protection Zone and establish Royal decree for the same	For effective conservation & management of the site especially its natural assets.	High	Ongoing ANPV
1c	Review the zones to reflect the full values of the site	To conserve special character of the site.	Medium	Dept of M& Dept of Env ANPV
1d	Identify funding sources	To implement priority projects.	High	Dept of Admn & Finc , ANPV
1e	Set up consultative process	To involve multi stakeholders in management process	High	Dept of Order ANPV
1f	Rehabilitation of market and reorganization of K1 village.	For effective conservation & management of the site	High	Dept of HS ANPV
2	Emergency Stabilization And Conservation Of Archeological And Historic Structures Of The Site			
2a	Further Develop the conservation plan As given in chapter 5.	To identify conservation needs and appropriate intervention on historic structures.	High	Ongoing Dept M&A
2b	Prepare measured drawings of the historic buildings and structures	For better understanding of the site & its architectural vocabulary, to feed into conservation plan.	High	ANPV Dept M&A
2c	Undertake selective emergency stabilization at 13 identified spots	To protect historic structure from further damage	High	Ongoing Dept M&A
2d	Restoration of <i>Gopura V</i> and central sanctuary of the main Temple	As pilot conservation project	High	Dept M&A ANPV
2e	Prepare Water Drainage plan	To protect historic structure from water ingress and damages to foundation due to flooding	High	Dept M&A & Dept of Env

2f	Conservation and restoration of eastern staircase	For conservation and better access to the site	High	Dept M&A
2g	Undertake Archeological diagnosis at 9 selected spots especially at Gopura III western side	For conservation chronology and eventual reuse of ancient pond	High	Dept M&A
2h	Restoration of Prasat Toch in K1 Village	To protect historic structure from further damage	Medium	Dept M&A
2i	Restoration of Eastern, Western & Northern and Prasat Toch Barays	For protection of site environment and context	Medium	Dept of M&A+ Env
2j	Establish Archeological Potential zones	For protection of heritage and its context	High	Dept M&A
3	Access, Presentation And Visitor Management At The Site			
3a	Complete De-mining of the site	For better and safe access to the site	High	Ongoing CMAC
3b	Building of road from foot hill	For better and safe visitors' access to the site	Medium	Ongoing Ministry of Transport
3c	Develop tourism plan and its marketing strategy	For quality and holistic visitor experience	Medium	Dept of Tourism
3d	Prepare visitor management plan	To increase number of visitors to the site	Medium	Dept of Tourism
3e	Produce heritage trails and eco walks within the site	For dispersal of visitors in wider site setting	Medium	Dept of M&A + Tourism
3f	Develop tourism 'products'	For promotion of local crafts	Low	Dept of Tourism
3g	Restrict vehicular traffic to main parking	To conserve site's special character	High	Ongoing ANPV
3h	Develop pedestrian and multi - access to site especially the Eastern staircase access	For dispersal of visitors in wider site setting	High	Ongoing ANPV
3i	Complete regional linkages to site by road and air networks.	To make the site more accessible to wider volume of visitors	Medium	Airport Proposed RGC
3j	Design of Appropriate signage for the site	For better site interpretation & presentation	Low	Ongoing Dept M&A
3k	Create Cultural Axis linking associate sites especially the four WHS of the region in Cambodia, Laos and Vietnam	To allow visitor flow and mutual cooperation	Medium	RGC
3l	Develop Website with info on site	For better site interpretation & information dissemination	Medium	Ongoing ANPV
3m	Set up interpretation center / Visitor center especially at main access points of Saem and Eastern staircase.	To promote better understanding of the site's significance & values.	High	Ongoing Dept of Tourism ANPV

4	Management Of Natural Environment			
4a	Develop plan for environmental improvements, reforestation	For environmental protection of site	High	Dept of Env ANPV
4b	Develop plans for tree cutting and plantation based on conservation requirement and indigenous species	For stability of monument and drainage of water	High	Dept of Env forest & water ANPV
4c	Revive ancient water system at the site including Barays at foothill through rain water harvesting	For environmental enhancement of the site and improve water availability at site	Medium	Dept of Env ANPV
4d	Carry out environmental and cultural audit of all major proposed interventions	To safeguard site from ecological impacts of developmental interventions	Medium	Dept of Env ANPV
4e	Waste management plan	For better Waste disposal & safeguarding site against pollution of site.	High	Dept of Env ANPV
5	Planning, New Development And Policy Framework			
5a	Prepare land and activity use / zoning plan and Identify areas for development.	For controlling non - conforming activities within the site and establishing conservation / protection and development zones	High	Ongoing Dept of HS
5b	Develop building and development guidelines	For controlling ad hoc and unsympathetic developments in the site	High	Dept of HS
5c	Interactive data base on GIS for the Site	As a monitoring tool	Medium	ANPV
6	Research And Further Studies			
6a	Identify research gap and take up appropriate scientific studies	To increase understanding of the site to help management decisions	High	ANPV
6b	Archeological explorations	To understand full extend and significance of the site.	Medium	Ongoing Dept M&A
6c	Promote international study group and research	To increase understanding of the site and share best practices	Medium	Ongoing , ANPV
6d	Creating a data bank of information on the site	To guide the heritage management process	High	ANPV
7	Local Community Participation			
7a	Identify community skills and their livelihood development	To involve local communities in conservation and management of the site	Medium	Dept of HS
7b	Develop heritage educational and arts programs especially for local schools & community groups	To use the site as an educational tool	Low	Dept HS

7c	Promote community use of the site and its facilities	To involve local communities in conservation and management of the site	Medium	Dept Tourism & HS
7d	Improve community infrastructure. With setting up of an ECO-VILLAGE	To improve living standards of local communities	High	Dept of HS
7e	Set up community Resource center / Museum and botanical gardens	To create reservoir of traditional knowledge systems.	Medium	Ongoing Dept of HS & Tourism
8	Site Management Framework And Administrative Structure			
8.a	Review staff requirement and Identify Training needs	To implement the proposed actions	High	ANPV/ ICCROM
8b	Set up administrative and management framework	For coordinated conservation and management of the site	High	Completed ANPV
8c	Site office in disused barracks	For effective conservation of site	High	Completed
8d	Expand mandate of ANPV to include associated sites in the region like Prasat Neak Buos	To establish regional linkages of the site	Low	RGC
9	Risk Management			
9a.	Prepare risk mapping and preparedness plan	For identifications of risks and their mitigation	High	Dept M&A, Env

Annexure

Annex 1 - Decisions of WHC regarding Preah Vihear

31 COM 8B.24 WHC Decision on the Nomination of The Sacred Temple of Preah Vihear at Christ Church NZ 2007

Decision Text

The World Heritage Committee,

1. Having examined Documents WHC-07/31.COM/8B and WHC-07/31.COM/INF.8B.1,
2. Having taken note of the following statement by the Chairperson of the World Heritage Committee which has been agreed to by the Delegation of Cambodia and the Delegation of Thailand:

"The State Party of Cambodia and the State Party of Thailand are in full agreement that the Sacred Site of the Temple of Preah Vihear has Outstanding Universal Value and must be inscribed on the World Heritage List as soon as possible. Accordingly, Cambodia and Thailand agree that Cambodia will propose the site for formal inscription on the World Heritage List at the 32nd session of the World Heritage Committee in 2008 with the active support of Thailand.

They also agree that the site is in need of urgent attention and requires international financial and technical assistance and close cooperation between them.

They further agree that it is essential to strengthen conservation and management at the site including by the development of an appropriate management plan, as required under paragraph 108 of the *Operational Guidelines* that will ensure the future protection of this property.

They understand, following consultation with the World Heritage Centre, that financial and technical assistance for the development of a management plan will be available through the World Heritage Centre's International Assistance programme."

3. Recognizes that the **Sacred Site of the Temple of Preah Vihear** is of great international significance and has Outstanding Universal Value on the basis of criteria (i), (ii) and (iv), agrees in principle that it should be inscribed on the World Heritage List and notes that the process for inscription is in progress;

4. Requests the State Party of Cambodia to strengthen conservation and management at the site by making progress in developing an appropriate management plan, which progress will enable its formal inscription by the Committee at its 32nd session in 2008;

5. Further requests the State Party of Cambodia to submit a progress report to the World Heritage Centre, by 1 February 2008.

32COM 8B.102 - Examination of Nominations - Sacred Site of the Temple of Preah Vihear (CAMBODIA) at Québec Canada 2008

Decision Text

The World Heritage Committee,

1. Having examined Document WHC-08/32.COM/INF.8B1.Add2,
2. Recalling Decision 31 COM 8B.24, which recognized 'that the Sacred Site of the Temple of Preah Vihear is of great international significance and has Outstanding Universal Value on the basis of criteria (i), (iii) and (iv), and agreed in principle that it should be inscribed on the World Heritage List',
3. Having noted the progress made by the State Party of Cambodia towards the development of a Management Plan for the property, as requested by the Committee by its Decision 31 COM 8B.24 in Christchurch, New Zealand,
4. Expressing gratitude to the governments of Belgium, the United States of America, France, and India for providing support for the work of experts to assist in this effort, and to the governments of China and Japan, as well as ICCROM, for providing valuable expert input to this process
5. Recognizing that the Joint Communiqué signed on 18 June 2008 by the representatives of the Governments of Cambodia and Thailand, as well as by UNESCO, including its draft which was erroneously referred to as having been signed on 22 and 23 May 2008 in the document WHC-08/32.COM/INF.8B1.Add.2, must be disregarded, following the decision of the Government of Thailand to suspend the effect of the Joint Communiqué, pursuant to the Thai Administrative Court's interim injunction on this issue,
6. Noting that the State Party of Cambodia submitted to the World Heritage Centre the revised graphic plan of the property (RGPP) included in WHC-08/32.COM/INF.8B1.Add2 (hereinafter called " RGPP") indicating a revised perimeter of the area proposed for inscription on the World Heritage List,
7. Decides, on an exceptional basis, to accept, in view of the multilateral process leading to the elaboration of the supplementary report submitted in May 2008 by the State Party of Cambodia at the request of the UNESCO World Heritage Centre, the information submitted by the State Party beyond the deadline established in the paragraph 148 of the Operational Guidelines;
8. Recognizes that Thailand has repeatedly expressed a desire to participate in a joint nomination of the Temple of Preah Vihear and its surrounding areas;
9. Notes that the property proposed for inscription is reduced and comprise only the Temple of Preah Vihear and not the wider promontory with its cliffs and caves;

10. Considers further that archaeological research is underway which could result in new significant discoveries that might enable consideration of a possible new Trans boundary nomination, that would require the consent of both Cambodia and Thailand;

11. Encourages Cambodia to collaborate with Thailand for safeguarding the value of the property, in view of the fact that peoples of the surrounding region have long treasured the Temple of Preah Vihear, and agrees that it would be desirable in the future to reflect its full values and landscape setting through a possible additional inscription to the World Heritage List that could capture criteria (iii) and (iv), which had been recognized by the Committee in its Decision 31 COM 8B.24.

12. Inscribes the Temple of Preah Vihear, Cambodia, on the World Heritage List under criterion (i);

13. Adopts the following Statement of Outstanding Universal Value:

The Temple of Preah Vihear, a unique architectural complex of a series of sanctuaries linked by a system of pavements and staircases on an 800 meter long axis, is an outstanding masterpiece of Khmer architecture, in terms of plan, decoration and relationship to the spectacular landscape environment.

Criterion (i): Preah Vihear is an outstanding masterpiece of Khmer architecture. It is very 'pure' both in plan and in the detail of its decoration.

Authenticity, in terms of the way the buildings and their materials express well the values of the property, has been established. The attributes of the property comprise the temple complex; the integrity of the property has to a degree been compromised by the absence of part of the promontory from the perimeter of the property. The protective measures for the Temple, in terms of legal protection are adequate; the progress made in defining the parameters of the Management Plan needs to be consolidated into an approved, full Management Plan;

14. Requests the State Party of Cambodia, in collaboration with UNESCO, to convene an international coordinating committee for the safeguarding and development of the property no later than February 2009, inviting the participation of the Government of Thailand and not more than seven other appropriate international partners, to examine general policy matters relating to the safeguarding of the Outstanding Universal Value of the property in conformity with international conservation standards;

15. Requests the State Party of Cambodia to submit to the World Heritage Centre, by 1 February 2009, the following documents:

- a) A provisional map providing additional details of the inscribed property and a map delineating the buffer zone identified in the RGPP;
- b) Updated Nomination dossier to reflect the changes made to the perimeter of the property
- c) Confirmation that the management zone for the property will include the inscribed property and buffer zone identified in the RGPP;
- d) Progress report on the preparation of the Management Plan;

16. Further requests the State Party of Cambodia to submit to the World Heritage Centre by February 2010, for submission to the World Heritage Committee at its 34th session in 2010 a full Management Plan for the inscribed property, including a finalized map.

**33COM 7B.65 – Examination of State of Conservation - Temple of Preah Vihear (Cambodia)
(C 1224 rev). Seville, Spain 2009**

Decision Text

The World Heritage Committee,

1. Having examined Document WHC-09/33.COM/7B.Add,
2. Recalling Decisions 31 COM 8B.24 and 32 COM 8B.102, adopted at its 31st session (Christchurch, 2007) and 32nd Session (Quebec City, 2008) respectively,
3. Notes the developments that have occurred at the property since its inscription on the World Heritage List, the information contained in the State Party report and the preliminary findings of the Reinforced monitoring mission;
4. Requests the State Party to submit to the World Heritage Centre, by 1 February 2010, a report on the progress made in the implementation of the recommendations by the Committee in its Decision 32 COM 8B.102, for the examination by the World Heritage Committee at its 34th session in 2010.

Annex 2 - Credits

This report was compiled from texts, illustrations- plans, maps, sketches and drawings - and photographs taken from the nomination dossier and the reports written by various technical experts who carried out studies and research on the sacred site of the Preah Vihear temple.

- **Divay Gupta**, Conservation Architect and Heritage Management Expert: India – *Preparation of Management Plan*
- **Michel Verrot**, Architecte Urbaniste en Chef de l'Etat, Architecte des Bâtiments de France, Ministry of Culture; France- *Study on state of conservation*
- **Prof. Koenraad Van Balen**, Architect, Director of the Centre Raymond Lemaire pour la Conservation, Belgium- *Study on Structural risks and conservation interventions*
- **Richard Sussman**, Ex. Chief, Planning and Compliance Division, Southeast Regional Office, National Park Service, Department of the Interior, USA- *Study – Management of Natural Environment*
- **Antoine Bruguerolle**, Architecte du patrimoine; France – *Study on Values and Staging of the site*
- **Eric Llopis**, Archeologist, Institute National pour la Recherche en Archéologie Préventive (INRAP); France- *Study on need for archeological investigation of the site.*
- **Philippe Delanghe**, Bureau de l'UNESCO in Phnom Penh
- **Sachidnana Sahai**- Historian and Author of book on Preah Vihear : India
- **Chuch Phœurn**, President ANPV , Historian; Cambodia – *Study on the history of the Site*
- **Hang Soth**, Director General, ANPV, Cambodia -
- **Hang Peou**, Director of the Water and Forest Department, National Authority APSARA; Cambodia- *Study on Hydrology of the site*
- **Heng Jeudi**, Architect, National Authority APSARA; Cambodia
- **Heng Ratana**, Deputy General Director, Cambodian Mine Action Centre; Cambodia
- **Tan Boun Suy**, Director of the Demography and Development Department, National Authority APSARA; Cambodia – *Study on demography of the site.*
- **Uk Top Botra** – Director Monuments and Archeology, ANPV, Cambodia
- **Long Kosal**- Director Tourism, ANPV, Cambodia.
- **Pheng Sam Oeun**- Archeologist ANPV
- **Hem Sinath**- Architect ANPV.
- **Sovichetra Chan**, ANPV
- **Shalini Wahi**- *French translator*
- **Akhila Agrawal**- Editor and *Proof Reader*
- **Hazor Chaudhry**- Design Layout and graphics

The monument plans - general and detailed surveys- used as graphic supports for the different areas of expertise were taken from the Archaeological map of Cambodia, published by the Ministry of Culture and Fine Arts and the École Française d'Extrême-Orient, in conjunction with the Cambodian National Commission for UNESCO. International borders shown in the documents are indicative only and will be determined definitively by the Joint Border Commission (JBC) between Thailand and Cambodia.

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Contact Details

H.E. Mr. Chuch Phoeurn

President National Authority for the Protection and the development of the Cultural and Natural Site of the Temple of Preah Vihear - ANPV

Room 304 # 187 St, Paster (51) Sangkat Chaktomuk, Khan Doun Penh, Phnom Penh.

Phone +855 979556017, Email:Chuch_phoeurn@yahoo.com

Tel/Fax: (855-23) 720 126 [E-mail : info@preahvihearauthority.org](mailto:info@preahvihearauthority.org)

[Website: www.preahvihearauthority.org](http://www.preahvihearauthority.org)

H.E. Mme. TAN Theany

Secretary General, Cambodian National Commission for UNESCO

No. 74 Preah Sihanouk Ave, Sangkat Tonle Bassac, Khan Chamcarmon, Phnom Penh

Phone , Fax: (855) 23 210 369, Email: camnac@hotmail.com

Divay Gupta

Conservation Architect & Heritage Management Specialist

50, Kapil Vihar, Pitam Pura, New Delhi 110034, India

Tel: + 91 9811662444. , Fax: +91 11 27020697

Email: divay_g@hotmail.com, divaygupta@gmail.com

Annex 2: Codification of International Humanitarian

GENEVA LAW THE HAGUE LAW

GENEVA LAW: protection of victims of armed conflict 1864 - 1949

The codification started with the protection of wounded and sick

First predecessors of Henry Dunant
1856 Crimean War
Organization of the nurses
helping the victims of war

Nikolai Ivanovich Pirogov,

Russian anatomist and surgeon
(1810 – 1881)



Florence Nightingale

Nurse and nurse educator
(1820 – 1910)

Henry Dunant

Born in Geneva (1828 – 1910)
1855 – foundation of YMCA (Young Men's
Christian Association)
Dunant was going to ask Emperor Napoleon III
for permission to create an Company
"Société anonyme des Moulins de Mons-Djemila".



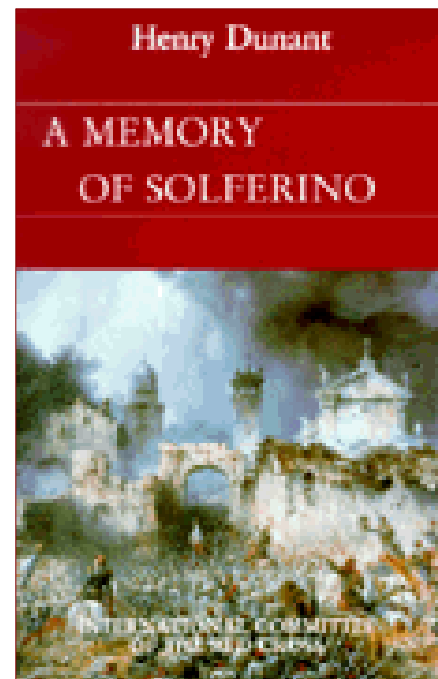
Emperor was willing to drive Austrians out from
Italy and was with its Army in the area of
Solferino

Battle of Solferino, 24 June 1859

Battle between French-Piedmontese army and
Austrians

Dunant, arriving to this area after the battle,
starts to organize the
help to the wounded with the villagers
of Castiglione: « Tutti fratelli »





Un Souvenir de Solferino, 1862

Being back in Geneva, he writes and publishes the famous book *Memory of Solferino* in which he proposes to "constitute relief societies for wounded prepared in peace time for this activity », future Red Cross societies.

Genevese Public Welfare Society

- Reacts to the Dunant's book and created on 9 February 1863 the commission of **five members**: Dunant, Moynier, General Dufour, Maunoir, Appia.
- At its first meeting, 17 February 1863 the International Committee for Relief of the wounded is constituted.



Propaganda campaign

- Dunant undertakes the long campaign to several European countries, Germany and Austria in particular (3000 km) to invite them to the international conference.
- The idea of the Conference was well received in several States, among them Austria, France, Prussia, Russia and others.



International Conference at Geneva, 26 - 29 October 1863

32 participants, 16 States and 4 philanthropic organizations

Resolution and recommendations:

- adopted the proposal for creation of national committees to assist the army medical services;
- distinctive sign for medical personnel: a white armband with a red cross;
- Committees may meet in international assemblies;
- In time of war, the belligerents should proclaim the neutrality of ambulances and military hospitals and be recognized in respect of official and voluntary medical personnel and inhabitants providing relief.

Continuing effort

- Swiss Federal Council;
- invite the diplomatic conference invitations addressed to European and American governments;
- Moynier, lawyer and General Dufour prepared the draft of the Convention

International Conference for the Neutralization of Army Medical Personnel in the field, 8 – 22 August 1864

- Geneva Convention for the amelioration of the condition of the wounded in armies in the field, signed at Geneva, 22 August 1864. It was signed by the representatives of 12 countries.
- Ambulances, military hospitals, personnel recognized as neutral and as such protected and respected (Articles 1 – 4)
- The inhabitants bringing help to wounded shall be respected and remain free.
- Wounded and sick combatants, to whatever nation they belong, shall be collected and cared for.

1864 Geneva Convention

- A distinctive and uniform flag, armband: red cross on a white ground;
- Implementation: instructions and communication to other Governments.



Maritime Warfare

- Attempt to adopt Additional Article in 1868, but not ratified.
- It was necessary to wait until the 1899 and 1907 Hague Conferences to have the Conventions dealing with the principles of the Geneva Convention to the maritime warfare:
- 1899: Convention III for the adaptation to maritime warfare of the principles of the Geneva Convention of 1864.



International Conference of National Aid Societies (Paris, 1867):

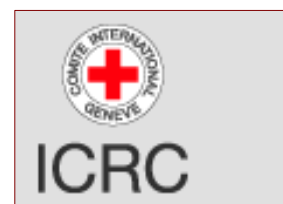
- Participants: 16 committees, 1 Committee, 2 chivalry orders; decision to maintain International Committee;
- Dunant and Credit genevois: invited to resign from the Committee; Dunant never returned to Geneva again.

Second International Conference (Berlin 1869):

- Practical application: Sadowa 1865,
- Franco-Prussian War 1870: Dunant presence in Paris and contacts with the Commune of Paris,
- In 1900: the International Committee intervened in 14 international wars, 11 expeditions, 11 internal conflicts

International Committee of the Red Cross

International Committee created in 1863 adopts its present name at its session on 20 December 1875, but its role being not finally determined.



Third “International Red Cross Conference” in Geneva, 1884

- Difficulties of coordination of the national committees
- Need for the decision about the future of the Committee and its role (F. de Martens, Clara Barton) suggestion to recognize the Committee by international treaty.



Next steps of codification

- 1904: Convention for the exemption of hospital ships, in time of war, from the payment of all dues and taxes imposed for the benefit of the State, The Hague, 21 December 1904.
- 1906: first revision of the Geneva Convention



FIRST WORLD WAR 1914 - 1918

- The growing problem of the prisoners of war: many bilateral treaties concluded.
- **1923:** after war experiences, beginning of the preparatory works for the revision of the Geneva Convention
- ICRC draft (1923) versus USSR draft (1924) of the convention on prisoners of war.



1929 Geneva Diplomatic Conference

- Geneva Convention for the amelioration of the condition of the wounded and sick in armies in the field (1929,
- Convention relative to the Treatment of Prisoners of War, Geneva July 27, 1929,
- It is with these two conventions that the world was going to the Second World War.

Civilian population

- The draft prepared by the Commission was adopted at the fifteenth International Conference of the Red Cross in Tokyo in 1934 and contains four distinct subjects:
 - I. The status of enemy civilians,
 - II. Enemy civilians on the territory of a belligerent,
 - III. Enemy civilians on the territory occupied by a belligerent,
 - IV. Implementation of the Convention.

The draft was to have been discussed at the Diplomatic Conference convened by the Swiss government at the beginning of 1940 but the outbreak of hostilities prevented this meeting from taking place.

Nonetheless, from the very first days of the war, the ICRC proposed that belligerents put the Tokyo Draft into effect but this proposal was rejected.

Cultural property

- Roerich Pact of 1935,
- Protection of Artistic and Scientific Institutions and Historic Monuments, 15 April 1935
- Discussion at the League of Nations
- Civil war in Spain
- 1936 Draft of the Convention



Second World War

- Consequences of the war leads to the efforts for the prohibition of the use of force and promotion of human rights,
- Genocide Convention 1948,
- Geneva Conventions of 12 August 1949 concerning the protection of war victims,
- The Hague Convention for the protection of cultural property in the event of armed conflict, 14 May 1954

THE HAGUE LAW

Conduct of combat,
Combatant's status,
Means and methods of combat,
Sea warfare, neutrality

Before Crimean War

- No rules relating to the treatment of enemy vessels and property in distinction from the neutral vessels and property;

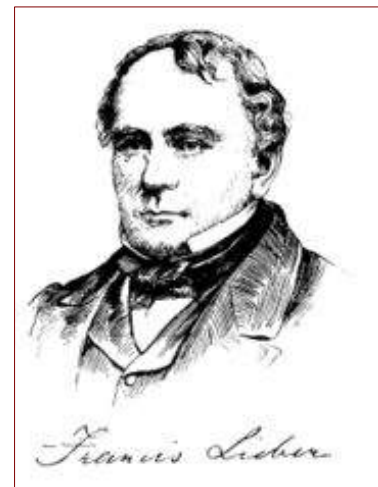
- Therefore, the first treaty relating to the armed conflict was adopted at the Paris Peace Conference of 1856.

DECLARATION OF PARIS respecting maritime law, Signed in Paris on 16 April 1856:

1. Privateering is, and remains, abolished;
2. The neutral flag covers enemy's goods, with the exception of contraband of war;
3. Neutral goods, with the exception of contraband of war, are not liable to capture under enemy's flag;
4. Blockades, in order to be binding, must be effective, that is to say, maintained by a force sufficient really to prevent access to the coast of the enemy."

Instructions for the Government of Armies of the United States in the Field (Lieber Code). 24 April 1863.

- The "Lieber Instructions" represent the first attempt to codify the laws of war. They were prepared during the American Civil War by Francis Lieber, then a professor of Columbia College in New York, revised by a board of officers and promulgated as Order No. 100 by President Lincoln.



CODE LIEBER (1863)

Although they were binding only on the forces of the United States, they correspond to a great extent to the laws and customs of war existing at that time. The "Lieber Instructions" strongly influenced the further codification of the laws of war and the adoption of similar regulations by other states. They formed the origin of the project of an international convention on the laws of war presented to the Brussels Conference in 1874 and stimulated the adoption of the Hague Conventions on land warfare of 1899 and 1907.

PROPERTY

- SECTION II.--*Public and private property of the enemy-- Protection of persons, and especially of women; of religion, the arts and sciences--Punishment of crimes against the inhabitants of hostile countries.*
- 31. A victorious army appropriates all public money, seizes all public movable property until further direction by its government, and sequesters for its own benefit or of that of its government all the revenues of real property belonging to the hostile government or nation. The title to such real property remains in abeyance during military occupation, and until the conquest is made complete.

CULTURAL PROPERTY

- 34. As a general rule, the property belonging to churches, to hospitals, or other establishments of an exclusively charitable character, to establishments of education, or foundations for the promotion of knowledge, whether public schools, universities, academies of learning or observatories, museums of the fine arts, or of a scientific character-such property is not to be considered public property in the sense of paragraph 31; but it may be taxed or used when the public service may require it. 35. Classical works of art, libraries, scientific collections, or precious instruments, such as astronomical telescopes, as well as hospitals, must be secured against all avoidable injury, even when they are contained in fortified places whilst besieged or bombarded. 36. If such works of art, libraries, collections, or instruments belonging to a hostile nation or government, can be removed without injury, the ruler of the conquering state or nation may order them to be seized and removed for the benefit of the said nation. The ultimate ownership is to be settled by the ensuing treaty of peace. In no case shall they be sold or given away, if captured by the armies of the United States, nor shall they ever be privately appropriated, or wantonly destroyed or injured.

Jean-Gaspar BLUNTSCHLI

Caspar (also Kaspar) Bluntschli (March 7, 1808 – October 21, 1881) was a Swiss jurist and politician. He was born in Zurich to a soap and candle manufacturer. From school he passed into the Politische Institut (a seminary of law and political science) in his native town, and proceeding thence to the universities of Berlin and Bonn, took the degree of doctor juris in the latter in 1829.



Das moderne Volkerrecht der civilisierten Staaten als Rechtbuch dargestellt

Bluntschli states: “The removal of items or documents of artistic value, although it was still the custom during the revolutionary wars at the start of this century, is already considered by the public opinion to be an act of vandalism because *objets d’art* have no direct connection with the aims pursued by the State when it wages war but are the eternal monuments of the peaceful development of nations.”

1868 Declaration of St. Petersburg renouncing the use, in time of war, of explosive projectiles under 400 grammas weight, signed at St. Petersburg, 29 November/ 11 December 1868.

Origin: discovery by Russian armed forces in 1863 of bullets which exploded on contact with hard substance: ammunition wagons.

1867: modification of the bullet: explosion on contact with soft substance - used against human being: most inhuman instrument of war. The objective was that belligerent shall not inflict harm on their adversaries **out of proportion with the object of warfare**, which is to destroy or weaken the military strength of the enemy.

Principles of the St. Petersburg Declaration

- Russian government unwilling to use it and to give advantage to other powers of using it - proposed an international agreement.
- Conference formulated some basic principles which have the value today and which are confirmed also in Protocol additional to the Geneva Convention of 1977.
- From the basic principles of this Declaration, included in the preamble, we can draw the basic principles of the law of war:

Preamble

- That the progress of civilization should have the effect of **alleviating as much as possible the calamities of war**;
- That the only legitimate object which States should endeavor to accomplish during war is to **weaken the military forces of the enemy**;
- That for this purpose it is sufficient to **disable the greatest possible number of men**;
- That this object would be **exceeded** by the employment of arms which uselessly **aggravate the sufferings of disabled men, or render their death inevitable**;
- That the employment of such arms would, therefore, be contrary to the **laws of humanity**;

The Contracting Parties engage mutually to renounce, in case of war among themselves, the employment by their military or naval troops of any projectile of a weight below 400 grammes, which is either explosive or charged with fulminating or inflammable substances.

Usual reservations

- Appeal to other States to joint
- Applicable only among the Contracting Parties
- *Si omnes*

1874 Brussels Project of the International Declaration concerning the laws and customs of war.

- Final Protocol of the Conference was signed at 27 August 1874. 15 European States participated at the Conference;
- Joint initiative of Henry Dunant and the Russian Government;
- Convocation of the Conference on the basis of the new draft elaborated by the Russian committee of experts. The draft elaborated was not ratified.

Development of Russian draft

- Art. 16. But if a town or fortress, agglomeration of dwellings, or village, is defended, the officer in command of an attacking force must, before commencing a bombardment, except in assault, do all in his power to warn the authorities.
- Art. 17. In such cases all necessary steps must be taken to spare, as far as possible, buildings dedicated to art, science, or charitable purposes, hospitals, and places where the sick and wounded are collected provided they are not being used at the time for military purposes. It is the duty of the besieged to indicate the presence of such buildings by distinctive and visible signs to be communicated to the enemy beforehand

Influence of the draft

- Institute of International Law, Geneva session
- Oxford Manual

are basis of the Hague Regulations of 1899 and 1907.

INSTITUTE OF INTERNATIONAL LAW (1870)

- Institute of international law: The Laws of war on land: Oxford Manual published on 9 September 1880.]
- Moynier's draft
- Unanimously adopted
- [Institute of international law: The Laws of naval war governing the relations between belligerents:
- Oxford Manual published on 9 August 1913]

Oxford manual

- Art. 53. The property of municipalities, and that of institutions devoted to religion, charity, education, art and science, cannot be seized. All destruction or willful damage to institutions of this character, historic monuments, archives, Works of art, or science, is formally forbidden, save when urgently demanded by military necessity.
- PART III : PENAL SANCTION '
 - If any of the foregoing rules be violated, the offending parties should be punished, after a judicial hearing, by the belligerent in whose hands they are. Therefore ' Art. 84. Offenders against the laws of war are liable to the punishments specified in the penal law. '
 - This mode of repression, however, is only applicable when the person of the offender can be secured. In the contrary case, the criminal law is powerless, and, if the injured party deem the misdeed so serious in character as to make it necessary to recall the enemy to a respect for law, no other recourse than a resort to reprisals remains. Reprisals are an exception to the general rule of equity, that an innocent person ought not to suffer for the guilty. They are also at variance with the rule that each belligerent should conform to the rules of war, without reciprocity on the part of the enemy. This necessary rigor, however, is modified to some extent by the following restrictions: '

The Hague International Peace Conference of 1899

- Russian initiative of the conference for disarmament
- Final Act Of the International Peace Conference. The Hague, 29 July 1899.



Several conventions and declarations

- Convention (I) for Pacific settlement of international disputes,
- Convention (II) with Respect to the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land. The Hague, 29 July 1899.
- Convention (III) for the Adaptation to Maritime Warfare of the Principles of the Geneva Convention of 22 August 1864. The Hague, 29 July 1899.

1899 Declarations

- Declaration (IV,1), to Prohibit, for the Term of Five Years, the Launching of Projectiles and Explosives from Balloons, and Other Methods of Similar Nature. The Hague, 29 July 1899.
- Declaration (IV,2) concerning Asphyxiating Gases. The Hague, 29 July 1899.
- Declaration (IV,3) concerning Expanding Bullets. The Hague, 29 July 1899.

SECOND INTERNATIONAL PEACE CONFERENCE, HAGUE 1907

- Final Act of the Second Peace Conference. The Hague, 18 October 1907.
- Three conventions relates to *ius ad bellum*:
 - I. Convention for the pacific settlement of international disputes.
 - II. Convention respecting the limitation of the employment of force for the recovery of contract debts.
 - III. Convention relative to the opening of hostilities.

All others concern the law of war:

- Convention (IV) respecting the **Laws and Customs of War** on Land and its annex: Regulations concerning the Laws and Customs of War on Land. The Hague, 18 October 1907.
- Convention (V) respecting the Rights and Duties of **Neutral Powers and Persons** in Case of War on Land. The Hague, 18 October 1907.
- Convention (VI) relating to the Status of **Enemy Merchant Ships at the Outbreak of Hostilities**. The Hague, 18 October 1907.
- Convention (VII) relating to the **Conversion of Merchant Ships into War-Ships**. The Hague, 18 October 1907.
- Convention (VIII) relative to the Laying of Automatic **Submarine Contact Mines**. The Hague, 18 October 1907.
- Convention (IX) concerning **Bombardment by Naval Forces in Time of War**. The Hague, 18 October 1907.
- Convention (X) for the Adaptation to **Maritime Warfare of the Principles of the Geneva Convention**. The Hague, 18 October 1907.
- Convention (XI) relative to certain Restrictions with regard to the Exercise of the **Right of Capture** in Naval War. The Hague, 18 October 1907.
- Convention (XII) relative to the Creation of an **International Prize Court**. The Hague, 18 October 1907.
- Convention (XIII) concerning the **Rights and Duties of Neutral Powers in Naval War**. The Hague, 18 October 1907.
- Declaration (XIV) Prohibiting the Discharge of **Projectiles and Explosives from Balloons**. The Hague, 18 October 1907.

Customary international law

- Most of the substantive provisions of the Hague Conventions are considered as embodying rules of customary international law.

Land Warfare - Article 27 of 1907 Hague Regulation

- “...All **necessary steps** must be taken to spare, **as far as possible**, buildings dedicated to religion, art, science, or charitable purposes, historic monuments, hospitals, and places where sick and wounded are being collected, **provided they are not being used for military purposes**. It is duty of besieged to indicate presence of such buildings...by distinctive and visible signs, which shall be notified to the enemy beforehand.”
- Compared to case of occupied territory: Immunity does not cover movable property and is not absolute.
- Belligerent only has to take “necessary steps” and spare “as far as possible”.

Hague Regulations

Hague Regulations of 1899 and 1907 confer wide degree of protection on cultural and religious institutions

- Article 56 – **Forbids** destruction or willful damage done to institutions dedicated to religion, charity, education, arts and sciences, historic monuments, or works of arts and science.
- Covers movable and immovable property

Sea Warfare – Article 5 of Hague Convention (IX) of 1907

- Similar to land warfare, immunity does not cover movable property, valid “only as far as possible”, and subject to condition that objects “are not being used at same time for military purposes”.
- Article 4 – “Vessels charged with religious, scientific, or philanthropic missions are likewise exempt from capture”,
- Must be scientific missions of non-military nature.

Air Warfare – Article 25 of 1923 Hague Rules of Air Warfare

- Similar again to Land Warfare,
- “...all necessary steps must be taken to spare as far as possible buildings dedicated to public worship, arts...must by day be indicated by marks visible to aircraft.”
- Excludes movable property, binding “only as far as possible”, contingent on not being used for military purposes.
- Article 26 offers special protection to “important historic monuments”, provided state not using them for military purposes. Have to be notified to other Powers in peacetime and are subject to inspection.

GENEVA PROTOCOL 1925

Protocol for the prohibition of the use in war of asphyxiating, poisonous or other gases, and of bacteriological methods of warfare. Signed at Geneva, 17 June 1925.

Regional Protection Pre-1954

- 1935 Pan American Union adopted Treaty on Protection of Artistic and Scientific Institutions and Historic Monuments – Also known as the Roerich Pact.
 - Article 1: “The historic monuments, museums, scientific, artistic, educational, and cultural institutions shall be considered as neutral and as such respected and protected by belligerent. **Same respect shall be due to personnel of institutions above.**” □Note that religious institutions are not included
 - Article 3: Distinctive flag to ID such monuments and institutions.
 - Article 4: List must be sent to each contracting party to the Pan American Union to indicate which need protection.
 - Article 5: Lose protection if used for military purposes.
 - Pact still in force among ten American States – includes U.S.
 - Article 36(2) of the 1954 Hague Convention states that it is supplemental to the Roerich Pact

Roerich Flag

- The International Banner of Peace has three dots representing the past, present and future enclosed in a red circle representing infinity. It was devised after World War I by Nicholas Roerich, a Russian artist of German descent who spent most of his life in India painting and developing mystic philosophies



Convention on the prohibition of military or any hostile use of environmental modification techniques, adopted by Resolution 31/72 of the United Nations General Assembly on 10 December 1976. The Convention was opened for signature at Geneva on 18 May 1977.

PROTOCOL I ADDITIONAL TO THE GENEVA CONVENTIONS (1977)

Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of international armed conflicts (Protocol I), adopted at Geneva, 8 June 1977.

Protocol I of 1977

- was thought that it would eliminate reliance on “military necessity” in 1954 Convention.
- But Article 53: “**Without prejudice** to the provisions of the Hague Convention...1954...”
 - o Clear that Hague Cultural Property Convention provisions are not invalidated (with respect to parties to both)

- Irreconcilable with provision in Protocol that provides protection “to all civilian objects”.
- Article 53 prohibits directing acts of hostility against protected objects without modifier “as far as possible”, but it is limited to objects that constitute the “**cultural and spiritual heritage of peoples**”.
 - What if object fails to meet these criteria? Seems that all places of worship, historic monuments, and works of art are civilian objects and that Article 53 is laying down a special protection.
 - What is this special protection compared to ordinary protection?

Civilian objects

Cultural property and places of worship are obvious civilian objects and must not be the targets of attack in warfare.

- Article 52(3) of Protocol I Geneva Convention: expressly refers to schools and places of worship as civilian objects in cases of doubt as to whether they are being used to contribute to military action, presumption not to be so used (Presumption is rebuttable).
- Under LOIC, cultural property and places of worship are entitled to special protection.
 - Reasoning: Irreplaceable landmarks of civilization. Damage can orphan future generations and destroy their understanding of their origins.

Protocol II - 1977

- Art 16. Protection of cultural objects and of places of worship.

Without prejudice to the provisions of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict of 14 May 1954, it is prohibited to commit any acts of hostility directed against historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples, and to use them in support of the military effort.

Annex 3: History of the law of war and protection of Cultural Property

Only few points can be mentioned in this short introduction

Nature of man

The man is not fighting without reason. The conflict is not in the nature of man, as was affirmed by Konrad Lorenz. The new anthropological theories confirm that the man had recourse to weapons, because he had a specific reason to do so.

Right to booty

In the antiquity, **no rule** prevented armed forces from devastating a country or from seizing the enemy's goods.

The destruction of cultural property was considered an **inevitable consequence of war**.

We have **no statistics** how many works of art were destroyed in centuries past.

Property of vanquished belonged to the conqueror.

"It is a universal and eternal law that, in a city captured by enemies in a state of war, everything, both persons and goods, shall belong to the conquerors."

Xenophon, Cyropaedia (The education of Cyrus)

Old civilizations

Babylonians, Assyrians, Egyptians, Greeks (prohibition to put poison in the drinking water)

Most of the protective measures concentrated on the protection of civilian populations and less attention was paid to the cultural property.

Parties to the 1954 Convention and its Protocols must disseminate the treaty provisions as widely as possible, seeking to strengthen appreciation and respect for cultural property and of cultural property.

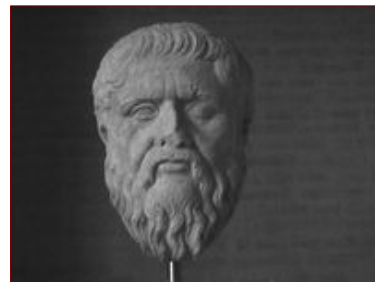
Let us have a look on some historical examples of the protection of civilian population

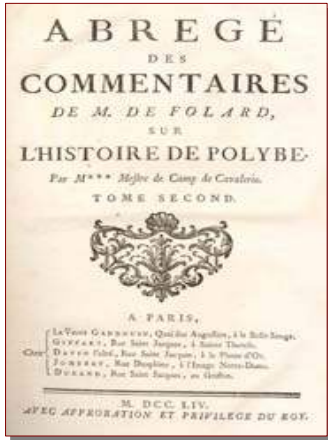
Ancient Greece

Development of the war surgery Health services in the Army War is regulated by the laws and customs which define what the belligerents can do and what they are prohibited to do: - respect of parole - respect of treaties - respect of religious ceremonies - inviolability of the priests and ambassadors - prohibition to cut the water supply

Platon (427 – 347 B.C.)

recommend human treatment to the people of the same culture





Polybius (202 – 126 B.C.) demand to stop the cruelty and suggest the **protection of monuments**

Who was Polybius?

Polybius (ca. 203–120 BC, Greek Πολύβιος) was a Greek historian of the Hellenistic Period noted for his book called *The Histories* covering in detail the period of 220– 146 BC. He is also renowned for his ideas of political balance in the government, which was later used in Montesquieu's *The Spirit of the Laws* and the drafting of the United States Constitution.

Polybius

“Future conquerors should learn not to strip the towns No one can deny that the abandon oneself to the pointless destruction of temples, statues and other sacred objects is the action of a madman”.

ROME AND ROMAN EMPIRE

ius gentium - status of alien law of war:
treatment of prisoners of war
postliminium declaration of war

Voices against destruction:

Ars servat patrum perpetuat populum.

Roman territory at the establishment of the Republic, 500 B.C.E.



The principle of postliminium

as a part of public international law, is a specific version of the maxim **ex injuria jus non oritur**, providing for the invalidity of all illegitimate acts that an occupant may have performed on a given territory after its recapture by the legitimate sovereign. Therefore, if the occupant has appropriated and sold public or private property as may not legitimately be appropriated by a military occupant, the original owner may reclaim that property without payment of compensation[1]. It derives from the *jus postliminii*, of Roman law.

SEVERAL OTHER EXAMPLES OF THE PROTECTION OF CIVILIANS IN TIME OF WAR WESTERN EUROPE



ORDINE DI MALTA

Sito ufficiale del Sovrano Militare Ordine Ospedaliero di San Giovanni di Gerusalemme di Rodi e di Malta

Humanitarian rules in warfare were practically absent. In the crusades the Knights of St. John or Order of Malta were helping wounded and sick. Prisoners and booty were considered the personal property of the captor.

First military hospital in France - Henry IV (1589 - 1610)

Saint Augustinus, preached that the taking of booty was a sin

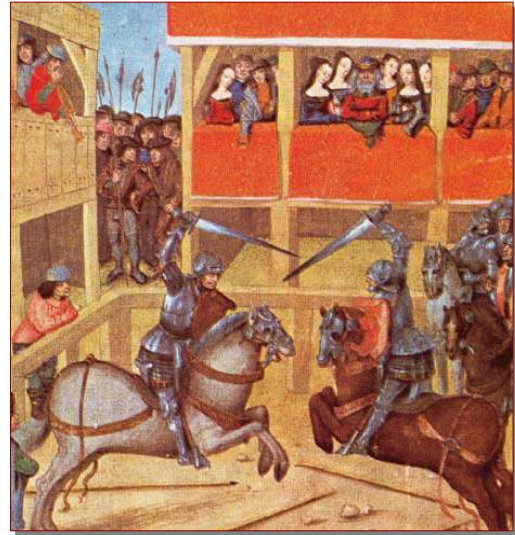


Synod of Charroux (989)

- The **Peace of God** or *Pax Dei* was a proclamation issued by local clergy that granted immunity from violence to noncombatants who could not defend themselves, beginning with the peasants (*agricolae*) and the clergy. A limited *pax Dei* was decreed at the Synod of Charroux in 989 and spread to most of Western Europe over the next century, surviving in some form until at least the thirteenth century.
- Places of worship and property were protected but this was due to their sacred nature and not to their quality as work of art.

Chivalry Rules and Church

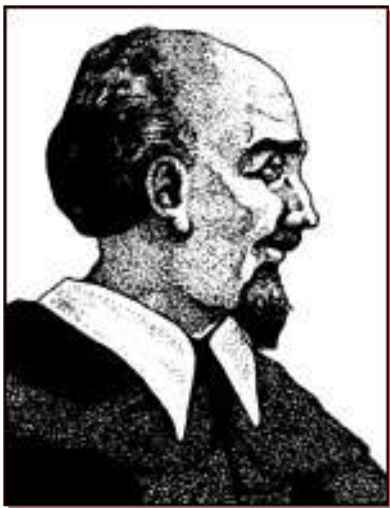
- Development of the chivalry rules based on honor rather than on law counteracted the barbarism but were observed only in combats between knights. Ransoming prisoners of war or formal declaration of war originated in chivalry.
- The church tried to mitigate in some way the horrors of warfare in Second Lateran Council (1139) forbidding the use of crossbow and arch as “deadly and odious to God”; Third Lateran Church Council (1179) against the enslavement of Christian prisoners of war;



According to the doctrines of feudal chivalry, the most important trait for a knight was his strength and skill as a warrior—his prowess.

Frederick I Barbarossa (1122-1199)

- was elected King of Germany crowned in Aachen on 9 March, crowned King of Italy at Pavia and finally crowned Holy Roman Emperor by Pope Adrian IV on 18 June 1155.
- In 1158 he promulgated an edict by which he forbade pillage



The XVth Century: Bartholomew de Las Casas (1474-1566)

- Las Casas studied law at the University of Salamanca, where the Dominicans were wrestling with moral issues raised by the conquest of the New World.
- Ambivalent about these moral issues, in 1502, de Las Casas ventured to the island Hispaniola (now the Dominican Republic and Haiti) and secured a plantation and number of Native American slaves for himself.
- Eight years later the Dominican Order of Preachers arrived in Hispaniola, decrying the entire system of slavery as tyrannical and evil.

Las Casas was born in Seville, Spain.

The XVIth Century: Bartholomew de Las Casas (1474-1566)

- This preaching affected de Las Casas deeply. After a time of prayerful reflection he became a priest and was the first priest to celebrate his first mass in Hispaniola.
- Supported by Vitoria, Las Casas devoted himself to the defense of the Indians against the ruthless exploitation and ferocious cruelty, which they suffered from the Spanish conquerors.

“As regards humans, it is shown that from the beginning of their rational nature, they were born free For liberty is a right necessarily instilled in man from the beginning of rational nature and so from natural law” *Las Casas*

Jean Calvin (1509-1564)

- have established the rules of conduct for the Geneva soldiers assuring the protection of wounded and civilians. There is probably already the origin of the idea, which much later - in the 19th century - were leading to the preparation of the First Geneva Convention.
- Similarly, Council of Pastors, propagated the humanitarian ideas of the regulation of war.



The XVIth Century: Pierino Belli (1502-1575)

- His book *De re militari et de bello (On Military Matters and War)* (1563) was for its time an unusually thorough treatment of military law and the rules for conducting war.

Jacob Przulski

- In his *'Leges seu statuta ac privilegia Regni Poloniae* (Cracow, 1553) [Jacobus Prilusius] ... put forward the idea that every belligerent should show regard for a work of art, but not solely because of its religious nature.
- Similar ideas were expressed by Alberic and Justin Gentilis.

The XVIth Century: Balthasar Ayala (1548-1584)

- Spanish origin and born in Antwerp. In 1582, he published *On the Law and Duties of War and Military Discipline*.
- As Auditor General (Judge Advocate General, in US terms) for the army of Spain sent to the Netherlands, he affirms that rebels were not protected by the law of war and should be treated as brigands.





The XVIth Century: Alberico Gentili (1552-1608)

Gentili was an Italian scholar on international law.

His *De legationibus* (1585) had a great influence in shaping modern diplomatic practice. In *De jure belli* [on the law of war] (1598), one of the earliest works on international law, he developed many ideas on the legal conduct of war to which Hugo Grotius later gave wider circulation.

The XVIIth Century: Hugo Grotius (1583-1645)

- While in France, he wrote the famous book *De Jure Belli ac Pacis libri iii*. He struggled for a reunion of churches, a struggle, which testifies to his religious fervor and to his idealism.



Cartels and capitulations

- Great development of the law of war, by adoption of numerous cartels and capitulations, which includes the provisions on the protection of wounded and sick, exchange and ransom of prisoners of war and guarantee the inviolability of military hospitals.
- These cartels and capitulations were bilateral agreements concluded between the military.

Capitulations

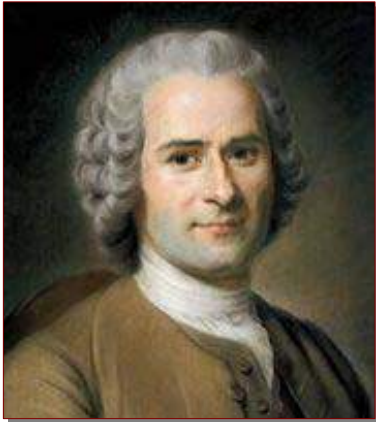
- **In Malta, on 5 September 1800 between French and English generals:** “The Sick capable of being moved shall be embarked with their Effects; those who cannot be moved will be treated as their Situation requires.”

Capitulations Of San Sebastian, 8 September 1813: “IV. The women, the children, and the old men, not being military, shall be sent back to France, as well as the other non-combatants, preserving their private baggage.”

The recurrence of comparable clauses created a veritable customary law which may resumed up as follows:

1. Hospitals shall be immunised and be marked by special flags, with identifying colours for each army.

2. The wounded and sick shall not be regarded as prisoners of war; they shall be cared for like soldiers of the army which captured them and sent home after they are cured.
3. Doctors and their assistants and chaplains shall not be taken as captives and shall be returned to their own side.
4. The lives of prisoners of war shall be protected and they shall be exchanged without ransom.
5. The peaceful civilian population shall not be molested.



Jean-Jacques Rousseau (1712 - 1778)

- author of *Contrat Social* (1762), planned to write a treaties on the law of nations. He enriched the theory of international law, mainly by the concept of war as a relation between state and state, rather than between man and man. "The military authority may, within the limits of its power, seize the movable public property of the enemy to the extent that it may serve for the operation of war."

Emerich de Vattel (1714-1767)

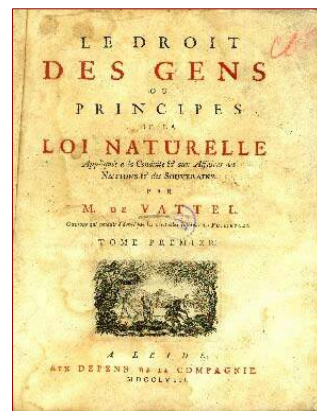
- Emerich de Vattel, was a Swiss diplomat and jurist. He served (1746– 58) as Saxon minister at Bern and later in the cabinet of Augustus III at Dresden.



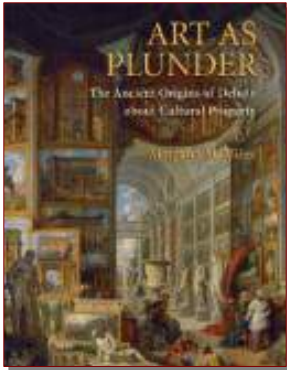
Emerich de Vattel (1714-1767)

- He is famous for one book, *Droit des gens; ou, Principes de la loi naturelle appliques a la conduite et aux affaires des nations et des souverains* (1758; tr. *Law of Nations*, 1760).
- This book, based on the writings of Christian von Wolff, was important chiefly because it supplied a justification for liberal revolution.

Vattel on cultural property



- ...for whatever cause a country be devastated, these buildings should be spared which are an honor to the human race and which do not add to the strength of the enemy, such as temples, tombs, public buildings and all edifices of remarkable beauty. What is gained by destroying them? It is the act of a declared enemy of the human race thus wantonly to deprive men of these monuments of art and models of architecture ...



1815

Allies provided for the restitution of works of art taken to France by Napoleon

Lord Castlereagh

The removal of works of art was “contrary to every principle of justice and to the usages of modern warfare”



CRIMEAN WAR, terminated by the Treaty of Peace signed in Paris on 30 March 1856: first multilateral treaty dealing with the law of war issues

- Turkey was admitted “de participer aux avantages du droit public et du concert europeen”. Black Sea was “neutralized”;
 - abolished privateering;
 - prohibited capture of enemy goods, except contraband, on neutral ships;
 - prohibited capture of the neutral goods, except contraband, on enemy ships;
 - required blockades to be effective.

But the similar evolution was going on in other parts of the world

Africa

Asia (China, Japan, India)

Islam

Jewish religion, etc.

AFRICAN TRADITIONS: PRE-COLONIAL AFRICA:

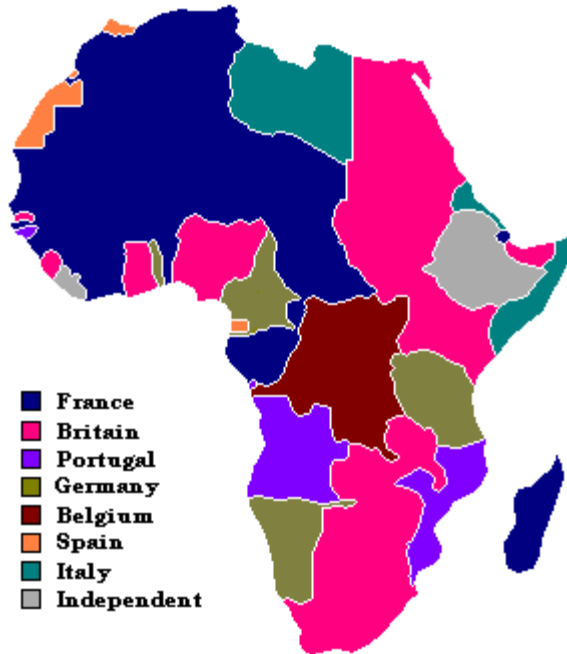
- **Settlement of disputes:** avoid wars - Togo: role of nobles
- **Opening of hostilities:** messengers (Mali, Burkina Faso),



- Prohibition of the use of certain weapons: poison Bantou: you wound, but you do not kill Protection of women, children, old people: Prisoners of war: sold, slavery, killed Protected places: religious, cultural and artistic places

NEW AFRICA - PARTICIPATION IN THE CODIFICATION:

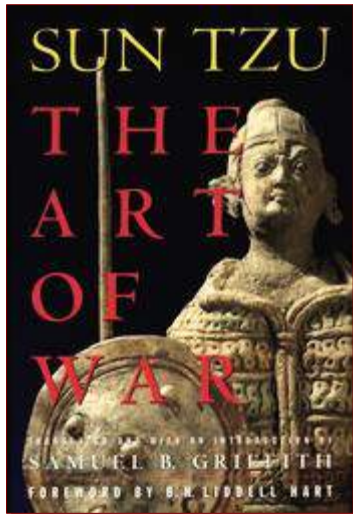
- Egypt, Ethiopia, Liberia - no others before the World War II
- The whole continent, colonised Africa was excluded from the codification process until 1968 - Teheran Conference
- 1970 - 1977: Geneva/wars of national liberation
- The peoples of Tallensi strictly forbade any Kind of pillage which would confer personal Advantages.



Shinto
Confucianism Buddhism

ASIA

- The Asian concept is divided into the whole mosaic of views and concepts according to the religions and country traditions.



SUN TSU (544 – 496 B.C.)

Art of War, by SUN TSU, is the most classic and well known example of the Chinese writing on strategy, written about 500 B.C. A commander must provide characteristics of intelligence, sincerity, humanity, courage and dignity; commanders should avoid utilising captured enemy equipment together with enemy personnel, thus affording due regard to prisoners of war, commanders should endeavour to win victory without harming the enemy and should avoid reckless violence; commanders should not contribute to useless war by avoiding the total annihilation of the enemy.

Code of Si Ma Rang Ju (around 50 B.C.)

- Rang Ju was a minister of war of Prince Jing (490 B.C.)
- Protection of civilians: The old and underaged must not be harmed, but also that the adults should not be set upon as they showed no hostilities. Prohibition of killing of prisoners of war and their exchange. Burning of private dwelling house, plundering of livestock owned by private individuals, of grain and of farm implements were not allowed. Our wise elders do not pursue the disabled, but take compassion on the sick and wounded. If the enemy is wounded, treat him with medical care.

INDIA: Code of Manu had been developed between 200 BC and 200 AD

- It is the fundamental law, moral and custom of the people of India. Professor Nussbaum characterises the Code of Manu as displaying an astounding degree of humanness, if not softness, in matters of warfare. In its chapter 7, there are many detailed regulations which in part read as follows: a king must protect his people when an enemy challenges with war; on the battlefield, soldiers must not kill an enemy by using a hidden weapon, hook-shaped weapon, poisonous weapon or fire; a soldier must not attack an enemy who has surrendered, he must not attack an enemy who is not ready to engage combat, is severely wounded, has given up fighting, or is fleeing; always remember the duty of the reasonable man.

"91. Nor should anyone (mounted) slay an enemy down on the ground, a eunuch, a suppliant, one with loosened hair, one seated, one who says "I am the prisoner". 92. Nor one asleep, one without armour, one naked, one without weapons, one not fighting, a looker-on, one engaged with another. 93. Nor one who has his arms broken, a distressed man, one badly hit, one afraid, one who has fled; remembering virtue, one should not slay them."

Mahabharata (book VI, 1, 27-32

- One of the two major Sanskrit epics of ancient India.
- prohibition to kill women, children, old people and disabled.

Japan: BUSHIDO

- Bushido, literally translated "Way of the Warrior," developed in Japan between the Heian and Tokugawa Ages (9th-12th century).
- Bushido comes out of Buddhism, Zen, Confucianism, and Shintoism. The combination of these schools of thought and religions has formed the code of warrior values known as Bushido.

Bushido

- Tenderness, Pity and Love were traits which adorned the most sanguinary exploits of a Samurai. This explains Why Red Cross movement Found a firm footing.

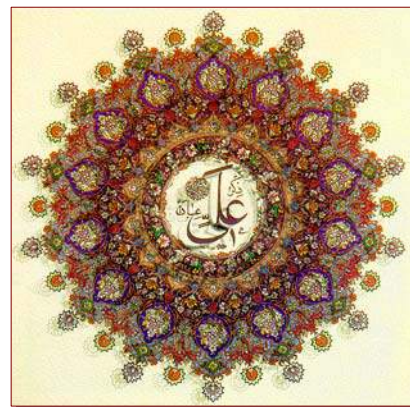


JAPAN: Empress Jingu, (169 – 269) 200 A.C.

- She led an army in an invasion of Korea and returned to Japan victorious after three years.
- Prohibits the killing of prisoners of war during the military expedition to Korea

Islam

Islam entered onto the scene in the seventh century in a world where warfare domination, servitude, slavery and ignorance reigned.



Calligraphy with the Prophet's words "dhikr Ali ibdada"- (remembrance of Ali is an act of worship).

Islam

- The general principles of the Islamic humanitarian concept as regards the protection of the civilian population and civilian objects, are enshrined in the Koran, the Sunna and in reasoned deduction.



Map of Islamic world during the 7th Century

The following writings exemplify the general principles of the Islamic humanitarian approach to warfare:

- "Fight in the cause of God those who fight you..." (Koran, Sura 11, Ayat 190); (b) "But if they cease, God is Oft-forgiving, most Merciful" (Sura 11, Ayat 192); (c) "And fight them on until there is no more tumult or oppression and there prevail justice and faith in God; but if they cease, let there be no hostility except to those who practise oppression (Sura 11, Ayat 193);

Koran

- (d) "If then anyone transgresses the prohibition against you, transgress ye likewise against him" (Sura 11, Ayat 194); (e) Whenever the Messenger of God sent out a battalion or an army, he recommended the officers to remember their devotion to God, saying: "Fight in the name of God, fight those who deny God; kill not children and do not betray, mutilate or commit perfidy."



Omar, the second Caliph, was repeating the same instr

- "Oppress nobody, for God loves not oppressors. Be not cowardly in combat, cruel in strength nor abusive in victory. Kill not the aged, women or children."
- **Caliph Abu Bakr** gave orders never to destroy palm trees, burn dwellings or cornfields, cut down fruit trees, kill livestock unless constrained by hunger, and never to lay hands on monasteries. **Attacks should therefore be strictly confined to military targets, i.e. to objects which by their nature or use are intended for the pursuit of hostilities.**



Islam

And those principles are binding and constantly applicable through time and space, whatever the nature of the armed conflict in progress. They were clearly conceived and precisely expressed at a time when the maxim was "necessity knows no law".

Jewish History

- During the first millenium B.C., in the religious symbols surrounding the conclusion of the treaties, we find the use of the holy number seven and the sacrificing of animals.
- Foreigners were allowed to live in the Jewish territory and were equal before the law: "***You shall have but one rule, for alien and native alike.***" (Leviticus, 24,22)



Jewi:

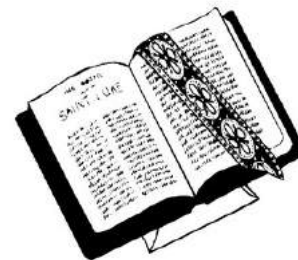
Jews were sworn enemies of some foreign nations, and when they were in war with them, they were extremely cruel.

With those nations with which they were not sworn enemies, they had good international relations, exchanging ambassadors, concluding treaties and observing them.

Additionally, when they were going to war with the states in which they had international relations, they were not cruel in their behavior.

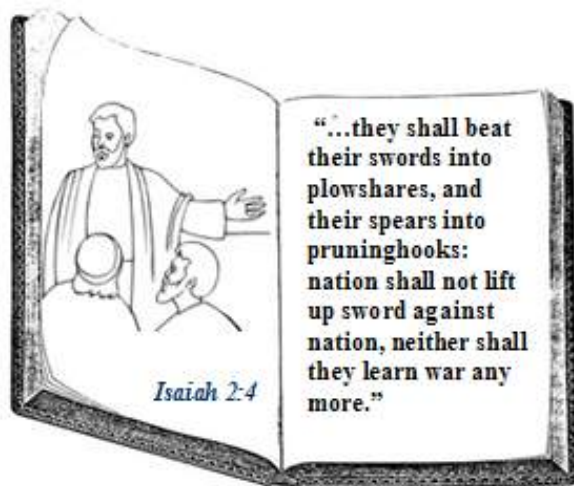
Deuteronomy contains what are probably the oldest written canons on warfare.

- "When you march up to attack a city, first offer it terms of peace" (Deuteronomy, 20, 10).



Domestic and Foreign slaves were not without protection:

- "When a man strike his male or female slave with a rod so hard that the slave dies under his hand, he shall be punished." (Exodus, 21, 20).
- "When a man strikes his male or female slave in the eye and destroys the use of the eye, he shall be let the slave go free in compensation for the eye. (Exodus, 21, 26),
- "You shall not hand over to his master a slave who has taken refuge from him with you" (Deuternomy, 23, 16).



Jewish History

Overall, the most important contribution of the Jewish people to the history of international law consisted in Isaiah's lapidary prophecy that after the advent of Messiah there would be peace on earth.

This announcement became a main root of modern pacifism and influenced the development of international law.

- As we have seen- relatively little attention was paid to the cultural values in the past centuries.
- Stanislaw Nahlik described the relationship between the protection of individuals and cultural property in the following way: "The human individual is mortal and generations follow one upon another. It is nevertheless possible for every generation, however fleeting its existence, to leave here below an immortal trace of its genius, embodies in a work of art here, an historical monument there or cultural property in another case. We should never forget the relationship between what is fleeting and what, alone, can endow people and their works with perennial qualities. **Vita brevi – Ars longa**".

Annex 4: Protection of Cultural Property – The 1954 Hague Convention

Basic instruments for the protection of cultural property:

- 1954 Convention
- 1954 Protocol
- 1999 Second protocol
- As Cambodia is bound by first two instruments, we shall concentrate on them.
- Cambodia ratified the Convention on 4 April 1962 and the 1954 Protocol on same date – 4.4.1962

Nevertheless, 1999 Second Protocol is also important for two reasons:

1. Cambodia may envisage becoming party to the second protocol.
2. Second protocol is also important from the point of view of the definition, interpretation and qualification of certain terms, which are useful even if not binding.

We shall therefore also indicate the provisions of the Second protocol when it is useful for clarification of the terms.

Structure of the 1954 Convention

- It consist of the basic text + regulations for its execution. As is specified in the Article 20.
- 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.
- This particular structure is the heritage of the first draft elaborated in 1930's under the chairmanship of Charles de Visscher.

Cultural property

Definition of the term

CHAPTER I: GENERAL PROVISIONS REGARDING PROTECTION

- Cultural property is any movable or immovable property of great importance to the cultural heritage of all people, such as monuments of architecture or history, archaeological sites, works of art, books or any building whose main and effective purpose is to contain cultural property (CCP, Art. 1).

Article 1. Definition of cultural property

- For the purposes of the present Convention, the term "cultural property" shall cover, irrespective of origin or ownership (follow three categories of property):

- **Categories of movable and immovable property**

- (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;

***Who will determine what category if of “great importance”?
Long discussions at the 1954 Hague Conference***

- (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 subparagraph (a);

Buildings may be also protected under the paragraph (a) if they are of historical value

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

In stead of “group” or “group of buildings”. But this is the meaning

Definition is broad

- Broadest from all other conventions:
 - 1972 World Heritage Convention covers only immovable property
 - 1977 Protocol only the most important property that constitutes the cultural and spiritual heritage of peoples

Comparison with the 1907 Hague Conventions:

- 1907 Hague Regulations (Convention IV)
- Art. 27. In sieges and bombardments all necessary steps must be taken to spare, as far as possible, buildings dedicated to religion, art, science, or charitable purposes, historic monuments, hospitals, and places where the sick and wounded are collected, provided they are not being used at the time for military purposes. It is the duty of the besieged to indicate the presence of such buildings or places by distinctive and visible signs, which shall be notified to the enemy beforehand.

1907 Hague Regulations (Convention IV)

- Art. 56. The property of municipalities, that of institutions dedicated to religion, charity and education, the arts and sciences, even when State property, shall be treated as private property.
- All seizure of, destruction or willful damage done to institutions of this character, historic monuments, works of art and science, is forbidden, and should be made the subject of legal proceedings.

1907 Hague Convention IX

- Art. 5. – “ In bombardments by naval forces all the necessary measures must be taken by the commander to spare as far as possible sacred edifices, buildings used for artistic, scientific, or charitable purposes, historic monuments, hospitals, and places where the sick or wounded are collected, on the understanding that they are not used at the same time for military purposes.
- It is the duty of the inhabitants to indicate such monuments, edifices, or places by visible signs, which shall consist of large, stiff rectangular panels divided diagonally into two colored triangular portions, the upper portion black, the lower portion white. “

1935 Roerich Pact

- Article 1. The historic monuments, museums, scientific, artistic, educational and cultural institutions shall be considered as neutral and as such respected and protected by belligerents. The same respect and protection shall be due to the personnel of the institutions mentioned above. The same respect and protection shall be accorded to the historic monuments, museums, scientific, artistic, educational and cultural institutions in time of peace as well as in war (Only immovable property).
- Art. 4. The Signatory Governments and those which accede to this Treaty shall send to the Pan American Union, at the time of signature or accession, or at any time thereafter, a list of the monuments and institutions for which they desire the protection agreed to in this Treaty. The Pan American Union, when notifying the Governments of signatures or accessions, shall also send the list of monuments and institutions mentioned in this Article, and shall inform the other Governments of any changes in said list.



Definition according to the 1999 Second protocol

- Article 1 of the Second protocol specifies:
 - "cultural property" means cultural property as defined in Article 1 of the Convention;
 - Second protocol make no changes in the definition of the cultural property!

PROTECTION: safeguarding and respect

Definition of the terms

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.

SAFEGUARDING

- Article 3 of the Convention and article 5 of the 1999 Second Protocol.

Article 3 of the Convention: 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.

- Very succinct definition in comparison with the Unesco draft. Completed by the 1999, Second protocol – article 5.

Article 5 of 1999 Protocol: Safeguarding of cultural property

- “Preparatory measures taken in time of peace for the safeguarding of cultural property against the foreseeable effects of an armed conflict pursuant to Article 3 of the Convention shall include, as appropriate, the preparation of inventories, the planning of emergency measures for protection against fire or structural collapse, the preparation for the removal of movable cultural property or the provision for adequate in situ protection of such property, and the designation of competent authorities responsible for the safeguarding of cultural property.”
- This article is good interpretation and understanding of the article of the Convention.

RESPECT OF CULTURAL PROPERTY

1954 Hague Convention – Article 4, 1999 Second Protocol

GENERAL PROTECTION

- All cultural property must be afforded, at minimum, "general protection", as described in the Convention.

SYSTEM OF PROTECTION

- Parties to the Convention must protect all cultural property, whether their own or that situated in the territory of other States Parties. The various systems that provide protection for cultural property are described below:

GENERAL PROTECTION

- States Parties must also respect all cultural property by the following:
 - not using cultural property for any purpose likely to expose it to destruction or damage in the event of armed conflict;
 - not directing any act of hostility against cultural property (1954 Convention, Art. 4).

A. - General obligation of respect

- Article 4, paragraph 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. “

Waiver

- Article 4, paragraph 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. “ Only respect according to the paragraph 1 is limited by the clause of military necessity but not other paragraph of this article!

B. - Theft, pillage or misappropriation

- Article 4, paragraph 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. “
- NO WAIVER EVEN IN CASE OF MILITARY NECESSITY

C. - Reprisals

- Article 4, paragraph 4: “They shall refrain from any act directed by way of reprisals against cultural property.”
- NO WAIVER EVEN IN CASE OF MILITARY NECESSITY

D. - No exception

- Article 4, paragraph 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. “

Imperative military necessity

Discussion at the Hague Conference - 1999 Second Protocol Military necessity in 1954

Commentary: The obligation to respect the cultural property subsists for a Party when this property is used by the opposing party for military purposes. It is therefore only in case of imperative military necessity that the obligation of respect may be waived.

Issue came again in 1999 – article 6

- Article 6 Respect for cultural property: “(1) With the goal of ensuring respect for cultural property in accordance with Article 4 of the Convention:
 - a. a waiver on the basis of imperative military necessity pursuant to Article 4 paragraph 2 of the Convention may only be invoked to direct an act of hostility against cultural property when and for as long as:
 - i. that cultural property has, by its function, been made into a military objective;
 - ii. There is no feasible alternative available to obtain a similar military advantage to that offered by directing an act of hostility against that objective; “
- Article 6 of the 1999 Protocol
 - b. a waiver on the basis of imperative military necessity pursuant to Article 4 paragraph 2 of the Convention may only be invoked to use cultural property for purposes which are likely to expose it to destruction or damage when and for as long as no choice is possible between such use of the cultural property and another feasible method for obtaining a similar military advantage;

c. the decision to invoke imperative military necessity shall only be taken by an officer commanding a force the equivalent of a battalion in size or larger, or a force smaller in size where circumstances do not permit otherwise;

d. in case of an attack based on a decision taken in accordance with sub-paragraph (a), an effective advance warning shall be given whenever circumstances permit.

WAIVER

This waiver may be invoked:

- to use cultural property for purposes likely to endanger it, only if there is no feasible alternative available to obtain a similar military advantage. (P2, Art. 6);
- to attack cultural property, only when that property has, by its function, been made into a military objective and there is no feasible alternative available to obtain a similar military advantage. Effective advance warning must be given, circumstances permitting (P2, Art. 6).

1999 Protocol

- Contains additional provisions relating to the military operations:
 - Article 7 – Precautions in attack
 - Article 8 – Precautions against the effects of hostilities

PRECAUTIONS

- Parties to the Convention must, to the maximum extent feasible, either move cultural property away from military objectives or avoid placing military objectives near such property (P2, Art. 8).
- Parties to a conflict must do everything feasible to protect cultural property, including refraining from an attack that may cause incidental damage (P2, Art. 7).

STATE OF OCCUPATION OF THE TERRITORY

Article 5 of the Convention - First Protocol of 1954

Article 9 of the 1999 Second Protocol

Duties of the Occupying powers:

- Under the Convention, States Parties occupying foreign territory must preserve cultural property in that territory (1954 Convention, Art. 5).

Support to national authorities in safeguarding and preserving

- 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. “

Obligation of the occupying power

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. "

Resistance movement

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. "
- This provision was included on the basis of the proposal of Scandinavian countries in view of the historical fact that nearly all damage to cultural values during the Second World War were committed during the occupation.

OCCUPIED TERRITORY

- The 1954 First Protocol requires States Parties occupying territory during armed conflict to prevent the exportation of cultural property from that territory (P1, Art. 1). However, if cultural property is exported, States Parties must return it at the close of the hostilities (P1, Art. 3).

Enlargement of duties in the 1999, Second Protocol

- Article 9 Protection of cultural property in occupied territory
1. Without prejudice to the provisions of Articles 4 and 5 of the Convention, a Party in occupation of the whole or part of the territory of another Party shall prohibit and prevent in relation to the occupied territory:
 - a. any illicit export, other removal or transfer of ownership of cultural property;
 - b. any archaeological excavation, save where this is strictly required to safeguard, record or preserve cultural property
 - c. any alteration to, or change of use of, cultural property which is intended to conceal or destroy cultural, historical or scientific evidence.

Archaeological excavations

2. Any archaeological excavation of, alteration to, or change of use of, cultural property in occupied territory shall, unless circumstances do not permit, be carried out in close co-operation with the competent national authorities of the occupied territory.
- Proposal of Greece at the 1954 Conference was rejected by narrow majority (9-8)
 - 1956 UNESCO General Conference adopted a recommendation defining the fundamental principles applicable to archeological excavations – Chapter VI: Excavations in occupied territory.

Recommendation on International Principles Applicable to Archaeological Excavations - 5 December 1956

• VI. Excavations in occupied territory

32. In the event of armed conflict, any Member State occupying the territory of another State should refrain from carrying out archaeological excavations in the occupied territory. In the event of chance finds being made, particularly during military works, the occupying Power should take all possible measures to protect these finds, which should be handed over, on the termination of hostilities, to the competent authorities of the territory previously occupied, together with all documentation relating thereto.

DISTINCTIVE MARKING OF CULTURAL PROPERTY

Article 6, 16 and 17 of the Convention

IDENTIFICATION – DISTINCTIVE MARKING OF CULTURAL PROPERTY

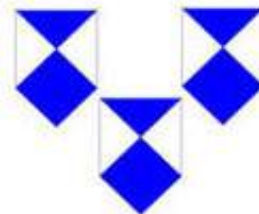
- Cultural property should be identified with the emblem of the 1954 Convention (Art. 6, Art. 16, 17).
- Article 6. Distinctive marking of cultural property.
- In accordance with the provisions of Article 16, cultural property may bear a distinctive emblem so as to facilitate its recognition.
- MARKING IS NOT COMPULSORY

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, per saltire 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.

Emblem of the Convention



Three blue shields arrayed as shown above designates (a) cultural property under "special protection"; (b) the transport of cultural property; or (c) improvised or emergency "refuges" that contain protected cultural property during armed conflict.

- Article 17. Use of the emblem
1. The distinctive emblem repeated three times may be used only as 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.

- Article 17. Use of the emblem

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.

- Article 17. Use of the emblem: par. 3 and 4

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.



REGULATIONS: art. 20 and 21

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.

REGULATIONS: art. 20 and 21

Article 21. Identification of persons

1. The persons mentioned in Article 17, paragraph 2 (b) and (c) of the Convention may wear an armband 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 armband.

Example of the Annex I to Additional Protocol I (1977)

Annex I (to the Protocol I): Regulations concerning identification (as amended on 30 November 1993)

Concern the Red Cross and Red Crescent

1. The regulations concerning identification in this Annex implement the relevant provisions of the Geneva Conventions and the Protocol; they are intended to facilitate the identification of personnel, material, units, transports and installations protected under the Geneva Conventions and the Protocol.
2. The Annex is dealing with the light signals, radio signals, electronic identification, use of international codes, etc. It was recommended to the General Conference to adopt a recommendation on this issue.

MILITARY MEASURES FOR IMPLEMENTATION

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 peacetime, 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.

United Nations, Secretary-General's Bulletin, ST/SGB/1999/13, 6

August 1999 - Observance by United Nations forces of international humanitarian law

Section 6 - Means and methods of combat

- 6.6 The United Nations force is prohibited from attacking monuments of art, architecture or history, archaeological sites, works of art, places of worship and museums and libraries which constitute the cultural or spiritual heritage of peoples. In its area of operation, the United Nations force shall not use such cultural property or their immediate surroundings for purposes which might expose them to destruction or damage. Theft, pillage, misappropriation and any act of vandalism directed against cultural property is strictly prohibited.

SPECIAL PROTECTION

Article 8 and ff. of the Convention

- The 1954 Convention provides a system of "special protection", which resulted in only limited success. In response to the limitations of the 1954 system, the 1999 Protocol introduces a new system of "enhanced protection".
- If property has been granted both special and enhanced protection, only enhanced protection applies (Protocol 2, Art. 4).

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 centers 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.

Refuge and center containing monuments

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.

What is not use for military purposes?

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 use for military purposes.

Engagement of the Contracting Party

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 there from. In that event, such diversion shall be prepared in time of peace.

"International Register of Cultural Property under Special Protection"

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.

Details about the Register in the Regulations

Register – Registration – Objections to the registration

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, Centers containing Monuments, Other Immovable Cultural Property. The Director-General shall determine what details each section shall contain.

REGISTRATION

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, centers 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.

Objections to the registration

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.

Article 14. Objections

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.

Arbitration

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.

To the High Contracting parties

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.

Finally registration

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 dispatch of such copies.

But still possibility of cancellation

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 dispatch of such copies.

Practical application

Limited success of special protection:

- The success of the arrangements for special protection has proved very limited. According to a UNESCO report, only five State – Austria, the Federal Republic of Germany, the Khmer Republic, the Netherlands and the Holy See – have, in the past, asked for such refuges or centers containing monuments to be entered in the Register.
- In response to these requests, the following eight refuges and one centre containing monuments have been entered in the Register: the Vatican City (18 January 1960); a refuge at Alt-Aussee in Austria (17 November 1967); six refuges in the municipalities of Zandvoort, Heemskerk, Stlenwijkerwold and Maastricht in the Netherlands (12 May 1969); the central Oberrieder Stollen refuge in the Federal Republic of Germany (22 April 1978).
- 3 refuges in the Netherlands and one in Austria were canceled in 2000.

Practical application: Khmer application

- The application forwarded to the Director-General by the Khmer Republic on 31 March 1972 related to the entry of the centers containing the monuments of Angkor and Roluos and of the sanctuaries situated at Pnom-Bok and Pnom-Krom, together with a refuge situated at Angkor.
- As on the occasion of all the other requests for entry which were received, the Director-General informed the High Contracting Parties of the application from the Khmer republic dated 25 April 1972 and referred to Article 14 of the Regulations for the Execution of the Convention which states that any of the High Contracting Parties may lodge and objection to the registration of a cultural property by addressing a letter to the Director-General of UNESCO.
- Within the period stipulated for the receipt of communications, the Director-General received letters from four High Contracting Parties – Cuba, Egypt, Romania, and Yugoslavia – which stated that the application for registration had not been presented by the authority which they considered to be the sole government entitled to represent the Khmer Republic. The Director-General of UNESCO accordingly did not proceed with the registration of these cultural properties. This case illustrated one of the situations which present an obstacle to the implementation of the Convention. The obstacles may derive, as we can see in the case of Cambodia, from exclusively political considerations which are hard to justify in terms of the need to protect property which undeniably forms part of the cultural heritage of all mankind.
- The States which raise such obstacles should be aware of their responsibility for the deterioration of this property. They should in particular take account of the fact that short-term political interests have nothing to do with the fundamental objectives of the Convention.
- In connection with the opposition to an entry in the Register, it was pointed out at the meeting of experts in Vienna in 1983 that when opposition was lodged to the request for registration of Angkor Vat, UNESCO may not have made full use of all the procedural means at its disposal to lift the objection. 'It was recalled that Article 14(4)

of the Regulations for the Execution of the Convention provided that the Director-General could make whatever representations he deemed necessary to the Contacting Parties which lodged the objection, with a view to causing the objection to be withdrawn. The representative of the Director-General explained that, in the case of the request from the Khmer Republic, the Director-General had tried to implement the provisions of Article 14 but the objections had not been withdrawn and no further action could be taken by the Director-General, since the High Contracting Party applying for registration had not requested arbitration as foreseen in paragraphs 6 and 7 of Article 14.

Problems with the implementation

- The small number of applications for registration shows that the States are reluctant to register their cultural property because of the practical difficulties experienced by them with the application of Article 8. This concerns in particular the definition of the term 'adequate distance', to which we have already referred.
- According to reports prepared by a number of countries, the following applications are being examined: The Federal Republic of Germany (in addition to Oberried), Egypt (1970), Spain (1962), France (1983), Hungary (1970), Italy (1967), Liechtenstein (1983), Romania (1962), San Marino (1967), Czechoslovakia (1979) and Yugoslavia (1979). Some countries – Bulgaria, Poland and the USSR (1970) – seemed to have certain reservations over the provisions contained in Article 8 which constitute an obstacle to any application for special protection.

Russian experience

- In its report, the Soviet Union noted that most of the monuments concerned by special protection were situated in the big cities (Moscow, Leningrad, Kiev, Riga, Tallin and so on) which were at one and the same time urban, political, industrial and communication centers, as referred to in Article 8(1a) of the Convention. Only a few monuments among the tens of thousands places under State protection could benefit from special protection under the conditions set out in the Convention. In the opinion of the competent Soviet authorities, it was impossible to envisage special protection for certain monuments since they were all of great value. The USSR report suggested that the subject of special protection should be examined again at the next meeting organized by UNESCO.

Other countries

- The first Italian report (1962) developed an original concept of zones of special protection having both cultural and health care functions (see out commentary on Article 4 of the Convention).
- It will be noted that some confusion existed in a number of countries concerning the items of property entered in the Register of Special Protection (1954 Convention) and those included in the World Heritage List (Bulgaria, Jordan). It would be highly desirable to study the link between special protection and inclusion in the World Heritage list with a view to encouraging the states to enter property appearing by the 1954 Convention, or possible to revise the 1954 Convention with that end in mind.

Albania, Libya

- In general, it would seem that the interest in special protection is very limited. Only Liechtenstein claimed that there were no 'special reasons' for which it had not made use of this possibility. Some States, such as Albania, had created museum-cities which could form centers for which an application might be made for entry in the Register of Special Protection. Libya presented a list of 115 items of cultural property to be entered on the Register. This list was reduced to 47 but no undertaking was given by the government to divert means of communication or to refrain from using the ports in the vicinity of such property in the event of conflict. The application by Libya was not forwarded to the Parties as required by the Convention, but retained for discussion with the Libyan government.

Palais des Nations in Geneva

- In 1964, the Swiss authorities proposed to the Director-General of the United Nations Office in Geneva that an examination should be made of the possibility of entering the Palais des Nations in Geneva in the register of Cultural Property under Special Protection. The Palais was regarded as an important building and also housed the archives of the League of Nations and a major library. Mr Stavropoulos, at the time Legal Advisor of the United Nations, believed that the United Nations Headquarters in Geneva and New York would both qualify for special protection. In his letter to the Director-General of UNESCO he raised the problem of the application as such: should it be made by UNESCO or by the States on whose territory the property was situated? Could such protection be granted within the framework of the Convention or must some other basis be sought for it?

Palais des Nations in Geneva

- The Legal Adviser of UNESCO answered this letter by pointing out that this issue had not been raised during the preparatory work on the Convention but that such protection was not ruled out pursuant to Article 1 of the Convention. Since Switzerland had ratified the Convention, 'special protection' was applicable in that country including the possibility of placing the distinctive emblem on the building. In regard to special protection, Mr. Saba felt that the question rested with the State on whose territory such property was situated. He considered that the formulation of the application by the Swiss authorities was the best solution, having regard to the circumstances prevailing at the time. He recommended that an agreement be concluded between the territorial State and the United Nations on the scope of the protection and the conditions for registration. No further action has been taken so far on these discussions.

ICRC?

- In connection with the present article, reference should also be made to the proposal by Italy to stipulate in the Convention that all documentation regarding cultural property under special protection should be forwarded at regular intervals to the International Committee of the Red Cross (ICRC) in Geneva.
- Records, p.350.

EXCEPTIONAL SITUATION IN ARMED CONFLICT - URGENT IMPROVISED REFUGES

Included in Regulations

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.

URGENT IMPROVISED REFUGES

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 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.

Article 11. Withdrawal of 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.

Search for the solution

1999 Second Protocol

ENHANCED PROTECTION

- To be granted "enhanced protection", cultural property must meet the following three criteria (P2, Art. 10).
- it is cultural heritage of the greatest importance to humanity;
- it is protected by domestic measures that recognize its cultural and historical value and ensure the highest level of protection;
- it is not used for military purposes or to shield military sites, and the Party which has control over the property has formally declared that it will not be so used.

ENHANCED PROTECTION

- We shall return to it later.
- Cultural property granted enhanced protection by the Committee for the Protection of Cultural Property in the Event of Armed Conflict is placed on the "List of Cultural Property under Enhanced Protection" (P2, Art. 11).

TRANSPORT

The situation of armed conflict often require the transport of the movable property to safer places. It is why this chapter is very important.

1954 Convention – Article 12, 13, 14

Regulations: articles 17, 18 and 19

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.

Role of the Commissioner-General in providing the immunity

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.

Transport within the occupied territory (Article 19 of the Regulations)

- 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.

Transport abroad (Article 18 of the Regulations)

- 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 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.

Personnel

Chapter IV – Article 15 of the Convention

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.

SCOPE OF APPLICATION

1954 CONVENTION: Article 18 and 19

1999 Second Protocol: Article 3

INTERNATIONAL ARMED CONFLICT

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 that 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.

Compare with the Article 2 of the Geneva Conventions

- Art. 2. In addition to the provisions which shall be implemented in peacetime, the present Convention shall apply to all cases 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 of them. 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. Although one of the Powers in conflict may not be a party to the present Convention, the Powers who are parties thereto shall 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 accepts and applies the provisions thereof.

1999 Second Protocol

Article 3 Scope of application

1. In addition to the provisions which shall apply in time of peace, this Protocol shall apply in situations referred to in Article 18 paragraphs 1 and 2 of the Convention and in Article 22 paragraph 1.
 2. When one of the parties to an armed conflict is not bound by this Protocol, the Parties to this Protocol shall remain bound by it in their mutual relations. They shall furthermore be bound by this Protocol in relation to a State party to the conflict, which is not bound by it, if the latter accepts the provisions of this Protocol and so long as it applies them.
- Exclusion of the clause si omnes!

NON INTERNATIONAL ARMED CONFLICT

Article 19 of the Convention

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 endeavor 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.

Compare with Article 3 of the Geneva Conventions

Art. 3. In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

1. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, color, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

- a. violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
- b. taking of hostages;
- c. outrages upon personal dignity, in particular humiliating and degrading treatment;
- d. the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

Compare with Article 3 of the Geneva Conventions

2. The wounded and sick shall be collected and cared for. An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict. The Parties to the conflict should further Endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention. The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

Compare with the Article 1 of the 1977 Protocol

Part I. Scope of this Protocol

Art 1. Material field of application

1. This Protocol, which develops and supplements Article 3 common to the Geneva Conventions of 12 August 1949 without modifying its existing conditions of application, shall apply to all armed conflicts which are not covered by Article 1 of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) and which take place in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations and to implement this Protocol.
2. This Protocol shall not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature, as not being armed conflicts.

Annex 5: Execution of the Convention

CONTROL SYSTEM UNDER THE 1954 AND 1999 Second Protocol

Dependent on the evolution of international law

- System of control developed very slowly
- Doctrine of international law started to be interested in the issue only in the 30's: Georges Scelle.

Christian WOLFF (1679-1754)

- Christian Wolff was the most eminent German philosopher between Leibniz and Kant. His main achievement was a complete oeuvre on almost every scholarly subject of his time, displayed and unfolded according to his demonstrative - deductive, mathematical method, which perhaps represents the peak of Enlightenment rationality in Germany.



Control system in international law

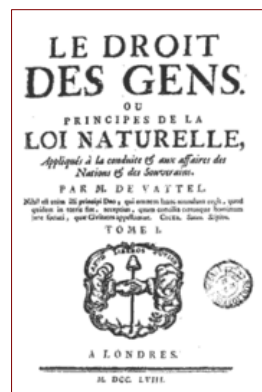
- In general - only slow development
- Christian Wolff: "In the supreme state the nations as a whole have a right to coerce the individual nations, if they should be unwilling to perform their obligation, or should show themselves negligent in it. ... The law of nations as a whole with reference to individual nations in the supreme state *must be measured* by the purpose of the supreme state."

Critics of Christian Wolff

- Including Emmer de Vattel: "No Nation is willing to give up its liberty; it will rather choose to break off all intercourse with those who attempt to encroach upon it. Hence in all cases in which it belongs to a Nation to judge of the extent of its duty, no other Nation may force it to act one way or another."

Emmer de Vattel (1714-1767)

He was largely influenced in his philosophy by Gottfried Leibniz and Christian Wolff and strove to integrate their ideas into the legal and political system.



Progress with the development of international community

- Role of the diplomatic and consular agents;
- Reciprocal control included, for example, in Treaty of London of 20 December 1841 for the Supervision of the African Slave Trade.

Hague Conventions 1899 and 1907

- No progress in control

During the first world war

- During the First World War, the *Association internationale pour la protection des populations civiles et des monuments historiques en temps de guerre ou de conflits armés*, known as "*Lieux de Genève*" (Geneva Zones), envisaged the establishment of a commission composed of neutrals which was to be responsible, in wartime, for the supervision of duly notified non-transportable historic monuments and the zones around those monuments.

League of Nations

- But the League of Nations is giving the power of inquiry to the Council: right of regard;
- ARTICLE 15.
- If there should arise between Members of the League any dispute likely to lead to a rupture, which is not submitted to arbitration or judicial settlement in accordance with Article 13, the Members of the League agree that they will submit the matter to the Council. Any party to the dispute may effect such submission by giving notice of the existence of the dispute to the Secretary General, who will make all necessary arrangements for a full investigation and consideration thereof.
- For this purpose the parties to the dispute will communicate to the Secretary General, as promptly as possible, statements of their case with all the relevant facts and papers, and the Council may forthwith direct the publication thereof.
- The Council shall endeavor to effect a settlement of the dispute, and if such efforts are successful, a statement shall be made public giving such facts and explanations regarding the dispute and the terms of settlement thereof as the Council may deem appropriate.

League of Nations

- Permanent Court of International Justice
- International Labor Organization
- Mandate Commission

Hague Rules of Air Warfare 1923

- For us, these rules are of great importance;
- When the Commission of Jurists was appointed by the Washington Conference of 1922 on the Limitation of Armaments and charged to prepare rules for aerial warfare and rules concerning the use of radio in time of war, the question of the control of application was raised.
- The Hague Rules of Air Warfare, adopted in 1923 by the Commission included a reference to the inspection committee of 3 neutral representatives.

Hague Rules of Air Warfare 1923

- Article 26, paragraph 7: *“A State which accepts the provisions of this article [Article 26] should abstain from making use of the historic monuments and the zone surrounding them for military purposes or for the benefit of its military organization in any manner whatsoever and should also abstain from committing, in the interior of such monument or within such zone, any act for military purposes.”*
- Paragraph 8: *“A commission of control composed of three neutral representatives accredited to the State which has accepted the provisions of the present Article, or of their delegates, shall be appointed for the purpose of ascertaining that no violation of the provisions of paragraph 7 has been committed. One of the members of this commission of control shall be the representative, or his delegate, of the State which has been entrusted with the interests of other belligerent.”*

Geneva Convention II of 1929

- Protecting Power system: Art. 86. The High Contracting Parties recognize that a guarantee of the regular application of the present Convention will be found in the possibility of collaboration between the protecting Powers charged with the protection of the interests of the belligerents; in this connexion, the protecting Powers may, apart from their diplomatic personnel, appoint delegates from among their own nationals or the nationals of other neutral Powers. The appointment of these delegates shall be subject to the approval of the belligerent with whom they are to carry out their mission. The representatives of the protecting Power or their recognized delegates shall be authorized to proceed to any place, without exception, where prisoners of war are interned. They shall have access to all premises occupied by prisoners and may hold conversation with prisoners, as a general rule without witnesses, either personally or through the intermediary of interpreters. Belligerents shall facilitate as much as possible the task of the representatives or recognized delegates of the protecting Power. The military authorities shall be informed of their visits. Belligerents may mutually agree to allow persons of the prisoners own nationality to participate in the tours of inspection.

1938 Preliminary draft of the Convention for the protection of historic buildings and works of art

- Creates practically the basis of 1954 Convention

- General Conference of the Parties
- Standing Committee
- Commissioner
- International inspection by two commissions: International verification commission and international Commission of inspection

Complicated system of control

1. The preliminary draft gave important power to the General Conference, where “the High Contracting Parties ... decide conjointly upon measures for ensuring the application of this Convention ...” As the General Conference was supposed to meet only once in five years, the draft proposed also the creation of the Standing Committee, meeting once each year, but it mention also the Secretariat, demonstrating the interest which was paid to the daily activities in the execution of the Convention.

2. The idea of the commissioner has its origin in this preliminary draft, even if formulated in the different way than in the Hague Convention. The international list of commissioners had to be established, selected by the Standing Committee and the nomination of the commissioner had to be made by qualified institutions of the contracting states (Courts of Justice, Government departments, Academies, Universities and Museums).

3. The general protection of refuge, but also the special protection given to monuments and groups of monuments had to “be open to international inspection during hostilities” (Article 4 and 5).

4. The draft proposed the creation of two commissions:

- International Verification Commission, which had to approve the list of refuges and monuments, and
- International Commissions of Inspection, which may at any time inspect refuges and monuments, participate in the transfer of works of art, report to the Standing Committee, control that no breach of the Convention are committed, establish the offences, etc.

Another inspiration from the Red Cross Conferences.

Control system according to the 1954 Hague Convention

- Protecting powers
- Reports
- Representatives
- Commissioner General

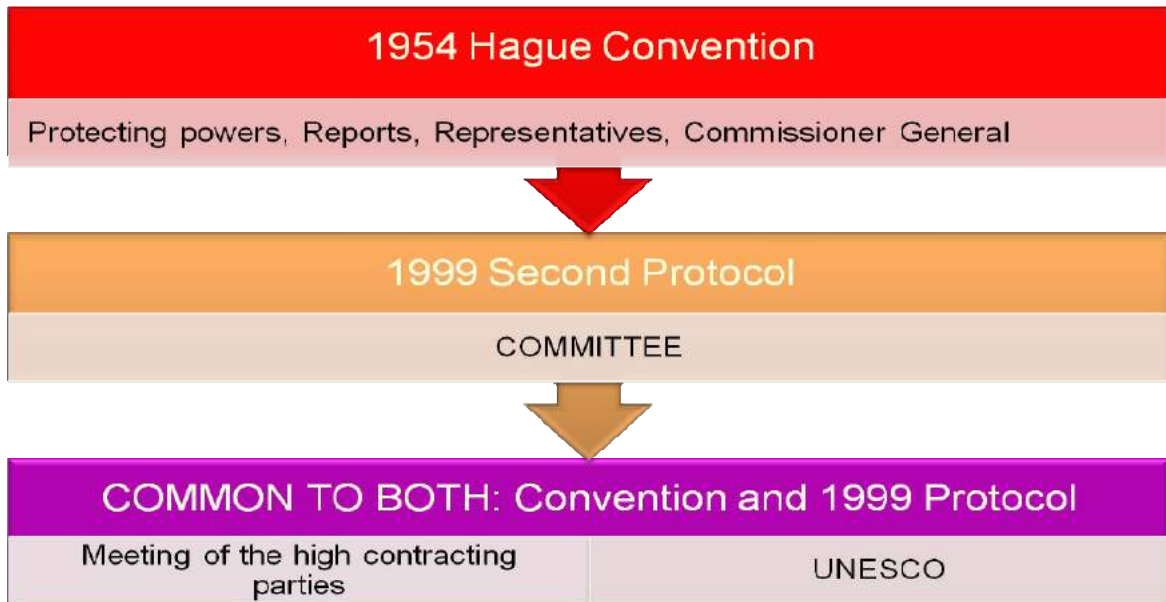
1999 Second Protocol

Committee

Common to both:

- Meeting of the high contracting parties
- UNESCO

TABLE OF CONTENT



PROTECTING POWER

Article 21 of the 1954 Convention

Important role played in the World War I

Codification :

- GENEVA MANDATE: 1929 Geneva Convention, 1949 Geneva Convention, 1977 Additional Protocol
- VIENNA MANDATE: 1961 Vienna Convention
- HAGUE MANDATE: 1954 Hague Convention and 1999 Hague Protocol

Geneva mandate – Article 10

- Art. 10. The High Contracting Parties may at any time agree to entrust to an organization which offers all guarantees of impartiality and efficacy the duties incumbent on the Protecting Powers by virtue of the present Convention.
- When wounded and sick, or medical personnel and chaplains do not benefit or cease to benefit, no matter for what reason, by the activities of a Protecting Power or of an organization provided for in the first paragraph above, the Detaining Power shall request a neutral State, or such an organization, to undertake the functions performed under the present Convention by a Protecting Power designated by the Parties to a conflict.
- If protection cannot be arranged accordingly, the Detaining Power shall request or shall accept, subject to the provisions of this Article, the offer of the services of a humanitarian organization, such as the International Committee of the Red Cross, to assume the humanitarian functions performed by Protecting Powers under the present Convention.

Article 10 of the Geneva Convention I

- Any neutral Power, or any organization invited by the Power concerned or offering itself for these purposes, shall be required to act with a sense of responsibility towards the Party to the conflict on which persons protected by the present Convention depend, and shall be required to furnish sufficient assurances that it is in a position to undertake the appropriate functions and to discharge them impartially.
- No derogation from the preceding provisions shall be made by special agreements between Powers one of which is restricted, even temporarily, in its freedom to negotiate with the other Power or its allies by reason of military events, more particularly where the whole, or a substantial part, of the territory of the said Power is occupied.
- Whenever, in the present Convention, mention is made of a Protecting Power, such mention also applies to substitute organizations in the sense of the present Article.

Geneva Convention I – Article 11

- Art. 11. In cases where they deem it advisable in the interest of protected persons, particularly in cases of disagreement between the Parties to the conflict as to the application or interpretation of the provisions of the present Convention, the Protecting Powers shall lend their good offices with a view to settling the disagreement.
- For this purpose, each of the Protecting Powers may, either at the invitation of one Party or on its own initiative, propose to the Parties to the conflict a meeting of their representatives, in particular of the authorities responsible for the wounded and sick, members of medical personnel and chaplains, possibly on neutral territory suitably chosen. The Parties to the conflict shall be bound to give effect to the proposals made to them for this purpose. The Protecting Powers may, if necessary, propose for approval by the Parties to the conflict, a person belonging to a neutral Power or delegated by the International Committee of the Red Cross, who shall be invited to take part in such a meeting.

Vienna Convention 1961

Origin in the diplomatic relations (customary international law)

- Article 45: If diplomatic relations are broken off between two States, or if a mission is permanently or temporarily recalled:
 - (a) The receiving State must, even in case of armed conflict, respect and protect the premises of the mission, together with its property and archives;
 - (b) The sending State may entrust the custody of the premises of the mission, together with its property and archives, to a third State acceptable to the receiving State;
 - (c) The sending State may entrust the protection of its interests and those of its nationals to a third State acceptable to the receiving State.

Hague mandate – 1954 Convention

- *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.

- The Second Protocol of 1999 was not going further and did the same. It reproduced, *expressis verbis*, the Article 21 of the Hague Convention but in relation and for the purposes of the Protocol. The use of the word “in cooperation” indicates that the role of the Protecting Power is secondary to that of the Parties to the conflict; their role remains fundamental.

Appointment of the Protecting power

- The 1954 Convention and the Second Protocol left “wisely” aside the most delicate question of the appointment of the Protecting Power, hoping - probably - that such power will be already appointed on the basis of the 1949 Geneva Conventions and 1961 Vienna Convention. Thus, the appointment was left to the “Geneva mandate” or “Vienna mandate”. “The Hague mandate” remained silent on this issue.
- The proposal of UNESCO as substitute was not accepted by the Conference and in case that there is no Protecting Power, the exercise of their function transmitted to the Commissioner- General who shall exercise these functions as specified in Article 21 and 22 (Article 6, paragraph 6 of the Regulations).

Practical experience

- It is unfortunate, that from the moment that the institution of the Protecting Powers was included in the legal instruments, i.e. codified, its practical implementation disappeared.
- Practical proposal was made by the Swiss authorities in 1973 in order to ensure the protection of the temples of Angkor: “Would Switzerland, a neutral country held in high esteem in certain Asian States, be in a position to lend its good offices to enable a solution to be found to this particularly disquieting and urgent problem, possibly in the form of expert mission?”
- And even today, we should not close door to all possible alternatives. It requires not only imagination, but also political will.

Provisions in the Regulations

- Restrictive description of the functions: The delegates of the Protecting Power may be appointed “*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.*”
- Functions of the delegates of the Protecting Powers, as follows:
 - 1) take note of violations of the Convention, on their own authority;
 - 2) investigate, with the approval of the Party to which they are accredited, the circumstances in which these violations of the Convention have occurred;
 - 3) make representation locally to secure their cessation;
 - 4) if necessary notify the Commissioner General;
 - 5) the delegates keep the Commissioner General informed of their activity.
- The Article 8 of the Regulations provides the guarantees that the delegates of the Protecting Powers will not act *ultra vires* (will in no case exceed their mandates). In particular, they shall take account of the security needs of the 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 Party.

Other functions

- But the Hague Convention also entrusts the delegates of the Protecting Powers with other functions, which are mentioned more especially in Articles
- - 6, paragraph 1 (collaboration with the Commissioner-General) ;
- 11, paragraphs 2 and 3 (improvised refuges); and
- 17, paragraph 2 (procedure to obtain immunity) of the Regulations.
- Other functions are conferred to the Protecting Power itself under Articles 21 and 22 of the Convention and Article 4, paragraph 1 of the Regulations. One of the major is the settlement of disagreements between the Parties to the conflict.

1999 Second protocol

- Being aware of the practical inexistence of the Protecting Powers in the present armed conflicts, the 1999 Second Protocol was looking for the new alternatives for the disputes settlement and it is mentioned in the Article 36:
 - a) One is to give to the Director-General the initiative to *“lend good offices or act by any other form of conciliation or mediation, with a view to settling the disagreement.”*
 - b) Another way is to give the initiative to the newly constituted Committee and to its Chairman in particular at the invitation of one Party or of the Director- General. In such case *“the Chairman of the Committee may 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 the territory of a State not party to the conflict”*.

REPRESENTATIVE FOR CULTURAL PROPERTY

Article 2 of the Regulation

- Article 2 of the Regulations states that as soon as a Party is engaged in an armed conflict of international character (Article 18) *“the High Contracting Party 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”*.

Implementation and control

- The representative has to play role in the control of application
- Not difficult obligation to apply
- Desirable before a conflict breaks out

Practical application - Cambodia

- The Article had limited practical application. In 1970, during the Cambodian conflict, UNESCO provided a great deal of technical assistance in regard to the application of the Convention. The Rector of the University was appointed as representative for cultural property. Following the resolution II of the 1954 Conference, the government of Cambodia constituted the National Committee for the protection of cultural property. This example demonstrates the need of the connection between the national committees and the appointment of the representatives according to this article.

Israel

- During the Six Day War, Israel's Ministry of Foreign Affairs sent a telegram to the Director General of UNESCO assuring him that the Convention was being respected in the territories "under Israel's authority".
- A report on this subject was submitted to the 77th session of the Executive Board. In August 1967, Mr. Abraham Biran, Director of the Department of Antiquities and Museums, was appointed as government representative for cultural property in accordance with Article 2(a) of the Regulations.
- It was intended from the outset that the Commissioner General for Cultural Property would deal with this representative and with the delegates of the Protecting Powers.

COMMISSIONER- GENERAL

Articles 1, 2, 4, and 6 of the Regulations

Origin

- In the 1938 Draft

Appointment

- According to the Regulations (Article 4, para. 1), the Commissioner General is a neutral person appointed to the High Contracting Party engaged in an armed conflict.
- The Commissioner is chosen from the international list of persons, compiled in accordance with Article 1 of the Regulations, by joint agreement between the Party to which he will be accredited and the Protecting Powers acting on behalf of the opposing Parties.
- As we have seen, the idea of the list comes from the Preliminary draft of 1938, and it is up to each State, party to the Convention, to nominate the persons to be placed on the list by UNESCO. No other instructions are provided to the UNESCO. The list is administered by the secretariat and was last time updated in 1986. The future regulation of the list will be submitted to the Committee in 2006.

Should the Director-General play a role in the appointment?

Functions

The function of the Commissioner-General is impartial and international and its purpose is to safeguard cultural heritage which belongs to all mankind. According to Article 6 of the Regulations, the Commissioner-General has the following functions:

- deal with all matters referred to him in connection with the application of the Convention, in conjunction with the representative of the Party to which he is accredited and with the delegates concerned;
- powers of decision and appointment in the cases specified in the present Regulations;
- with the agreement of the Party to which he is accredited, the right to order an investigation or to, conduct it himself;

- make any representations to the Parties to the conflict or to their Protecting Powers which he deems useful for the application of the Convention;
- 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;

- if there is no Protecting Power, exercise the functions of the Protecting Power as laid down in Articles 21 and 22 of the Convention.
- It is in particular: Articles 7 (Inspectors and experts), 11 (Improvised refuges), 17 (Transport - procedure to obtain immunity), and 19 (Transport - occupied territory) of the Regulations.

Practical experience

- The only practical experience dates from June 1967 when the Director-General invited the parties to apply the mechanism of the Convention. No Protecting Power was appointed and there were no diplomatic relations between the fighting parties: Israel on one side and Egypt, Jordan, Syria and Lebanon on the other. As there was no Protecting Power for the appointment of the Commissioner, the Director-General asked the parties to use the Article 9 of the Regulations. The belligerents choose Switzerland as the neutral State and Switzerland made an appointment at the end of September 1967: Mr. Reinnick (Netherlands) accredited to Israel and Mr. Brunner (Switzerland) accredited to four Arab countries. The Executive Board examined the reports of the Commissioners and General Conference adopted two resolutions concerning in particular archeological excavations.
- Article 9 states: "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". This provision was included to the Regulations on recommendation of the delegate of Israel, Mr. Zippori. See *Records*, par. 816.

REPORTING SYSTEM

Article 26/2 of the Convention

Common practice of the international organizations

- Common practice developed, more especially, within the context of human rights and International Labor Organization.
- The paragraph 2 of the Article 26 states that the Contracting Parties "*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*". Such report must be provided to UNESCO "at least every four years".

Reports

1962	<ul style="list-style-type: none">• Six years after the Convention in force• 9 States and 6 late reply
1965	<ul style="list-style-type: none">• 16 States parties• 4 non parties
1969	<ul style="list-style-type: none">• 16 States parties• 4 non parties

1977	<ul style="list-style-type: none">• 19 States replied
1984	<ul style="list-style-type: none">• 24 States parties• 30 anniversary of the Convention
1998	<ul style="list-style-type: none">• 27 States parties• Responded by 2003

Characteristics

- Uneven character of the reports
- Most detailed information received: safeguarding measures, dissemination

Why UNESCO wish to receive the reports

- “The reporting system is necessary because:
 - (i) it raises awareness of the Convention;
 - (ii) it periodically reminds States party thereto of their rights and obligations under the Convention; and
 - (iii) it enables them to learn of the experience of other States party to the Convention, a task which would otherwise be difficult even for developed States.”

Role of the Committee

- The main improvement to the reporting system under the Convention lies in the functions of the future Committee for the Protection of Cultural Property in the Event of Armed Conflict, established under the Second Protocol to the Hague Convention.
- Article 27 (1) d of the Second Protocol empowers the Committee “to consider and comment on reports of the Parties, to seek clarifications as required, and prepare its own report on the implementation of this Protocol for the Meeting of the Parties”
- ICRC view: “States are much more keen to report to a body composed of important people, since this lends weight to the body’s conclusions concerning a State.” A Comparison of self-evaluating state reporting systems. Part two. *IRRC*, No. 305, p. 137-160 (at 155).

Committee

1999 Second Protocol

At the 1954 Conference

- Negative attitude of the Secretariat
- During the Conference itself, it was mainly Italy and Belgium who suggested the creation of the permanent or consultative committee responsible for the monitoring the

execution of the Convention. The Italy proposed the intergovernmental committee. Belgium, on the contrary, had in mind the committee composed of individual delegates, appointed *ad personam*.

1999 Hague Conference

- As result of the consultations with the individual and governmental experts in the 1990's, the 1999 Hague Conference decided to create the Committee of intergovernmental experts, probably without considering the committee composed of individual and independent experts.
- This seems quite natural, as establishment of the committee was done on the basis of the image of the World Heritage Committee of the 1972 Convention
- The idea appeared in the academic writings whether it would not be more appropriate to have a committee composed of individual experts, on the example of the Human Rights Committee, probably the most efficient among the existing committees. One has not to forget that such a committee will be even more costly than the present one: experts should be paid for the time they spend in their activity.

Committee as intergovernmental body

- composed of 12 representatives of the States Parties, elected by the Parties to the Protocol (Meeting of the Parties), on the basis of the equitable representation. The Parties elected should choose their representatives qualified in three fields: cultural heritage, defense and international law, and States parties should consult in order to ensure adequate expertise in all these fields See page 8 of this document.

Actual composition

- For 4 years: Austria, El Salvador, Libyan Arab Jamahyria, Peru, Serbia, Switzerland,
- For 2 years: Argentina, Cyprus, Finland, Greece, the Islamic Republic of Iran, and Lithuania.

FUNCTION OF THE COMMITTEE

- develop Guidelines for the implementation of this Protocol;
- monitor and supervise the implementation of the Protocol;
- reports: two different issues are included in the paragraph d):consider and comment on reports of the Parties;
- seek clarification as required;
- prepare its own report on the implementation for the Meeting of the Parties
- perform any other function which may be assigned to it by the Meeting of the Parties (paragraph f).

Work of the Committee

- Started in 2004:
- Developed the Guidelines

MEETING OF THE STATE PARTIES

Regulated by the Convention and Second Protocol

Article 27 of the Convention

- The origin of this provision is already in the Preliminary Draft Convention of 1938;
- *“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.”*

Three different types of meetings

With the introduction of the Second Protocol, we have now therefore three different types of meetings of States:

- 1) Meeting of the High Contracting Parties, according to the Convention
- 2) Meeting of the Parties, according to the Second Protocol, and finally
- 3) Extraordinary Meeting of the Parties, established also by the Second Protocol.

Functions of the meeting

- The functions of the Meeting, according to the Protocol (Article 23), are more precise and are related to other provisions of the Protocol. For the control system the following points are most important:
 - *to consider the report submitted by the Committee in accordance with Article 27 sub-paragraph 1(d);*
 - *to discuss any problem related to the application of this Protocol, and to make recommendations, as appropriate.*
- The following are other functions of the Meeting: (a) to elect the Members of the Committee, in accordance with Article 24 paragraph 1; (b) to endorse the Guidelines developed by the Committee in accordance with Article 27 sub-paragraph 1(a); (c) to provide guidelines for, and to supervise the use of the Fund by the Committee;

New functions

- *to consider the report submitted by the Committee in accordance with Article 27 sub-paragraph 1(d);*
- *to discuss any problem related to the application of this Protocol, and to make recommendations, as appropriate.*

Conciliation procedure – role of protecting powers

Article 22 of the Convention

Article 22 of the Convention

- *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.

Inspiration

- 1929 Geneva Convention
- 1949 Geneva Conventions
- Role of the Director General of UNESCO

UNESCO

Article 23 of the Convention

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.

UNESCO Constitution

- By its Constitution, UNESCO was given a special task in the application of standards concerning the protection of cultural property. The 1954 Hague Convention developed this task. However, while granting UNESCO certain powers, the authors failed to take into account the fundamental difference between the UNESCO and Red Cross and the practical impact it will have.

Second protocol

The Second Protocol reserves a short provision to the role of the Secretariat that will assist the Committee in its work – among other - in the following fields:

- prepare the Committee's documentation
- agenda for the meetings
- have the responsibility for the implementation of the decisions.

Cooperation of WHC and Hague Convention

- When the Committee established by the Second Protocol will meet, it seems indispensable:
 - to organize a joint meeting of the members of both Committees;

- establish a close cooperation between the Presidents of the two committees;
 - discuss the possibilities of joint activity between the two systems;
 - ensure the cooperation of the secretariats, when the secretariat of
- the 1954 Convention will be properly constituted.

FUTURE

- First, the global view of the subject,
- Second, discover the weaknesses of the instrument, but it could also provide the warning about such weaknesses,
- Third, scrutinizing the existing system and present legal instruments,
- Finally the well organized system of control will reinforce the mutual cooperation of the contracting parties.

Special agreements

Article 24 of the Convention

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 this present Convention to cultural property and to the personnel engaged in its protection.

DISSEMINATION

Article 26 of the Convention

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.
- Parties to the 1954 Convention and its Protocols must disseminate the treaty provisions as widely as possible, seeking to strengthen appreciation and respect for cultural property among the general population (CCP, Art. 25; P2, Art. 30). Particular effort should be taken to disseminate information among the armed forces and personnel engaged in the protection of cultural property.

Translations - Reports

Article 26 of the Convention

Article 26. Translations, reports

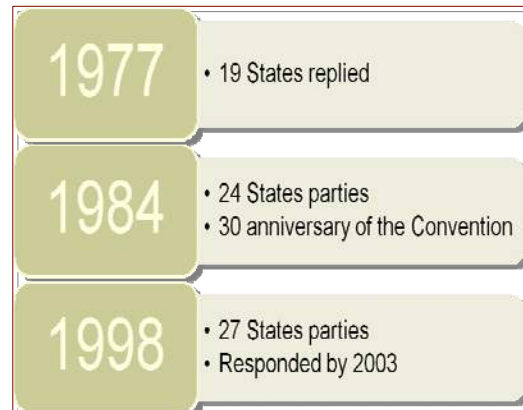
1. The High Contracting Parties shall communicate to one another, through the Director-General of the United Nations Educational, Scientific and Cultural Organization, the official translations of the present Convention and of the Regulations for its execution.

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.

Common practice of the international organizations

- Common practice developed, more especially, within the context of human rights and International Labor Organization.
- The paragraph 2 of the Article 26 states that the Contracting Parties “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”. Such report must be provided to UNESCO “at least every four years”.

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SANCTIONS

Article 28 of the Convention

- 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.
- VERY MODEST PROVISION OF THE CONVENTION

Criminal Responsibility and Jurisdiction

- Parties to the Convention must take all necessary steps to prosecute and impose sanctions on all persons who violate its provisions (CCP, Art. 28).
- This is the reason that the 1999 Second Protocol concentrated on this issue

Chapter 4 Criminal responsibility and jurisdiction

In the Second protocol 1999

Article 15 Serious violations of this Protocol

1. Any person commits an offence within the meaning of this Protocol if that person intentionally and in violation of the Convention or this Protocol commits any of the following acts:

- a. making cultural property under enhanced protection the object of attack;
- b. using cultural property under enhanced protection or its immediate surroundings in support of military action;
- c. extensive destruction or appropriation of cultural property protected under the Convention and this Protocol;
- d. making cultural property protected under the Convention and this Protocol the object of attack;
- e. theft, pillage or misappropriation of, or acts of vandalism directed against cultural property protected under the Convention.

2. Each Party shall adopt such measures as may be necessary to establish as criminal offences under its domestic law the offences set forth in this Article and to make such offences punishable by appropriate penalties. When doing so, Parties shall comply with general principles of law and international law, including the rules extending

individual criminal responsibility to persons other than those who directly commit the act.

Article 16 Jurisdiction

1. Without prejudice to paragraph 2, each Party shall take the necessary legislative measures to establish its jurisdiction over offences set forth in Article 15 in the following cases:

- a. when such an offence is committed in the territory of that State;
- b. when the alleged offender is a national of that State;
- c. in the case of offences set forth in Article 15 sub- paragraphs (a) to (c), when the alleged offender is present in its territory.

2. With respect to the exercise of jurisdiction and without prejudice to Article 28 of the Convention:

- a. this Protocol does not preclude the incurring of individual criminal responsibility or the exercise of jurisdiction under national and international law that may be applicable, or affect the exercise of jurisdiction under customary international law;
- b. Except in so far as a State which is not Party to this Protocol may accept and apply its provisions in accordance with Article 3 paragraph 2, members of the armed forces and nationals of a State which is not Party to this Protocol, except for those nationals serving in the armed forces of a State which is a Party to this Protocol, do not incur individual criminal responsibility by virtue of this Protocol, nor does this Protocol impose an obligation to establish jurisdiction over such persons or to extradite them.

Article 17

1. The Party in whose territory the alleged offender of an offence set forth in Article 15 sub-paragraphs 1 (a) to (c) is found to be present shall, if it does not extradite that person, submit, without exception whatsoever and without undue delay, the case to its competent authorities, for the purpose of prosecution, through proceedings in accordance with its domestic law or with, if applicable, the relevant rules of international law.

2. Without prejudice to, if applicable, the relevant rules of international law, any person regarding whom proceedings are being carried out in connection with the Convention or this Protocol shall be guaranteed fair treatment and a fair trial in accordance with domestic law and international law at all stages of the proceedings, and in no cases shall be provided guarantees less favorable to such person than those provided by international law.

Article 18 - Extradition

1. The offences set forth in Article 15 sub-paragraphs 1 (a) to (c) shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the Parties before the entry into force of this Protocol. Parties undertake to include such offences in every extradition treaty to be subsequently concluded between them.

2. When a Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another Party with which it has no extradition

treaty, the requested Party may, at its option, consider the present Protocol as the legal basis for extradition in respect of offences as set forth in Article 15 sub-paragraphs 1 (a) to (c).

3. Parties which do not make extradition conditional on the existence of a treaty shall recognise the offences set forth in Article 15 sub-paragraphs 1 (a) to (c) as extraditable offences between them, subject to the conditions provided by the law of the requested Party.

4. If necessary, offences set forth in Article 15 sub- paragraphs 1 (a) to (c) shall be treated, for the purposes of extradition between Parties, as if they had been committed not only in the place in which they occurred but also in the territory of the Parties that have established jurisdiction in accordance with Article 16 paragraph 1.

Article 19 – Mutual legal assistance

1. Parties shall afford one another the greatest measure of assistance in connection with investigations or criminal or extradition proceedings brought in respect of the offences set forth in Article 15, including assistance in obtaining evidence at their disposal necessary for the proceedings.

2. Parties shall carry out their obligations under paragraph 1 in conformity with any treaties or other arrangements on mutual legal assistance that may exist between them. In the absence of such treaties or arrangements, Parties shall afford one another assistance in accordance with their domestic law.

Article 20 – Ground for refusal

1. For the purpose of extradition, offences set forth in Article 15 sub-paragraphs 1 (a) to (c), and for the purpose of mutual legal assistance, offences set forth in Article 15 shall not be regarded as political offences nor as offences connected with political offences nor as offences inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on such offences may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

2. Nothing in this Protocol shall be interpreted as imposing an obligation to extradite or to afford mutual legal assistance if the requested Party has substantial grounds for believing that the request for extradition for offences set forth in Article 15 sub-paragraphs 1 (a) to (c) or for mutual legal assistance with respect to offences set forth in Article 15 has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin or political opinion or that compliance with the request would cause prejudice to that person's position for any of these reasons.

Article 21 Measures regarding other violations

- Without prejudice to Article 28 of the Convention, each Party shall adopt such legislative, administrative or disciplinary measures as may be necessary to suppress the following acts when committed intentionally:
 - a. any use of cultural property in violation of the Convention or this Protocol;
 - b. any illicit export, other removal or transfer of ownership of cultural property from occupied territory in violation of the Convention or this Protocol.

1999 Second protocol

- States party to the 1999 Protocol must ensure that the following are offences under domestic law (P2, Art. 15):
 - 1) making cultural property under enhanced protection the object of attack;
 - 2) using cultural property under enhanced protection or its immediate surroundings in support of military action;
 - 3) extensive destruction or appropriation of protected cultural property;
 - 4) making protected cultural property the object of attack;
 - 5) theft, pillage or misappropriation of, or acts of vandalism directed against, protected cultural property.

Duty of the State Parties

- Each State Party must ensure that its legislation establishes jurisdiction when the offence is committed in its territory, when the alleged offender is a national of that State, and — in relation to the first three offences — when the offence is committed abroad by a non-national

Introduction

Cultural property and places of worship are obvious civilian objects and must not be the targets of attack in warfare.

- Article 52(3) of Protocol I Geneva Convention: expressly refers to schools and places of worship as civilian objects in cases of doubt as to whether they are being used to contribute to military action, presumption not to be so used (Presumption is rebuttable).
- Under LOIC, cultural property and places of worship are entitled to special protection. Reasoning: Irreplaceable landmarks of civilization. Damage can orphan future generations and destroy their understanding of their origins.

Evolution of the Protection of Cultural Property

- Legal Position Until 1954
 - General Protection – In occupied territories that are not currently under bombardment;
 - Hague Regulations of 1899 and 1907 confer wide degree of protection on cultural and religious institutions;
 - Article 56 – Forbids destruction or willful damage done to institutions dedicated to religion, charity, education, arts and sciences, historic monuments, or works of arts and science.
 - Covers movable and immovable property
 - Appears to be unqualified.

Land Warfare - Article 27 of 1907 Hague Regulation

- “...All necessary steps must be taken to spare, as far as possible, buildings dedicated to religion, art, science, or charitable purposes, historic monuments, hospitals, and

places where sick and wounded are being collected, provided they are not being used for military purposes. It is duty of besieged to indicate presence of such buildings...by distinctive and visible signs, which shall be notified to the enemy beforehand.”

- Compared to case of occupied territory: Immunity does not cover movable property and is not absolute.
- Belligerent only has to take “necessary steps” and spare “as far as possible”.

Sea Warfare – Article 5 of Hague Convention (IX) of 1907

- Similar to land warfare, immunity does not cover movable property, valid “only as far as possible”, and subject to condition that objects “are not being used at same time for military purposes”.
- Article 4 – “Vessels charged with religious, scientific, or philanthropic missions are likewise exempt from capture”
- Must be scientific missions of non-military nature.

Air Warfare – Article 25 of 1923 Hague Rules of Air Warfare

- Similar again to Land Warfare
- “...all necessary steps must be taken to spare as far as possible buildings dedicated to public worship, arts...must by day be indicated by marks visible to aircraft.”
- Excludes movable property, binding “only as far as possible”, contingent on not being used for military purposes.
- Article 26 offers special protection to “important historic monuments”, provided state not using them for military purposes. Have to be notified to other Powers in peacetime and are subject to inspection.

Regional Protection Pre-1954

1935 Pan American Union adopted Treaty on Protection of Artistic and Scientific Institutions and Historic Monuments – Also known as the Roerich Pact.

- Article 1: “The historic monuments, museums, scientific, artistic, educational, and cultural institutions shall be considered as neutral and as such respected and protected by belligerent. Same respect shall be due to personnel of institutions above.” □ Note that religious institutions are not included
- Article 3: Distinctive flag to ID such monuments and institutions.
- Article 4: List must be sent to each contracting party to the Pan American Union to indicate which need protection.
- Article 5: Lose protection if used for military purposes.
- Pact still in force among ten American States – includes U.S.
- Article 36(2) of the 1954 Hague Convention states that it is supplemental to the Roerich Pact

Roerich Flag

- The International Banner of Peace has three dots representing the past, present and future enclosed in a red circle representing infinity. It was devised after World War I by Nicholas Roerich, a Russian artist of German descent who spent most of his life in India painting and developing mystic philosophies.



The Cultural Property Convention of 1954

- Article 1(a) of 1954 Hague Convention for Protection of Cultural Property in Event of Armed Conflict, adopted under support of UNESCO (The United Nations Educational, Scientific and Cultural Organization)
- Definition of Cultural Property appears to be broad because covers both movable and immovable property, but it does not embrace places of worship unless they can be considered religious “monuments”.
- Restricted to cultural property of “great importance” can be subjective, no objective criteria to measure cultural importance.

The Cultural Property Convention of 1954 – What type of protection is due?

- Article 4(1) grants general protection – “Must refrain from any acts of hostility directed against such property”
- Article 4(2) – attenuates protection because says that obligations can be waived when military necessity requires such a waiver. Attacking force is prone to regard any military necessity as “imperative”.
- Article 8(1) – Special protection for some cultural property
 - For “limited number” of objects of “very great importance”.
 - Contingent on entry of cultural property in an International Register.
 - May continue to receive protection even if situated in vicinity of important military objective if not party does not try to make use of the objective.
 - Must be marked with a specific emblem and be open to international control.
 - Once registered, ensured immunity from any act of hostility
- Even Special Protection is not airtight:
 - Article 11(2) – Withdrawal in some circumstances.
 - Unavoidable military necessity
 - Can be established only by division commander

- Seems to be no guarantee to any type of cultural property.
 - Register established for special protection only includes half dozen items.

Protocol I of 1977

- Was thought that it would eliminate reliance on “military necessity” in 1954 Convention.
- But Article 53: “Without prejudice to the provisions of the Hague Convention...1954...
 - ”Clear that Hague Cultural Property Convention provisions are not invalidated (with respect to parties to both)
 - Irreconcilable with provision in Protocol that provides protection “to all civilian objects”.
- Article 53 prohibits directing acts of hostility against protected objects without modifier “as far as possible”, but it is limited to objects that constitute the “cultural and spiritual heritage of peoples”.
 - What if object fails to meet this criteria? Seems that all places of worship, historic monuments, works of art are civilian objects and that Article 53 is laying down a special protection.
 - What is this special protection compared to ordinary protection?

War Crimes Provisions

- Article 3(d) of 1993 Statute of International Criminal Tribunal for Former Yugoslavia establishes penal jurisdiction over following violations of laws of customs and war:
 - Seizure or willful damage done to institutions dedicated to religion, charity, and education, arts and sciences, historic monuments and works of arts and sciences.
- Article 8(2)(b)(ix) of 1998 Rome Statute of the International Criminal Court;
 - Stigmatizes as war crime intentionally directing attacks against buildings dedicated to religion, education, art, science, or charitable purposes, historic monuments, hospitals, places where sick and wounded collected, provided they are not military objectives.
 - Also resurrects language of Article 27 of Hague Convention

1999 Second Protocol to Hague Convention

- Harmonized with 1977 Protocol I and with Customary International Law by saying that attack against cultural property cannot be launched unless site has been converted into a military objective.
- Waiver can only be invoked when:
 - Cultural property by its function has been made into military objective and
 - No feasible alternative to obtain a similar military advantage as directing act of hostility toward that objective
- Article 6(c)-(d) - Decision to waive must be given by battalion commander and advance notice must be given when possible.
- Article 7 – Precautions must be taken to do everything feasible to verify that objectives are not cultural property and to avoid or minimize damage. Force must not be excessive.
- Article 10 - Creates category for 'enhanced protection'. Three conditions:
 - Cultural heritage of greatest importance for humanity
 - Protected by domestic legal and administrative measures recognizing exceptional cultural and historic value ensuring highest level of protection
 - Not used for military purposes and declaration confirming that it will not be so used.
- Article 11 – Grant of enhanced protection must be requested and approved by special committee
 - Committee can also suspend and cancel protection
- Immunity lost if and for as long as has become military objective.
- Article 2 of Second Protocol declares that it supplements 1954 Convention and that the Convention continues to apply b/w non-parties to Second Protocol.
 - 1954 special protection regime still in effect
 - But where cultural property been granted both, only provisions of enhanced protection shall apply –Article 4.

Iraq

- US and UK are not parties to 1954 or 1970 Hague Conventions
- April 10 to 12, 2003
- Examples of places looted
 - Iraq National Museum
 - Iraq National Library and Archives
 - Mosul Museum
 - Museum of Fine Art in Baghdad
- Security Council Resolution 1546 June 8, 2004
 - Importance of protecting archaeological historical, cultural, religious property
- Security Council Resolution 1483, May 22, 2003

- Binding on all member states
- Must facilitate safe return of Iraqi cultural property since 1990 and establish prohibition on trade or transfer if there is reasonable suspicion they were illegally removed

- Iraq United Nations Sanctions Order of June 12, 2003 (SI 2003/1519)
 - Implements Security Resolution 1483
 - Anyone knowingly holding a stolen Iraqi item must transfer to police or be guilty of crime of omission
 - Anyone knowingly dealing in a stolen Iraqi item is guilty of an offense

- Proposed US Legislation
 - Iraq Cultural Heritage Protection Bill in House of Representatives
 - No action yet been taken?

- Emergency Protection for Iraqi Cultural Antiquities Bill in Senate
 - Waiting for Prez signature?

Annex 6: The official translation of the 1954 Hague Convention

Protection of Cultural Property in the Event of Armed Conflict

**អនុសញ្ញា ស្តីអំពី
ការការពារសម្បត្តិវប្បធម៌
ក្នុងក្រុងមានជម្លោះប្រដាប់អាវុធ
(អនុសញ្ញាក្រុងឡាអេ)**

**ភ្ជាប់ជាមួយនិង បទបញ្ជាសំរាប់ការអនុវត្តអនុសញ្ញា
ព្រមទាំង ពិធីសាររបស់អនុសញ្ញា និងសេចក្តីសម្រេចរបស់សន្និបាត ***

បុព្វកថា

អនុសញ្ញានេះគឺជាបច្ច័យបន្តមកពីអនុសញ្ញាទី ដែលមានឈ្មោះថា អនុសញ្ញាឆ្នាំ១៩០៧ ដែលចែងអំពី ច្បាប់ និងទំលាប់នៃសង្គ្រាមនៅលើដែនដី ហើយដែលបានបង្កើតជាលើកទីមួយនូវទម្រង់ដើមដំបូងបំផុតនៃ ការការពារជាអន្តរជាតិ ដល់សំណង់ធំៗទាំងឡាយដែលមានតំលៃខាងសិល្បៈ វិទ្យាសាស្ត្រ ក៏ដូចជាវិមាន ប្រវត្តិសាស្ត្រនានា។ អនុសញ្ញានេះបានចែងនូវមាត្រាបញ្ញត្តិទាំងឡាយ ស្តីអំពីការថែរក្សាចលនៈ និង អចលនវត្ថុដែលមានសារសំខាន់បំផុតចំពោះបេតិកភ័ណ្ឌវប្បធម៌របស់ប្រជាជាតិទាំងឡាយ ដោយពុំគិតពី ប្រភពដើម ឬម្ចាស់កម្មសិទ្ធិ ហើយនិងធ្វើអោយកើតមាននូវសេចក្តីគោរពដល់សម្បត្តិដែលត្រូវតែគោរព ដោយខានពុំបានទាំងនោះ ។

ការការពារសម្បត្តិទាំងនោះមានន័យថា រដ្ឋទាំងឡាយដែលនៅលើដែនដីខ្លួនមានសម្បត្តិវប្បធម៌ទាំងនោះ ចាប់តាំងពីពេលដែលប្រទេសមានសន្តិភាពមកម៉្លោះ ត្រូវតែចាត់គ្រប់វិធានការចាំបាច់ដើម្បីការពារសម្បត្តិ ទាំងនោះ ។

ការគោរពដល់សម្បត្តិដែលត្រូវការពារ គឺជាកាតព្វកិច្ចដែលត្រូវតែចំពេញ ទាំងនៅលើដែនដីរបស់ខ្លួន ផ្ទាល់ ទាំងនៅលើដែនដីរបស់ប្រទេសបរិវេណ នៅពេលណាដែលជម្លោះប្រដាប់អាវុធកើតមានឡើង។ ការគោរពយ៉ាងដូច្នោះដល់សម្បត្តិដែលត្រូវការពារ មានន័យថា សមាជិកទាំងអស់នៃអនុសញ្ញា យល់ ព្រមបញ្ឈប់រាល់សកម្មភាពទាំងឡាយ ដែលអាចបណ្តាលអោយសម្បត្តិវប្បធម៌ធ្លាក់ទៅក្នុងភាពវិនាស អន្តរាយ និងបញ្ឈប់រាល់អំពើអមិត្តសំដៅប្រឆាំងដោយផ្ទាល់ទៅលើសម្បត្តិទាំងនោះ។ លើសពីនោះ ទៀត គេត្រូវហាមឃាត់ និងប្រសិនបើចាំបាច់ គឺទប់ស្កាត់នូវរាល់អំពើលួចប្លន់ឬការប្រើប្រាស់សម្បត្តិ វប្បធម៌ខុសគោលដៅ ។

មាត្រាបញ្ញត្តិមួយ បានតម្រូវអោយមានការការពារ ជាពិសេសសំរាប់សម្បត្តិវប្បធម៌ ដែលមាន សារៈប្រយោជន៍ សំខាន់ និងសំរាប់កន្លែងដែលសង្គមជាជំរកការពារសម្បត្តិវប្បធម៌ទាំងនោះ ។

បទដ្ឋាននៃការអនុវត្តអនុសញ្ញា បានចែងនៅក្នុងបទបញ្ជាសំរាប់ការអនុវត្តអនុសញ្ញា ដែលតាមគំនិតផ្តួច ផ្តើមរបស់លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ត្រូវបានគេយកទៅ អនុវត្តជាលើកដំបូងនៅក្នុងអំឡុងឆ្នាំ១៩៦៧ នៃជំលោះនៅមជ្ឈិមបូព៌ា ។

អនុសញ្ញាក៏ចែងផងដែរថា ប្រទេសចុះកិច្ចសន្យាទាំងអស់ យ៉ាងហោចណាស់ រៀងរាល់៤ឆ្នាំម្តងត្រូវផ្តល់ ជូនលោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ នូវរបាយការណ៍មួយច្បាប់ ស្តីអំពីបណ្តាវិធានការដែលកំពុងអនុវត្ត វិធានការដែលបានរៀបចំឡើង ឬដែលត្រូវមនឹងធ្វើសំដៅ អនុវត្តអនុសញ្ញា និងបទបញ្ជាសំរាប់ការអនុវត្តអនុសញ្ញានេះ ។

អនុសញ្ញានេះមានអនុកថាគតិយុត្តិ ពីថ្ងៃទី៧ ខែសីហា ឆ្នាំ១៩៥៦ ។

ពិធីសារ ត្រូវបានអនុម័តដោយសន្និសីទទីក្រុងឡាអេ នៅពេលព្រមគ្នាដែលគេអនុម័តអនុសញ្ញាឆ្នាំ ១៩៥៤ ក្នុងនោះបានហាមប្រាមដល់ប្រទេសដែលជាភាគីចុះកិច្ចសន្យាទាំងអស់ មិនអោយនាំចេញសម្បត្តិ វប្បធម៌ពីក្នុងដែនដីដែលខ្លួនបានចូលទៅកាន់កាប់ ។ លើសពីនេះទៅទៀត ប្រទេសទាំងអស់នោះត្រូវចាត់ គ្រប់វិធានការចាំបាច់ ដើម្បីទប់ស្កាត់រាល់ការនាំចេញសម្បត្តិវប្បធម៌ ទោះជាប្រព្រឹត្តដោយបុគ្គលណា ក៏ដោយ ។

ទោះបីជាបានចាត់វិធានការហើយក្តី តែបើសិនជាមានសម្បត្តិវប្បធម៌ណាមួយត្រូវបានគេនាំចេញពីក្នុង ដែនដីដែលត្រូវបានភាគីម្ខាងទៀតចូលទៅកាន់កាប់ សម្បត្តិនោះត្រូវតែបញ្ជូនទៅអោយរដ្ឋអំណាចមាន សមត្ថកិច្ចនៃដែនដីនោះវិញនៅពេលបញ្ចប់ជំលោះ ហើយការសងចំពោះអ្នកទិញ ឬជនជាម្ចាស់សុចរិតនៃ សម្បត្តិនោះ នឹងត្រូវចំណាយទូទៅដោយប្រទេសដែលបានចូលទៅកាន់កាប់ទឹកដីនោះ កាលពីក្នុងអំឡុង ពេលនៃវិវាទប្រដាប់អាវុធ ។ ពិធីសារបានចែងទៀតថា សម្បត្តិវប្បធម៌ដែលត្រូវបានគេបញ្ជូនចេញមក អំពីដែនដីដែលត្រូវបានចូលទៅកាន់កាប់នោះ មិនត្រូវប្រកាន់ទុកថាជាសំណងជូនជូលការបង់ខាតដោយ សារសង្គ្រាមឡើយ ។

ពិធីសារ បានចូលជាធរមាននៅថ្ងៃទី៧ ខែសីហា ឆ្នាំ១៩៥៦ ។

អង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ
អនុសញ្ញា

ស្តីអំពី

ការការពារសម្បត្តិវប្បធម៌

ក្នុងក្របខណ្ឌជំនោះប្រដាប់អាវុធ

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

អនុម័តនៅទីក្រុងឡាអេ ថ្ងៃទី១៤ ឧសភា ១៩៥៤

ប្រទេសចុះកិច្ចសន្យាទាំងអស់

ដោយទទួលស្គាល់ថា សម្បត្តិវប្បធម៌បានទទួលរងការខូចខាតដ៏ធ្ងន់ធ្ងរក្នុងអំឡុងនៃជំនោះប្រដាប់អាវុធនាពេលថ្មីៗនេះ និងដោយសារមូលហេតុនៃការអភិវឌ្ឍបច្ចេកទេសនៃការធ្វើសង្គ្រាម សម្បត្តិវប្បធម៌កំពុងស្ថិតនៅក្នុងគ្រោះថ្នាក់នៃការបំផ្លិចបំផ្លាញដែលកាន់តែធ្ងន់ធ្ងរទៅៗ ។

ដោយយល់ឃើញថា ការបំផ្លិចបំផ្លាញសម្បត្តិវប្បធម៌ ទោះជាបស់ជនជាតិណាមួយក៏ដោយ គឺមានន័យថា ជាការបំផ្លិចបំផ្លាញសម្បត្តិវប្បធម៌របស់មនុស្សជាតិទាំងមូល ពីព្រោះជាតិសីមួយៗបានផ្តល់នូវវិភាគទានរបស់ខ្លួនដល់វប្បធម៌របស់ពិភពលោក ។

ដោយពិចារណាឃើញថា ការថែរក្សាមរតវប្បធម៌មានសារសំខាន់យ៉ាងខ្លាំងសំរាប់ប្រជាជាតិទាំងអស់ក្នុងពិភពលោក ហើយគឺជាការចាំបាច់ណាស់ដែលមរតកនេះត្រូវត្រូវបានទទួលការការពារជាអន្តរជាតិ ។

ដោយអនុវត្តនូវតាម គោលការណ៍នៃការការពារសម្បត្តិវប្បធម៌ក្នុងពេលមានសង្គ្រាម ដូចមានចែងនៅក្នុងអនុសញ្ញាក្រុងឡាអេ ឆ្នាំ១៨៩៩ និងឆ្នាំ១៩០៧ និងនៅក្នុងកតិកាសញ្ញាក្រុងវ៉ាស៊ីនតោន ចុះថ្ងៃទី១៥ មេសា ១៩៣៥ ។

ដោយយល់ឃើញថា ការការពារបែបនេះពុំអាចមានប្រសិទ្ធភាពបានឡើយ ដរាបណាវិធានការទាំងកំរិតជាតិ និងអន្តរជាតិមិនត្រូវបានបង្កើតឡើងនៅក្នុងពេលដែលប្រទេសមានសន្តិភាពទេនោះ ។

ដោយឃើញថា អនុវត្តគ្រប់វិធានការដែលអាចធ្វើទៅបានដើម្បីការពារសម្បត្តិវប្បធម៌ ។
បានព្រមព្រៀងលើប្រការទាំងឡាយដូចតទៅ:

ជំពូកទី១

បទបញ្ញត្តិទូទៅស្តីពីកិច្ចការពារ

មាត្រា១: ទិសបំណងនៃសម្បត្តិវប្បធម៌

សំរាប់គោលបំណងនៃអនុសញ្ញានេះពាក្យថា សម្បត្តិវប្បធម៌ ដោយពុំគិតពីប្រភពដើម ឬម្ចាស់កម្មសិទ្ធិ រួមមាន:

ក- ចលនៈ ឬអចលនសម្បត្តិដែលមានសារសំខាន់ចំពោះកេរ្តិ៍មរតក វប្បធម៌របស់ប្រជាជាតិមួយៗដូច ជា វិមានដែលមានថវិកាជាស្ថាបត្យកម្ម សិល្បៈ ឬប្រវត្តិសាស្ត្រ ទោះជាមាន ឬគ្មានលក្ខណៈសាសនា រមណីយដ្ឋានបុរាណវត្ថុ ក្រុមអគារដែលមានសារសំខាន់ផ្នែកប្រវត្តិសាស្ត្រ ឬសិល្បៈ សំណេរដៃនៃស្នាដៃ ធាតុ សៀវភៅ និងវត្ថុដទៃទៀតដែលមានសារសំខាន់ផ្នែកសិល្បៈ ប្រវត្តិសាស្ត្រ ឬបុរាណវិទ្យា ក៏ដូចជា សម្បត្តិវិទ្យាសាស្ត្រ និងសៀវភៅផ្សេងៗទៀត ឬប័ណ្ណសារសំខាន់ៗ ឬវត្ថុចម្លងឡើងវិញនៃវត្ថុវប្បធម៌ ដែលរៀបរយខាងលើ ។

ខ- អគារទាំងឡាយណាដែលគេប្រើប្រាស់សំរាប់ថែរក្សា ឬដាក់តាំងបង្ហាញចលនសម្បត្តិវប្បធម៌ ដែល រៀបរាប់នៅក្នុងអនុកថាខ័ណ្ឌ ក ដូចជា សារមន្ទី បណ្ណាល័យធំៗ និងប័ណ្ណសារដ្ឋានទាំងឡាយ ព្រមទាំង ទីតាំងនានា ដែលក្នុងពេលមានវិវាទប្រដាប់អាវុធបានប្រើប្រាស់ជាជំរកសំរាប់ចលនសម្បត្តិវប្បធម៌ដូច មានរៀបរាប់នៅក្នុងអនុកថាខ័ណ្ឌ ក ។

គ- មជ្ឈមណ្ឌលទាំងឡាយណា ដែលសំបូរទៅដោយសម្បត្តិវប្បធម៌ដូចមានរៀបរាប់កំណត់នៅក្នុងអនុ កថាខ័ណ្ឌ ក និងខ ទីនោះត្រូវសំគាល់ថាជា "មជ្ឈមណ្ឌលដែលមានមរតកវប្បធម៌តាំងនៅ" ។

មាត្រា ២: ការការពារសម្បត្តិវប្បធម៌

សំរាប់គោលបំណងនៃអនុសញ្ញានេះ ការការពារសម្បត្តិវប្បធម៌ រួមមានការថែរក្សា និងការគោរពដល់ សម្បត្តិវប្បធម៌ទាំងនោះ ។

មាត្រា ៣: ការថែរក្សាសម្បត្តិវប្បធម៌

ប្រទេសចុះកិច្ចសន្យាទាំងអស់ត្រូវដាក់ផែនការគ្រៀមជាស្រេច ក្នុងពេលប្រទេសមានសន្តិភាព អំពី ការងារការពារសម្បត្តិវប្បធម៌ដែលស្ថិតនៅក្នុងដែនដីរបស់ខ្លួន បង្ការចំពោះផលប៉ះពាល់ដែលអាច ប្រមាណទុកជាមុនបាន កាលណាបើកើតមានអធិករណ៍ប្រដាប់អាវុធ ដោយអនុវត្តនូវគ្របវិធានការដែល ខ្លួនយល់ថាសមស្រប ។

មាត្រា ៤: ការគោរពសម្បត្តិវប្បធម៌

១- ប្រទេសចុះកិច្ចសន្យាទាំងអស់ត្រូវគោរពដល់សម្បត្តិវប្បធម៌ដែលស្ថិតនៅក្នុងដែនដីខ្លួនផ្ទាល់ ក៏ដូចជា នៅក្នុងដែនដីរបស់ប្រទេសចុះកិច្ចសន្យាដទៃទៀតដែរ ដោយបញ្ឈប់រាល់ការប្រើប្រាស់សម្បត្តិវប្បធម៌

ក៏ដូចជាតំបន់ដែលស្ថិតនៅជិតជុំវិញតំបន់សម្បត្តិវប្បធម៌ បញ្ឈប់ការប្រើប្រាស់រាល់សំភារៈ ឧបករណ៍ ទាំងឡាយណាដែលគេប្រើប្រាស់សំរាប់រក្សាការពារសម្បត្តិវប្បធម៌ ដែលការប្រើប្រាស់ទាំងនោះអាច បណ្តាលអោយខូចខាត ឬបាត់បង់សម្បត្តិវប្បធម៌ នៅក្នុងពេលមានវិវាទប្រដាប់អាវុធ និងបញ្ឈប់នូវរាល់ សកម្មភាពអមិត្តដែលធ្វើឡើងសំដៅប្រឆាំងដោយផ្ទាល់ទៅលើសម្បត្តិវប្បធម៌ ។

២- កាតព្វកិច្ចដែលចែងនៅក្នុងកថាខ័ណ្ឌទី១នៃមាត្រានេះ អាចត្រូវលើកលែងតែនៅក្នុងករណីណាដែល កំរិតចាំបាច់នៃការងារយោធាទាមទារដាច់ខាតដោយខានពុំបានតែប៉ុណ្ណោះ ។

៣- ប្រទេសចុះកិច្ចសន្យាទាំងអស់ត្រូវហាមឃាត់ ទប់ស្កាត់ និងប្រសិនបើចាំបាច់ បញ្ឈប់គ្រប់រូបភាពនៃ អំពើលួចប្លន់ ការយកទៅប្រើប្រាស់ជាសម្បត្តិផ្ទាល់ខ្លួនដោយខុសច្បាប់ និងរាល់អំពើបំផ្លិចបំផ្លាញដោយ ផ្ទាល់ទៅលើសម្បត្តិវប្បធម៌ ។ បណ្តាប្រទេសចុះកិច្ចសន្យាទាំងអស់ក៏ត្រូវតែបញ្ឈប់នូវរាល់សកម្មភាពប៉ុន ប៉ងចង់បានចលនសម្បត្តិវប្បធម៌ ដែលស្ថិតនៅលើទឹកដីរបស់ប្រទេសចុះកិច្ចសន្យាមួយទៀតនោះផង ដែរ ។

៤- ប្រទេសចុះកិច្ចសន្យាទាំងអស់នឹងមិនធ្វើរាល់សកម្មភាពក្នុងរបៀបជាអំពើវាយសងសឹក សំដៅទៅ លើសម្បត្តិវប្បធម៌ឡើយ ។

៥- គ្មានប្រទេសចុះកិច្ចសន្យាណាមួយអាចរំលោភបំពានលើកាតព្វកិច្ចដែលខ្លួនទទួលខុសត្រូវ ដូចដែល បានចែងនៅក្នុងមាត្រានេះ ទៅលើប្រទេសចុះកិច្ចសន្យាមួយផ្សេងទៀត ដោយសំអាងមូលហេតុថា ប្រទេសចុះកិច្ចសន្យាមួយទៀតនោះពុំបានអនុវត្តវិធានការរក្សាការពារ ដូចមានចែងក្នុងមាត្រានោះ បានឡើយ ។

មាត្រា៥: ការចូលកាន់កាប់ទឹកដី

១- ប្រទេសចុះកិច្ចសន្យាណាមួយដែលបានចូលកាន់កាប់ដែនដីមួយចំណែក ឬទាំងមូលរបស់ប្រទេសចុះ កិច្ចសន្យាមួយផ្សេងទៀតត្រូវគាំទ្រអោយបានខ្លាំងក្លាតាមដែលអាចធ្វើទៅបាន ដល់រដ្ឋអំណាចជាតិមាន សមត្ថកិច្ចរបស់ប្រទេសដែលត្រូវបានប្រទេសខ្លួនចូលទៅកាន់កាប់នោះ នៅក្នុងការថែរក្សា និងការពារ សម្បត្តិវប្បធម៌ ។

២- ប្រសិនបើគេយល់ថាមានការចាំបាច់ ក្នុងការចាត់វិធានការថែរក្សាសម្បត្តិវប្បធម៌នៅក្នុងដែនដីដែល គេចូលទៅកាន់កាប់ ហើយដោយហេតុថាសម្បត្តិទាំងនោះបានខូចខាតដោយសារប្រតិបត្តិការសឹក និង ប្រសិនបើរដ្ឋអំណាចជាតិមានសមត្ថកិច្ចពុំមានលទ្ធភាពអនុវត្តវិធានការទាំងនេះទេនោះ ប្រទេសដែល

ចូលទៅកាន់កាប់ដែនដីនោះត្រូវតែផ្តល់អោយកាន់តែច្រើន តាមដែលអាចធ្វើទៅបាន នូវរាល់វិធានការ
ដ៏ចាំបាច់បំផុតក្នុងការរក្សាការពារសម្បត្តិវប្បធម៌ ដោយសហការយ៉ាងជិតស្និទ្ធបំផុតជាមួយរដ្ឋអំណាច
នៅទីនោះ ។

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

មាត្រា៦: កំណត់ចំណាំដោយឡែកទៅលើសម្បត្តិវប្បធម៌

ដោយយោលទៅតាមប្រការទាំងឡាយដែលមានចែងនៅក្នុងមាត្រា១៦ សម្បត្តិវប្បធម៌ត្រូវមានសញ្ញា
សំគាល់ដោយឡែកដើម្បីសំរួលអោយងាយចំណាំ ។

មាត្រា៧: វិធានការយោធា

១- ប្រទេសចុះកិច្ចសន្យាទាំងអស់យល់ព្រម ក្នុងពេលមានសន្តិភាព បញ្ជូលទៅក្នុងច្បាប់ ឬវិន័យសំរាប់
យោធា នូវមាត្រាបញ្ញត្តិទាំងនេះដែលអាចធានាដល់ការអនុវត្តអនុសញ្ញានេះ និងយល់ព្រមដូចជំរុញនៅ
ក្នុងជួរកងកំលាំងប្រដាប់អាវុធអោយមានស្មារតីគោរពវប្បធម៌ និងសម្បត្តិវប្បធម៌របស់ប្រជាជាតិផង
ទាំងពួង ។

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

ជំពូកទី២

ការការពារពិសេស

មាត្រា៨: ការផ្តល់សេចក្តីអនុញ្ញាតិអោយមានការការពារពិសេស

១- គេអាចដាក់អោយស្ថិតនៅក្រោមការការពារពិសេស នូវទីកំណត់ទាំងឡាយណាដែលគេមានបំណង
ប្រើប្រាស់ជាជំរកការពារចលនសម្បត្តិវប្បធម៌នៅក្នុងត្រាមានអធិករណ៍ប្រដាប់អាវុធ ជាមជ្ឈមណ្ឌល

ដែលមានក្រឹត្យដំណែលវប្បធម៌ និងអចលនសម្បត្តិវប្បធម៌ដទៃទៀតដែលមានសារសំខាន់អោយតែទីតាំង
ទាំងនោះ:

ក- ស្ថិតនៅឆ្ងាយល្មមពីមជ្ឈមណ្ឌលឧស្សាហកម្មធំៗ ឬឆ្ងាយពីគោលដៅសំខាន់ៗផ្នែកយោធា ដែលជា
ចំនុចអាចទទួលរងការខូចខាត មានជាអាទិ៍ អាកាសយានដ្ឋាន ស្ថានីយ៍ផ្សាយព័ត៌មាន អគារដែលទាក់ទិន
ដល់ការងារការពារជាតិ កំពង់ផែ ឬស្ថានីយ៍រថភ្លើង ដែលមានសារសំខាន់ ក៏ដូចជាផ្នែកមន្ទីរពេទ្យ
សំខាន់ៗដទៃទៀត។

ខ- សុទ្ធតែពុំត្រូវបានប្រើប្រាស់សំរាប់គោលដៅយោធា។

២- ទីជំរកការពារចលនសម្បត្តិវប្បធម៌ អាចត្រូវបានដាក់អោយស្ថិតនៅក្រោមការការពារពិសេស ទោះ
ស្ថិតនៅទីកន្លែងណាក៏ដោយ ប្រសិនបើទីជំរកទាំងនោះត្រូវបានគេសាងសង់ឡើងនៅលើទីតាំងដែលមាន
ស្ថានភាពដូចបានរៀបរាប់ពីខាងលើ និងនៅគ្រប់ករណីយកាត ទីជំរកទាំងនោះនឹងពុំត្រូវបានធ្វើអោយ
ខូចខាតដោយអារុធ្យក្រាប័រសេវឡើយ។

៣- មជ្ឈមណ្ឌលដែលមានមរតកវប្បធម៌ នឹងត្រូវចាត់ទុកថាត្រូវបានគេប្រើប្រាស់សំរាប់គោលដៅ
យោធា គឺនៅរាល់ពេលណាដែលមជ្ឈមណ្ឌលទាំងនោះត្រូវបានប្រើប្រាស់សំរាប់ការធ្វើសកម្មភាព ចុះឡើង
របស់បុគ្គលិក ឬសំភារៈយោធា ទោះបីគ្រាន់តែជាការផ្លាស់ប្តូរទីកន្លែង ឬការឈប់សំចតបណ្តោះអាសន្ន
ក្តី។ ស្ថិតក្នុងន័យដូចគ្នានេះដែរ គឺនៅរាល់ពេលដែលមានសកម្មភាពទាក់ទិនដោយផ្ទាល់ជាមួយប្រតិបត្តិ
ការសឹក ការបោះទីតាំងនៃបុគ្គលិកយោធា ឬការផលិតសំភារៈសឹក ត្រូវបានគេអនុវត្តឡើងនៅក្នុង
មជ្ឈមណ្ឌល។

៤- ការការពារសម្បត្តិវប្បធម៌ដូចបានពណ៌នាកំណត់នៅក្នុងកថាខ័ណ្ឌទី១ខាងលើ ដែលអនុវត្តដោយឆ្នាំ
ប្រដាប់អាវុធដែលត្រូវបានផ្តល់សិទ្ធិអំណាចពិសេសអោយធ្វើការងារនេះ ឬវត្តមានរបស់កងកំលាំង
នគរបាលនៅតាមទីជិតខាងនៃតំបន់សម្បត្តិវប្បធម៌ទាំងនោះ ដែលមានភារកិច្ចទទួលខុសត្រូវជាប្រចាំ
ដើម្បីថែរក្សាសណ្តាប់ធ្នាប់សាធារណៈ ពុំត្រូវចាត់ទុកថាជាការប្រើប្រាស់សំរាប់គោលដៅយោធាឡើយ។

៥- ប្រសិនបើសម្បត្តិវប្បធម៌ណាមួយ ដូចបានពណ៌នាកំណត់នៅក្នុងកថាខ័ណ្ឌទី១នៃមាត្រានេះស្ថិតនៅ
ក្បែរគោលដៅយោធាសំខាន់ៗដូចបានបញ្ជាក់នៅក្នុងកថាខ័ណ្ឌទី១ដដែលនេះ គេអាចដាក់សម្បត្តិវប្បធម៌
ទាំងនោះអោយស្ថិតនៅក្រោមការការពារពិសេស បើសិនជាប្រទេសចុះកិច្ចសន្យាដែលសំណូមពរអោយ
មានការការពារបែបនេះយល់ព្រម ក្នុងពេលកើតមានជំនោះប្រដាប់អាវុធ ពុំប្រើប្រាស់គោលដៅទាំង

នោះ និងជាពិសេសគឺ កំពង់ផែ អាកាសយានដ្ឋាន ឬស្ថានីយ៍រថភ្លើង ត្រូវតែបញ្ចៀសការធ្វើចរាចរចេញពី
ទីនោះ។ ក្នុងករណីនេះ ការបង្វែរទាំងអស់នោះ គប្បីត្រូវប្រែប្រួលទៅធ្វើឡើងតាំងតែពីពេលប្រទេស
មានសន្តិភាព។

៦- គេអាចអនុញ្ញាតិអោយមានការការពារពិសេស ចំពោះសម្បត្តិវប្បធម៌ទាំងឡាយណាដែលមាន
ឈ្មោះនៅក្នុង "បញ្ជីអន្តរជាតិនៃសម្បត្តិវប្បធម៌ដែលដាក់អោយស្ថិតនៅក្រោមការការពារពិសេស"។
ការបញ្ជូលទៅក្នុងបញ្ជីនឹងត្រូវធ្វើឡើង ដោយអនុលោមទៅតាមមាត្រាបញ្ញត្តិទាំងឡាយដែលមានចែង
នៅក្នុងអនុសញ្ញានេះ និងនៅក្នុងលក្ខខណ្ឌដែលមានចែងនៅក្នុងបទបញ្ជាសំរាប់ការអនុវត្តអនុសញ្ញា
នេះ។

**មាត្រា៩: អភ័យឯកសិទ្ធិនៃសម្បត្តិវប្បធម៌ដែលដាក់អោយស្ថិតនៅក្រោមការ
ការពារពិសេស**

ប្រទេសចុះកិច្ចសន្យាទាំងអស់ យល់ព្រមធានាដល់អភ័យឯកសិទ្ធិនៃសម្បត្តិវប្បធម៌ដែលដាក់អោយស្ថិត
នៅក្រោមការការពារពិសេស ដោយបញ្ឈប់ ចាប់តាំងពីពេលបញ្ជូលទៅក្នុងបញ្ជីអន្តរជាតិ នូវរាល់
សកម្មភាពទាំងឡាយដែលប្រឆាំងនឹងសម្បត្តិវប្បធម៌ទាំងនោះ ហើយលើកលែងតែក្នុងករណីដែលមាន
ចែងក្នុងកថាខ័ណ្ឌទី៥ នៃមាត្រា៨ បញ្ឈប់រាល់ការប្រើប្រាស់សម្បត្តិវប្បធម៌ ឬក៏តំបន់ជិតខាងនៃសម្បត្តិ
វប្បធម៌ទាំងនោះដើម្បីបំបិទការយោធា។

មាត្រា១០: ការសំគាល់ និងការត្រួតពិនិត្យ

ក្នុងកំឡុងពេលកើតមានអធិករណ៍ប្រដាប់អាវុធ សម្បត្តិវប្បធម៌ដែលដាក់អោយស្ថិតនៅក្រោមការការ
ពារពិសេស នឹងត្រូវបានដាក់សញ្ញាជាចំណាំដែលនឹងមានអធិប្បាយនៅក្នុងមាត្រា១៦ ហើយនឹងបើកចំហ
ចំពោះការត្រួតពិនិត្យជាអន្តរជាតិ ដូចសេចក្តីមានចែងនៅក្នុងបទបញ្ជាសំរាប់ការអនុវត្តអនុសញ្ញានេះ។

មាត្រា១១: ការលុបចោលអភ័យឯកសិទ្ធិ

១- ប្រសិនបើប្រទេសមួយក្នុងចំណោមប្រទេសចុះកិច្ចសន្យា ល្មើសទៅនឹងបញ្ញត្តិដែលចែងអំពីការ
គោរពចំពោះសម្បត្តិវប្បធម៌ដែលដាក់អោយស្ថិតនៅក្រោមការការពារពិសេស ដោយរំលោភទៅលើ
កាតព្វកិច្ចដែលមានចែងនៅក្នុងមាត្រា៩ ហើយក្នុងករណីដែលអំពើរំលោភចេះតែបន្ត ប្រទេសបដិបក្ខ
មួយទៀតនឹងត្រូវលើកលែងចេញពីកាតព្វកិច្ចក្នុងការធានាដល់អភ័យឯកសិទ្ធិនៃសម្បត្តិវប្បធម៌ដែលទាក់

ទិន្ន ។ លើសពីនេះទៀត ពេលណាដែលអាចធ្វើបាន ភាគីខាងក្រោយនេះ នឹងធ្វើសំណូមពរមុន អោយ
បញ្ឈប់អំពើវិលោកទាំងនោះ ក្នុងរយៈពេលសមស្រប ។

២- ក្រៅពីករណីដែលចែងនៅក្នុងកថាខ័ណ្ឌទី១ នៃមាត្រានេះ អភ័យឯកសិទ្ធិនឹងត្រូវគេលុបចេញពី
សម្បត្តិវប្បធម៌ស្ថិតក្រោមការការពារពិសេស តែក្នុងករណីពិសេសចាំបាច់ខាងពុំបានខាងវិស័យយោធា
និងសំរាប់រយៈពេលដែលការចាំបាច់នេះចេះតែបន្តទៅទៀត ។ ការចាំបាច់នេះអាចស្ទើរឡើងតែដោយនាយ
ទាហានដែលបញ្ជាអង្គភាពមួយមានទំហំប្រហាក់ប្រហែលនឹងកងពល ឬធំជាងនេះ ។ ពេលណាដែល
កាលៈទេសៈអនុញ្ញាត និងក្នុងកំឡុងពេលសមរម្យទុកជាមុន ប្រទេសបដិបក្ខ នឹងត្រូវបានគេផ្តល់ព័ត៌មាន
ស្តីពីការលុបចោលអភ័យឯកសិទ្ធិ ។

៣- ប្រទេសដែលលុបចោលអភ័យឯកសិទ្ធិ យ៉ាងឆាប់បំផុតតាមដែលអាចធ្វើបាន ត្រូវផ្តល់ព័ត៌មានដល់
លោកប្រធានអគ្គស្នងការទទួលបន្ទុកការងារសម្បត្តិវប្បធម៌ ដូចសេចក្តីដែលមានអធិប្បាយនៅក្នុងបទ
បញ្ជាសំរាប់ការអនុវត្តអនុសញ្ញានេះ ជាលាយលក្ខណ៍អក្សរ ដោយមានការបញ្ជាក់ពីមូលហេតុផង ។

ជំពូកទី៣

ការដឹកជញ្ជូនសម្បត្តិវប្បធម៌

មាត្រា១២: ការដឹកជញ្ជូនក្រោមការការពារពិសេស

១- ការដឹកជញ្ជូនដែលទាក់ទងដល់ការផ្លាស់ប្តូរទីកន្លែងសម្បត្តិវប្បធម៌ ទាំងនៅក្នុងរង្វង់ដែនដីណាមួយ
ឬចេញពីដែនដីមួយចូលទៅកាន់ដែនដីមួយផ្សេងទៀត តាមសំណូមពររបស់ប្រទេសចុះកិច្ចសន្យាដែល
ទាក់ទង អាចធ្វើឡើងក្រោមការការពារពិសេស ស្របទៅតាមលក្ខខណ្ឌដែលបានកំណត់នៅក្នុងបទបញ្ជា
សំរាប់ការអនុវត្តអនុសញ្ញានេះ ។

២- ការដឹកជញ្ជូនក្រោមការការពារពិសេសនឹងធ្វើឡើងក្រោមការត្រួតពិនិត្យជាអន្តរជាតិ ដូចមាន
អធិប្បាយនៅក្នុងបទបញ្ជាសំរាប់ការអនុវត្តអនុសញ្ញានេះ ហើយនឹងមានបង្ហាញនូវសញ្ញាសំគាល់ពិសេស
ដូចមានអធិប្បាយកំណត់នៅក្នុងមាត្រា១៦ ។

៣- ប្រទេសចុះកិច្ចសន្យាទាំងអស់ ត្រូវបញ្ឈប់រាល់សកម្មភាពអវិជ្ជាសំដៅប្រឆាំងនឹងការដឹកជញ្ជូន
សម្បត្តិវប្បធម៌ដែលដាក់អោយស្ថិតនៅក្រោមការការពារពិសេស ។

មាត្រា១៣: ការដឹកជញ្ជូនក្នុងករណីបណ្តឹង

១- បើប្រទេសចុះកិច្ចសន្យាមួយយល់ឃើញថា សន្តិសុខរបស់សម្បត្តិវប្បធម៌ណាមួយទាមទារអោយមានការផ្លាស់ប្តូរទីកន្លែងវត្ថុនោះទៅកន្លែងដទៃ ហើយបញ្ហានោះជាការងារបន្ទាន់ដែលពុំអាចអោយគេអនុវត្តតាមកម្មវិធីដែលមានចែងនៅក្នុងមាត្រា១២ បាន ជាពិសេសគឺនៅក្រាបបង្គំមដំបូងនៃវិវាទប្រដាប់អាវុធ ការដឹកជញ្ជូនសម្បត្តិទាំងនោះនឹងត្រូវបង្ហាញដោយផ្អាកសញ្ញាសំគាល់ពិសេស ដូចមានអធិប្បាយកំណត់នៅក្នុងមាត្រា១៦ អោយតែលក្ខខណ្ឌដែលពាក្យសុំអោយមានអភ័យឯកសិទ្ធិដែលបាននិយាយយោងនៅមាត្រា១២ ពុំទាន់ត្រូវបានគេធ្វើ និងបដិសេធទេនោះ។ ការផ្តល់ព័ត៌មានស្តីពីការដឹកជញ្ជូនសម្បត្តិវប្បធម៌ គប្បីប្រកាសអោយដឹងជាមុនតាមដែលអាចធ្វើបាន ដល់ទៅភាគីបដិបក្ស។ លើសពីនេះទៀត ការដឹកជញ្ជូនសម្បត្តិវប្បធម៌ទៅកាន់ដែនដីនៃប្រទេសមួយផ្សេងទៀត មិនអាចបង្ហាញសញ្ញាសំគាល់បានទេ បើសិនជាសម្បត្តិវប្បធម៌ទាំងនោះពុំទាន់ត្រូវបានផ្តល់អភ័យឯកសិទ្ធិអោយទេនោះ។

២- ប្រទេសចុះកិច្ចសន្យាទាំងអស់ តាមដែលអាចធ្វើទៅបាន គប្បីប្រកាសយកការបង្ការទុកជាចាំបាច់ទាំងឡាយសំរាប់ធានាដល់ការដឹកជញ្ជូន ដូចមានចែងនៅក្នុងកថាខ័ណ្ឌទី១នៃមាត្រានេះ និងដាក់បង្ហាញផ្អាកសញ្ញាសំគាល់ ដើម្បីប្រឆាំងទល់នឹងរាល់សកម្មភាពអមិត្តដែលត្រូវបានគេធ្វើឡើងសំដៅទៅលើការដឹកជញ្ជូនទាំងនោះ។

មាត្រា១៤: ការលើកអោយរួចពីការរឹបអូស ការចាប់ និងការចាប់យកជាដីយក្សន្ត

- ១- ការលើកលែងអោយរួចពីការរឹបអូស ការចាប់ ឬការចាប់យកជាដីយក្សន្ត នឹងត្រូវផ្តល់ដល់:
 - ក- សម្បត្តិវប្បធម៌ដែលបានទទួលការការពារដូចមានចែងទុកក្នុងមាត្រា១២ ឬមាត្រា១៣
 - ខ- មធ្យោបាយដឹកនាំដែលប្រើប្រាស់ផ្តាច់មុខដើម្បីដឹកជញ្ជូនសម្បត្តិវប្បធម៌ទាំងនោះ។
- ២- គ្មានហេតុផលណាមួយនៅក្នុងមាត្រានេះ នឹងត្រូវដាក់កំហិតវិធានទៅលើសិទ្ធិនៃការធ្វើស្បៀងកិច្ច និងសិទ្ធិក្នុងការស្រាវជ្រាវឡើយ។

ជំពូកទី៤

បុគ្គលិក

មាត្រា១៥: បុគ្គលិក

អាស្រ័យដោយសារសំខាន់នៃសន្តិសុខ បុគ្គលិកដែលមានភារកិច្ចការពារសម្បត្តិវប្បធម៌ដើម្បីផលប្រយោជន៍នៃសម្បត្តិវប្បធម៌ទាំងនេះនឹងត្រូវបានទទួលការគោរព ហើយប្រសិនបើបុគ្គលិកទាំងនេះត្រូវធ្លាក់ទៅក្នុងកណ្តាប់ដៃភាគីបច្ចាមិត្ត ពួកគេនឹងត្រូវបានការអនុញ្ញាតអោយបន្តអនុវត្តកាតព្វកិច្ចរបស់គេ

នៅគ្រប់ពេលដែលសម្បត្តិវប្បធម៌ដែលបុគ្គលិកទាំងនេះទទួលខុសត្រូវ ក៏ត្រូវធ្លាក់ទៅក្នុងកណ្តាប់ដៃនៃ
បដិភាគីដែរនោះ ។

ជំពូកទី៥

ផ្នែកសញ្ញាសំគាល់

មាត្រា១៦: ផ្នែកសញ្ញាសំគាល់របស់អនុសញ្ញា

១- ផ្នែកសញ្ញាសំគាល់នៃអនុសញ្ញានេះមានរាងជាខែលស្រួចចុងខាងក្រោម និងព្រែកផ្តាច់គ្នាដោយពណ៌
ផ្ទៃមេឃ និងពណ៌ស (គឺជាខែលមួយមានរាងចតុកោណកែងស្មើពណ៌ផ្ទៃមេឃភ្លឺ ដែលមុំមួយក្នុងចំណោម
មុំនៃចតុកោណកែងស្មើនោះ ចារឹកបានជាចុងស្រួចនៃខែល ហើយចាប់ពីត្រីកោណពណ៌ផ្ទៃមេឃភ្លឺមួយ
ដែលនៅទល់កំពូលគ្នាជាមួយមុំមួយនៃចតុកោណកែងស្មើ គឺត្រីកោណពណ៌សពីរ បានបំពេញផ្ទៃនៅសល់
ទាំងសង្វាងនោះ) ។

២- ផ្នែកសញ្ញាសំគាល់ត្រូវគេប្រើតែមួយ ឬក៏ប្រើម្តងបី ក្នុងពេលជាមួយគ្នា ដោយតម្រូវវាជាទំរង់ត្រីកោណ
(ខែលមួយនៅពីក្រោម) ក្រោមលក្ខខណ្ឌដែលមានចែងនៅក្នុងមាត្រា១៧ ។

មាត្រា១៧: ការប្រើប្រាស់ផ្នែកសញ្ញាសំគាល់

- ១- ផ្នែកសញ្ញាសំគាល់ដែលគេដាក់ម្តងបី អាចត្រូវបានប្រើប្រាស់ដើម្បីសំគាល់:
 - ក- អចលនសម្បត្តិវប្បធម៌ស្ថិតក្រោមការការពារពិសេស
 - ខ- ការដឹកនាំសម្បត្តិវប្បធម៌នៅក្រោមការការពារពិសេស ដូចបានចែងក្នុងមាត្រា១២ និង១៣
 - គ- អគារទាំងឡាយណាដែលប្រើសំរាប់ការការពារសម្បត្តិវប្បធម៌ ក្រោមលក្ខខណ្ឌដូចមានចែងក្នុងបទ
បញ្ជាសំរាប់អនុវត្តអនុសញ្ញា ។
- ២- គេអាចប្រើប្រាស់ផ្នែកសញ្ញាសំគាល់តែមួយ ដើម្បីសំគាល់:
 - ក- សម្បត្តិវប្បធម៌ដែលស្ថិតនៅក្រោមការការពារពិសេស
 - ខ- បុគ្គលទទួលខុសត្រូវការងារត្រួតពិនិត្យ អនុលោមតាមបទបញ្ជាសំរាប់ការអនុវត្តអនុសញ្ញា
 - គ- បុគ្គលិកដែលជាប់ទាក់ទិនក្នុងការងារការពារសម្បត្តិវប្បធម៌
 - ឃ- អត្តសញ្ញាណប័ណ្ណដែលមានអធិប្បាយនៅក្នុងបទបញ្ជាសំរាប់ការអនុវត្តអនុសញ្ញា ។

៣- ក្នុងកំឡុងពេលនៃវិវាទប្រដាប់អាវុធ ការប្រើប្រាស់ផ្នែកសញ្ញាក្នុងករណីណាមួយក្រៅពីករណីដែលមានចែងនៅក្នុងបណ្តាញថាខ័ណ្ឌខាងលើនៃមាត្រានេះ ហើយនិងការប្រើប្រាស់សំរាប់គោលដៅណាមួយដែលប្រើសញ្ញាប្រហាក់ប្រហែលនឹងផ្នែកសញ្ញានេះ គឺត្រូវហាមឃាត់ ។

៤- គេពុំអាចដាក់ផ្នែកសញ្ញាទៅលើអចលនសម្បត្តិវប្បធម៌ណាមួយបានទេ លុះត្រាតែក្នុងពេលជាមួយគ្នានោះ គេត្រូវដាក់បង្ហាញផងដែរនូវច្បាប់អនុញ្ញាតដែលមានចុះកាលបរិច្ឆេទ និងហត្ថលេខាយ៉ាងត្រឹមត្រូវរបស់អាជ្ញាធរមានសមត្ថកិច្ចនៃប្រទេសចុះកិច្ចសន្យានោះ ។

ជំពូកទី៦

ទំហំនៃការអនុវត្តអនុសញ្ញា

មាត្រា១៨: ការអនុវត្តអនុសញ្ញា

១- ក្រៅពីមាត្រាបញ្ញត្តិទាំងឡាយដែលនឹងមានប្រសិទ្ធិភាពក្នុងពេលមានសន្តិភាព អនុសញ្ញានេះអាចយកទៅប្រើប្រាស់បាននៅក្នុងករណីមានការប្រកាសសង្គ្រាម ឬក្នុងពេលមានជំនោះប្រដាប់អាវុធដទៃទៀត ដែលអាចនឹងកើតឡើងរវាងប្រទេសចុះកិច្ចសន្យាពីរ ឬច្រើន ទោះបីជាស្ថានភាពសង្គ្រាមពុំត្រូវបានទទួលស្គាល់ដោយប្រទេសណាមួយក្នុងចំណោមប្រទេសទាំងនោះក៏ដោយ ។

២- អនុសញ្ញានេះក៏មានប្រសិទ្ធិភាពផងដែរ ចំពោះគ្រប់ករណីទាំងអស់នៃការចូលកាន់កាប់ទឹកដីមួយផ្នែក ឬទាំងមូល របស់ប្រទេសចុះកិច្ចសន្យាមួយ ទោះបីជាការចូលកាន់នោះពុំបានទទួលការប្រឆាំងដោយអាវុធក្តី ។

៣- ទោះបីជាមានប្រទេសណាមួយ ក្នុងចំណោមប្រទេសដែលចូលរួមក្នុងជំនោះ ពុំមែនជាសមាជិកនៃអនុសញ្ញានេះក៏ដោយ ក៏បណ្តាប្រទេសដែលជាសមាជិកនៅតែអនុវត្តអនុសញ្ញានេះ នៅក្នុងចំណងទាក់ទងជាបដិការដែរ ។ លើសពីនេះទៅទៀត ប្រទេសជាសមាជិកក៏នឹងត្រូវតែអនុវត្តអនុសញ្ញានេះដែរ នៅក្នុងទំនាក់ទំនងជាមួយប្រទេសមួយទៀតដែលពុំមែនជាសមាជិកអនុសញ្ញានេះ ប្រសិនបើប្រទេសក្រោយនេះយល់ព្រមទទួលយកនូវបញ្ញត្តិទាំងឡាយនៃអនុសញ្ញា ហើយថែមទាំងអនុវត្តតាមទៀតនោះ ។

មាត្រា១៩: ជំនោះដែលពុំមែនជាជំនោះអន្តរជាតិ

១- ចំពោះវិវាទប្រដាប់អាវុធលើសលប់ដែលពុំមានចរិតជាជំនោះអន្តរជាតិ និងដែលកើតមានឡើងនៅលើទឹកដីនៃប្រទេសចុះកិច្ចសន្យាមួយ ភាគីនីមួយៗដែលចូលរួមនៅក្នុងជំនោះនោះនឹងនៅតែរក្សាបំណង

អនុវត្តជាសិទ្ធិ យ៉ាងហោចណាស់ គឺមាត្រាបញ្ញត្តិទាំងឡាយនៃអនុសញ្ញានេះដែលពាក់ព័ន្ធនឹងការ
គោរពសម្បត្តិវប្បធម៌ដែរ ។

២- បណ្តាភាគីក្នុងជំលោះ និងខិតខំដាក់អោយចូលជាធរមាន តាមរយៈកិច្ចសន្យាព្រមព្រៀងពិសេស
ទាំងឡាយ នូវបញ្ញត្តិទាំងអស់ ឬផ្នែកខ្លះៗនៃអនុសញ្ញានេះ ។

៣- អង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ អាចជួយជ្រោមជ្រែងសំរួលការដួសដល់
បណ្តាភាគីដែលពាក់ព័ន្ធក្នុងជំលោះ ។

៤- ការអនុវត្តមាត្រាបញ្ញត្តិទាំងឡាយដែលបានរៀបរាប់ពីខាងដើមមកនេះ និងពុំជះឥទ្ធិពលទៅលើស្ថាន
ភាពផ្លូវច្បាប់របស់ភាគីដែលពាក់ព័ន្ធក្នុងវិវាទឡើយ ។

ជំពូកទី៧

ការអនុវត្តអនុសញ្ញា

មាត្រា២០: បទបញ្ជាសំរាប់អនុវត្តអនុសញ្ញា

បទដ្ឋានដែលប្រើប្រាស់ដើម្បីអនុវត្តអនុសញ្ញានេះ ត្រូវបានបញ្ជាក់ច្បាស់នៅក្នុងបទបញ្ជាសំរាប់ការ
អនុវត្ត ដែលនឹងរួមបញ្ចូលគ្នាទៅក្នុងផ្នែកទាំងមូលនៃអនុសញ្ញានេះ ។

មាត្រា២១: អាជ្ញាធរការពារ

អនុសញ្ញានេះរួមជាមួយបទបញ្ជាសំរាប់ការអនុវត្ត និងត្រូវតែអនុវត្តឡើងដោយមានកិច្ចសហប្រតិបត្តិ
ការពីសំណាក់អាជ្ញាធរការពារ ដែលទទួលខុសត្រូវថែរក្សាផលប្រយោជន៍របស់ប្រទេសដែលពាក់ព័ន្ធក្នុង
ជំលោះ ។

មាត្រា២២: វិធីសាស្ត្រសុំរុះសំរួល

១- អាជ្ញាធរការពារ និងផ្តល់ការឧបត្ថម្ភរបស់ខ្លួនក្នុងគ្រប់ករណីទាំងអស់ដែលខ្លួនយល់ថាជាការបំបាត់
និងមានប្រយោជន៍ដល់សម្បត្តិវប្បធម៌ ជាពិសេសប្រសិនបើមានការខ្វែងគំនិតគ្នារវាងបណ្តាប្រទេសក្នុង
ជំលោះ លើការអនុវត្ត ឬការបកស្រាយមាត្រាបញ្ញត្តិទាំងឡាយនៃអនុសញ្ញា ឬមាត្រាបញ្ញត្តិទាំងឡាយ
របស់បទបញ្ជាសំរាប់ការអនុវត្តអនុសញ្ញានេះ ។

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

ប្រជុំនៃអាជ្ញាធរដែលទទួលខុសត្រូវក្នុងការការពារសម្បត្តិវប្បធម៌ ប្រសិនបើគេចាត់ទុកថាជាការសមរម្យ នៅលើទឹកដីអព្យាក្រឹតមួយដែលត្រូវបានជ្រើសរើសយ៉ាងសមស្រប ។ បណ្តាប្រទេសក្នុងជំនឿត្រូវតែផ្តល់ការយល់ព្រម ចំពោះករណីមានការស្នើសុំអោយមានការជួបប្រជុំ ដែលគេលើកឡើងចំពោះខ្លួន ។ អាជ្ញាធរការពារនឹងដាក់សំណើសុំសេចក្តីយល់ព្រមពីសំណាក់ប្រទេសក្នុងជំនឿ សុំតែងតាំងបុគ្គលម្នាក់ ដែលមកពីប្រទេសអព្យាក្រឹត ឬក៏ជាបុគ្គលដែលតែងតាំងឡើងដោយលោកអគ្គនាយកអង្គការ អប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ដែលនឹងត្រូវអញ្ជើញអោយចូលរួមក្នុងកិច្ចប្រជុំ ក្នុងឋានៈជាប្រធាន ។

មាត្រា ២៣: សហប្រតិបត្តិការរបស់អង្គការ អប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ

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

មាត្រា ២៤: កិច្ចព្រមព្រៀងពិសេស

- ១- ប្រទេសចុះកិច្ចសន្យាទាំងអស់ អាចធ្វើកិច្ចព្រមព្រៀងពិសេសសំរាប់បញ្ហាទាំងអស់ដែលទាក់ទងលើយដែលគេចាត់ទុកថាមានលក្ខណៈសមស្របក្នុងការបង្កើតបញ្ញត្តិពិសេសដោយឡែក ។
- ២- គេពុំអាចធ្វើកិច្ចព្រមព្រៀងពិសេសណាមួយ ដែលប្រែទៅជាកាត់បន្ថយកិច្ចការពារដែលបានប្រឹងប្រែងធ្វើឡើងដោយអនុសញ្ញានេះចំពោះសម្បត្តិវប្បធម៌ និងចំពោះបុគ្គលិកដែលពាក់ព័ន្ធក្នុងការងារការពារសម្បត្តិវប្បធម៌បានឡើយ ។

មាត្រា ២៥: ការផ្សព្វផ្សាយអនុសញ្ញា

ប្រទេសចុះកិច្ចសន្យាទាំងអស់យល់ព្រម ទាំងក្នុងពេលមានសន្តិភាព ទាំងក្នុងពេលមានវិវាទប្រដាប់អាវុធ ផ្សព្វផ្សាយអត្ថបទនៃអនុសញ្ញា និងបទបញ្ជាសំរាប់ការអនុវត្តអនុសញ្ញានេះអោយបានទូលំទូលាយ តាមដែលអាចធ្វើទៅបាន នៅក្នុងប្រទេសរបស់ខ្លួន ។ ប្រទេសចុះកិច្ចសន្យាទាំងអស់យល់ព្រម ជាពិសេស

បញ្ចូលការសិក្សាលើបញ្ហានេះ ចូលទៅក្នុងកម្មវិធីហ្វឹកហ្វឺនយោធា និងប្រសិនបើអាច គឺទៅក្នុងកម្មវិធី
បណ្តុះបណ្តាលស៊ីវិល ដើម្បីអោយគោលការណ៍របស់អនុសញ្ញាត្រូវបានទទួលស្គាល់ដឹងនៅក្នុងស្រទាប់
មហាជនទាំងមូល ជាពិសេសក្នុងជួរកងកំលាំងប្រដាប់អាវុធ និងបុគ្គលិកដែលពាក់ព័ន្ធដល់ការងារការពារ
សម្បត្តិវប្បធម៌ ។

មាត្រា ២៦: ការបញ្ជូនសារ និងរបាយការណ៍

១- ប្រទេសចុះកិច្ចសន្យាទាំងអស់នឹងទាក់ទងគ្នាទៅវិញទៅមក តាមរយៈលោកអគ្គនាយកអង្គការអប់រំ
វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ នូវឯកសារជូនដំណឹងផ្លូវការដែលពាក់ព័ន្ធនឹងការអនុវត្ត
អនុសញ្ញា និងបទបញ្ជាសំរាប់ការអនុវត្តអនុសញ្ញានេះ ។

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

មាត្រា ២៧: ការជួបប្រជុំ

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

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

៣- លើសពីនេះទៀត ការប្រជុំអាចធ្វើការពិនិត្យឡើងវិញលើអនុសញ្ញា ឬបទបញ្ជាសំរាប់ការអនុវត្ត
អនុសញ្ញា ប្រសិនបើមានប្រទេសចុះកិច្ចសន្យាភាគច្រើនលើកសំណើសុំ ហើយដែលសមស្របទៅតាម
បញ្ញត្តិទាំងឡាយដែលមានចែងនៅក្នុងមាត្រា ៣៩ ។

មាត្រា ២៨: ទោសបញ្ញត្តិ

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

អមសាលបញ្ញត្តិ

មាត្រា ២៩: តាសា

- ១- អត្ថបទនៃអនុសញ្ញានេះត្រូវបានដាក់តែងឡើងជាភាសាអង់គ្លេស បារាំង រុស្ស៊ី និងអេស្ប៉ាញ៉ុល ហើយអត្ថបទទាំងបួនភាសានេះមានតំលៃស្មើគ្នាតាមផ្លូវច្បាប់ ។
- ២- អង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ នឹងរៀបចំអោយមានការបកប្រែអនុសញ្ញា នេះជាភាសាផ្លូវការដទៃទៀតរបស់មហាសន្និបាតរបស់ខ្លួន ។

មាត្រា ៣០: ការចុះហត្ថលេខា

អនុសញ្ញានេះ នឹងចុះកាលបរិច្ឆេទនៅថ្ងៃទី១៤ ខែឧសភា ឆ្នាំ១៩៥៤ និងរហូតដល់ថ្ងៃទី៣១ ខែធ្នូ ឆ្នាំ១៩៥៤ នឹងស្ថិតនៅជាចំហសំរាប់ការចុះហត្ថលេខាពីសំណាក់ប្រទេសទាំងអស់ដែលត្រូវបានអញ្ជើញ 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 ពីសំណាក់គណៈកម្មការប្រតិបត្តិ របស់អង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ។ ការសុំចូលជាសមាជិក ត្រូវធ្វើឡើងដោយការផ្តល់ឯកសារផ្លូវការនៃការសុំចូលជាសមាជិក ដល់លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ។

មាត្រា ៣៣: ការចូលជាធរមាន

- ១- អនុសញ្ញានេះនឹងចូលជាធរមាននៅរយៈពេលបីខែ បន្ទាប់ពីឯកសារផ្លូវការនៃការផ្តល់សច្ចានុម័តចំនួនប្រាំបួន ត្រូវបានគេផ្តល់ជូន ។
- ២- បន្ទាប់ពីនេះ វានឹងចូលជាធរមានសំរាប់ប្រទេសចុះកិច្ចសន្យានីមួយៗ នៅរយៈពេលបីខែ បន្ទាប់ពីប្រទេសនោះផ្តល់ឯកសារផ្លូវការនៃការផ្តល់សច្ចានុម័ត ឬឯកសារផ្លូវការនៃការសុំចូលជាសមាជិក ។
- ៣- ស្ថានភាពដែលមានចែងនៅក្នុងមាត្រា១៨ និង១៩ នឹងផ្តល់អនុភាពភ្លាមដល់សច្ចានុម័ត ឬការសុំចូលជាសមាជិក ដែលដាក់ធ្វើឡើងដោយប្រទេសពាក់ព័ន្ធក្នុងជំនឿ ទាំងមុនឬក្រោយការចាប់ផ្តើមនៃអវិភាព ឬការចូលកាន់កាប់ទឹកដី ។ ក្នុងករណីបែបនេះ លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ត្រូវបញ្ជូនព័ត៌មានដែលមានចែងនៅក្នុងមាត្រា៣៨ តាមវិធីយ៉ាងឆាប់បំផុត ។

មាត្រា ៣៤: ការអនុវត្តមានប្រសិទ្ធិភាព

- ១- ប្រទេសចុះកិច្ចសន្យានីមួយៗនៃអនុសញ្ញា នៅពេលដែលអនុសញ្ញាចូលជាធរមាន ត្រូវចាត់គ្រប់វិធានការចាំបាច់ទាំងឡាយ ដើម្បីធានាដល់ការអនុវត្តដ៏មានប្រសិទ្ធិភាពក្នុងរយៈពេលប្រាំមួយខែ បន្ទាប់ពីអនុសញ្ញាចូលជាធរមាន ។
- ២- រយៈពេលនេះគឺ៦ខែ គឺរាប់ចាប់ពីកាលបរិច្ឆេទនៃការផ្តល់ឯកសារផ្លូវការនៃការផ្តល់សច្ចានុម័ត ឬឯកសារផ្លូវការនៃការសុំចូលជាសមាជិក សំរាប់ប្រទេសទាំងអស់ដែលផ្តល់ឯកសារផ្លូវការនៃការផ្តល់សច្ចានុម័ត ឬឯកសារផ្លូវការនៃការសុំចូលជាសមាជិករបស់ខ្លួន ក្រោយពេលអនុសញ្ញាបានចូលជាធរមានទៅហើយនោះ ។

មាត្រា ៣៥: ការផ្សព្វផ្សាយអនុសញ្ញានៅទូទាំងប្រទេស

ប្រទេសចុះកិច្ចសន្យានីមួយៗ នៅពេលចុះហត្ថលេខាផ្តល់សច្ចានុម័ត ឬសុំចូលជាសមាជិក ឬនៅពេលណាមួយក្រោយពីពេលនោះ អាចប្រកាសដោយផ្តល់ព័ត៌មានដល់លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ថា អនុសញ្ញានេះនឹងត្រូវផ្សព្វផ្សាយនៅទូទាំងដែនដី ឬទូទាំងដែនដីណា

មួយដែលប្រទេសខ្លួនទទួលខុសត្រូវផ្នែកទំនាក់ទំនងអន្តរជាតិ ។ ការផ្តល់ព័ត៌មានដូចមានអធិប្បាយខាង
ដើមនេះ នឹងមានប្រសិទ្ធិភាពបន្ទាប់ពីរយៈពេលបីខែ ក្រោយកាលបរិច្ឆេទនៃការទទួល ។

មាត្រា ៣៦: ទំនាក់ទំនងចំពោះបណ្តាអនុសញ្ញាពិពេលមុន

១- ក្នុងទំនាក់ទំនងរវាងមហាអំណាចទាំងឡាយ ដែលជាប់សន្យានៅក្នុងបណ្តាអនុសញ្ញាទីក្រុងឡាអេ
ស្តីអំពីច្បាប់និងទំនៀមទំលាប់នៃសង្គ្រាមលើដី (IV) និងអនុសញ្ញាដែលស្តីអំពី *ការបញ្ជាក់កម្លាំងនៃកង
ទាហានជើងទឹកក្នុងពេលមានសង្គ្រាម* (IX) ទោះជាអនុសញ្ញាដែលចុះកាលបរិច្ឆេទថ្ងៃទី២៩ កក្កដា ឆ្នាំ
១៨៩៩ ឬក៏អនុសញ្ញាដែលចុះកាលបរិច្ឆេទថ្ងៃទី១៨ តុលា ឆ្នាំ១៩០៧ ក៏ដោយ ហើយដែលបានក្លាយជា
សមាជិកអនុសញ្ញានេះក្តី អនុសញ្ញាចុងក្រោយនេះនឹងបានជាការបំពេញបន្ថែមទៅលើអនុសញ្ញាដូចបាន
ចែងពីខាងលើនេះ (IX) និងទៅលើបទបញ្ជាដែលជាមុនសម្រាប់អនុសញ្ញាដូចបានចែងពីខាងលើ
(IV) ហើយ នឹងជំនួសអោយផ្នែកសញ្ញាដូចមានអធិប្បាយក្នុងមាត្រា៥ នៃអនុសញ្ញាដែលបានចែងពីខាង
លើ (IX) ដោយផ្នែកសញ្ញាដែលបានអធិប្បាយនៅក្នុងមាត្រា១៦ នៃអនុសញ្ញានេះ ក្នុងករណីដែល
អនុសញ្ញា និងបទបញ្ជាសំរាប់ការអនុវត្តអនុសញ្ញាចុងក្រោយនេះ ផ្តល់អោយមានការប្រើប្រាស់នូវផ្នែក
សញ្ញានេះ ។

២- ក្នុងទំនាក់ទំនងរវាងមហាអំណាចទាំងឡាយដែលជាប់សន្យានិងកតិកាសញ្ញាវ៉ាស៊ីងតោន ចុះថ្ងៃទី
១៥ ខែមករា ឆ្នាំ១៩៣៥ ស្តីពីការការពារបណ្តាវិមានសិល្បៈ និងវិទ្យាសាស្ត្រ និងសំណង់ប្រវត្តិសាស្ត្រ
(កតិកាសញ្ញា ROERICH) និងដែលជាសមាជិកនៃអនុសញ្ញានេះ អនុសញ្ញាក្រោយនេះនឹងបានជាការ
បំពេញបន្ថែមទៅលើកតិកាសញ្ញា ROERICH ហើយនឹងជំនួសអោយទង់ដែលមានអធិប្បាយនៅក្នុង
មាត្រាទី III នៃកតិកាសញ្ញា នូវផ្នែកសញ្ញាដែលមានរៀបរាប់ក្នុងមាត្រា១៦ នៃអនុសញ្ញានេះ ក្នុងករណី
ដែលអនុសញ្ញា និងបទបញ្ជាសំរាប់ការអនុវត្តអនុសញ្ញានេះ ផ្តល់អោយមានការប្រើប្រាស់ផ្នែកសញ្ញា
នេះ ។

មាត្រា ៣៧: ការប្រកាសបដិសេធន៍

១- ប្រទេសចុះកិច្ចសន្យានីមួយៗ អាចប្រកាសបដិសេធលុបចោលអនុសញ្ញានេះវិញបានដោយតាងនាម
ខ្លួនផ្ទាល់ ឬតាងនាមអោយដែនដីណាមួយដែលប្រទេសនោះទទួលខុសត្រូវផ្នែកទំនាក់ទំនងអន្តរជាតិ ។

២- ការប្រកាសបដិសេធ នឹងត្រូវធ្វើឡើងជាឯកសារផ្លូវការដោយលាយលក្ខណ៍អក្សរ ដែលត្រូវបញ្ជូន
ទៅលោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ។

៣- ការប្រកាសបដិសេធ នឹងបានទទួលអនុភាពគតិយុត្តិធម៌នៃរយៈពេលមួយឆ្នាំ ក្រោយពីគេបានទទួល
ឯកសារផ្លូវការនៃការប្រកាសបដិសេធ ។ យ៉ាងណាក្តី ប្រសិនបើនៅពេលផុតកំណត់នៃរយៈពេលនេះ
ប្រទេសដែលប្រកាសបដិសេធមិនទាក់ទិននៅក្នុងវិវាទប្រដាប់អាវុធណាមួយនោះ ការប្រកាសបដិសេធ
នោះនឹងពុំបានទទួលប្រសិទ្ធិភាពឡើយ រហូតទាល់តែសកម្មភាពអមិត្តនោះត្រូវបានបញ្ចប់ ឬរហូត
ទាល់តែប្រតិបត្តិការនៃការបញ្ជូនសម្បត្តិវប្បធម៌ត្រឡប់ទៅកន្លែងដើមវិញ ត្រូវបានបញ្ចេញរួចរាល់
ហើយសិន ទើបការប្រកាសបដិសេធជាងលើនឹងបានចូលជាធរមានជាក្រោយ ។

មាត្រា ៣៨: ការផ្តល់ព័ត៌មាន

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

មាត្រា ៣៩: វិសោធនកម្មនៃអនុសញ្ញា និងបទបញ្ជាសំរាប់ការអនុវត្តអនុសញ្ញា

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

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

២- លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ត្រូវបញ្ជូនចម្លើយដែល
បានទទួលដូចបានរៀបរាប់ក្នុងកថាខ័ណ្ឌទី១ នៃមាត្រានេះ ទៅអោយប្រទេសចុះកិច្ចសន្យាទាំងអស់ ។

៣- ប្រសិនបើប្រទេសចុះកិច្ចសន្យាទាំងអស់ ក្នុងកំឡុងពេលកំណត់ បានបញ្ជាក់នូវទស្សនៈរបស់ខ្លួនជូន
ដល់លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ស្របទៅតាមកថាខ័ណ្ឌ

ទី១ ខ នៃមាត្រានេះ ថាខ្លួនមានបំណងទទួលយកវិសោធនកម្មដោយគ្មានសន្និសីទការផ្តល់ព័ត៌មាន
ស្តីពីការសំរេចចិត្តរបស់គេនឹងត្រូវធ្វើឡើងដោយលោកអគ្គនាយក ដោយអនុលោមទៅតាមមាត្រា៣៨។
វិសោធនកម្ម និងមានអនុភាពគតិយុត្តិសំរាប់ប្រទេសចុះកិច្ចសន្យាទាំងអស់ នៅក្រោយ៥០ថ្ងៃ រាប់ពី
កាលបរិច្ឆេទនៃការផ្តល់ព័ត៌មាននេះ ។

៤- លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ត្រូវកោះបើកសន្និសីទនៃ
បណ្តាប្រទេសចុះកិច្ចសន្យាដើម្បីពិនិត្យពិចារណាលើសំណើសុំធ្វើវិសោធនកម្ម ប្រសិនបើមានលើសពីមួយ
ភាគពីរ នៃប្រទេសចុះកិច្ចសន្យាស្នើសុំដូច្នោះ ។

៥- វិសោធនកម្មលើអនុសញ្ញា ឬលើបទបញ្ជាសំរាប់ការអនុវត្តអនុសញ្ញាដែលបានដាក់អោយស្ថិតនៅ
ក្រោមបែបបទដូចបាននិយាយយោងក្នុងកថាខ័ណ្ឌមុននេះ នឹងចូលជាធរមាន តែនៅក្រោយពេលដែល
ប្រទេសចុះកិច្ចសន្យាទាំងអស់បានអនុម័តជាឯកច្ឆ័ន្ទនៅក្នុងសន្និសីទ និងត្រូវបានយល់ព្រមទទួលយក
ដោយប្រទេសចុះកិច្ចសន្យាទាំងអស់តែប៉ុណ្ណោះ ។

៦- ការយល់ព្រមទទួលយកដោយប្រទេសចុះកិច្ចសន្យាទាំងអស់ នូវវិសោធនកម្មនៃអនុសញ្ញា ឬវិសោធន
កម្មនៃបទបញ្ជាសំរាប់ការអនុវត្តអនុសញ្ញា ដែលបានអនុម័តដោយសន្និសីទ ដូចមានអធិប្បាយនៅក្នុង
កថាខ័ណ្ឌទី៤ និងទី៥ នៃមាត្រានេះ នឹងចូលជាធរមានដោយការផ្តល់ឯកសារផ្លូវការ ជូនចំពោះលោក
អគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ។

៧- បន្ទាប់ពីការចូលជាធរមានរបស់វិសោធនកម្មនៃអនុសញ្ញា ឬវិសោធនកម្មនៃបទបញ្ជាសំរាប់ការ
អនុវត្តអនុសញ្ញា គឺមានតែអត្ថបទនៃអនុសញ្ញា ឬបទបញ្ជាសំរាប់ការអនុវត្តអនុសញ្ញាដែលបានធ្វើ
វិសោធនកម្មនេះទេ ដែលនឹងស្ថិតនៅជាចំហសំរាប់ការផ្តល់សច្ចានុម័ត ឬការសុំចូលជាសមាជិក ។

មាត្រា៤០: ការចុះបញ្ជី

អនុលោមតាមមាត្រា១០២ នៃធម្មនុញ្ញរបស់អង្គការសហប្រជាជាតិ អនុសញ្ញានេះនឹងត្រូវចុះបញ្ជីនៅ
នឹងលេខាធិការដ្ឋានរបស់អង្គការសហប្រជាជាតិ តាមសំណើរបស់លោកអគ្គនាយកអង្គការអប់រំ
វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ។

នៅក្នុងភក្តីភាព និងសមត្ថកិច្ចដ៏បរិបូណ៌ ហត្ថលេខីទាំងអស់ បានចុះហត្ថលេខាលើអនុសញ្ញានេះ ។
ធ្វើនៅទីក្រុងឡាអេ ថ្ងៃទី១៤ ខែឧសភា ឆ្នាំ១៩៥៤ ជាច្បាប់តែមួយគត់ដែលនឹងត្រូវតំកល់ទុកនៅក្នុង
ប័ណ្ណសារដ្ឋានរបស់អង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ហើយច្បាប់ចម្លងដែល

បញ្ជាក់ថាត្រឹមត្រូវ និងត្រូវធ្វើជូនដល់ប្រទេសទាំងអស់ដូចបាននិយាយយោងនៅក្នុងមាត្រា៣០ និង៣២
រួមទាំងអង្គការសហប្រជាជាតិផងដែរ ។

មន្ត្រីសម្រាប់ការអនុវត្ត

អនុសញ្ញាស្តីអំពីការការពារសម្បត្តិវប្បធម៌

ក្នុងករណីមានជម្លោះប្រដាប់អាវុធ

ជំពូកទី១

ការត្រួតពិនិត្យ

មាត្រា១: បញ្ជីអន្តរជាតិរាយនាមបុគ្គល

នៅពេលអនុសញ្ញាចូលជាធរមាន លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជា
ជាតិ ត្រូវបង្កើតបញ្ជីអន្តរជាតិមួយ ដែលរួមមានឈ្មោះបុគ្គលទាំងអស់ដែលប្រទេសចុះកិច្ចសន្យាទាំង
អស់ចាត់តាំងឡើង ចាត់ទុកជាអ្នកមានសមត្ថភាពក្នុងការអនុវត្តតួនាទីជាប្រធានអគ្គស្នងការទទួលបន្ទុក
សម្បត្តិវប្បធម៌។ តាមគំនិតផ្តួចផ្តើមរបស់លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃ
សហប្រជាជាតិ បញ្ជីឈ្មោះនឹងត្រូវគេកែប្រែដោយទៀងទាត់ ដោយឈរលើមូលដ្ឋាននៃសំណើដែល
បណ្តាប្រទេសចុះកិច្ចសន្យាលើកឡើង ។

មាត្រា២: អង្គការត្រួតពិនិត្យ

បន្ទាប់ពីពេលដែលប្រទេសចុះកិច្ចសន្យាណាមួយ មានជាប់ទាក់ទិនក្នុងវិវាទប្រដាប់អាវុធក្រោម ដូចសេចក្តី
ដែលបានចែងក្នុងមាត្រា១៨ នៃអនុសញ្ញា:

ក- ប្រទេសនោះ ត្រូវតែងតាំងតំណាងម្នាក់អោយទទួលខុសត្រូវខាងការងារសម្បត្តិវប្បធម៌ដែលស្ថិត
នៅក្នុងដែនដីរបស់ខ្លួន ។ ប្រសិនបើប្រទេសនោះបានចូលទៅកាន់កាប់ប្រទេសមួយផ្សេងទៀត ប្រទេស
នោះត្រូវតែងតាំងអ្នកតំណាងពិសេសម្នាក់ អោយទទួលខុសត្រូវសម្បត្តិវប្បធម៌ ដែលស្ថិតនៅក្នុងដែនដី
របស់ប្រទេសមួយទៀតនោះ ។

ខ- អាជ្ញាធរការពារ ដែលជាតំណាងភាគីនីមួយៗដែលមានជម្លោះជាមួយប្រទេសចុះកិច្ចសន្យា ត្រូវតែង
តាំងគណៈប្រតិភូផ្លូវការទៅកាន់ប្រទេសខាងក្រោយនេះ ដោយអនុលោមតាមមាត្រា៣ ខាងក្រោម

គ- ប្រធានអគ្គស្នងការទទួលបន្ទុកសម្បត្តិវប្បធម៌ នឹងត្រូវគេតែងតាំងអោយទៅកាន់ប្រទេសចុះកិច្ច
សន្យានោះ អនុលោមតាមមាត្រា៤ ខាងក្រោមនេះ ។

មាត្រា ៣: ការគោរពវិន័យប្រតិបត្តិរបស់អាជ្ញាធរការពារ

អាជ្ញាធរការពារ ត្រូវតែងតាំងគណៈប្រតិភូរបស់ខ្លួន ដែលត្រូវបានជ្រើសរើសយកពីក្នុងសមាជិកបុគ្គលិក ការទូត ឬស្ថានកុងស៊ុល ឬបុគ្គលដទៃទៀត ដោយមានការយល់ព្រមពីសំណាក់ភាគីដែលគណៈប្រតិភូនេះ នឹងត្រូវបានទទួលស្គាល់ ។

មាត្រា ៤: ការគោរពវិន័យប្រធានអគ្គស្នងការ

- ១- ប្រធានអគ្គស្នងការទទួលបន្ទុកការងារសម្បត្តិវប្បធម៌ នឹងត្រូវគេជ្រើសរើសពីក្នុងបញ្ជីអន្តរជាតិនៃ ឈ្មោះបុគ្គល តាមរយៈកិច្ចព្រមព្រៀងរួម រវាងភាគីដែលប្រធានអគ្គស្នងការរូបនោះនឹងត្រូវគេទទួល ស្គាល់ ជាមួយនិងអាជ្ញាធរការពារដែលធ្វើសកម្មភាពតំណាងអោយបណ្តាភាគីបដិបក្ខ ។
- ២- ប្រសិនបើភាគីទាំងនោះពុំអាចឈានដល់កិច្ចព្រមព្រៀងបានទេ ក្នុងរយៈពេលពេលពេញលេញ គិតចាប់ពី ពេលចាប់ផ្តើមការពិភាក្សាលើចំណុចនេះ ភាគីទាំងនោះត្រូវស្នើសុំដល់ប្រធានតុលាការអន្តរជាតិអោយ ជួយតែងតាំងប្រធានអគ្គស្នងការ ហើយមន្ត្រីរូបនោះនឹងពុំទាន់ចូលកាន់តំណែងឡើយ រហូតទាល់តែភាគី ដែលនឹងត្រូវទទួលស្គាល់រូបលោក បានយល់ព្រមជាផ្លូវការទទួលយកការតែងតាំងនោះ ។

មាត្រា ៥: តួនាទីរបស់គណៈប្រតិភូ

គណៈប្រតិភូរបស់អាជ្ញាធរការពារ ត្រូវកត់ត្រានូវការរំលោភលើអនុសញ្ញា ស្តីបអង្កេតដោយមានការ ទទួលស្គាល់ពីសំណាក់ភាគីដែលបានទទួលស្គាល់ខ្លួន នូវសភាពការណ៍ដែលគេបានឃើញ ។ គណៈប្រតិភូ នេះត្រូវដោះស្រាយរាល់ការងារចំពោះមុខជាក់ស្តែងដទៃទៀតដែរ ដើម្បីធានាដល់ការបញ្ចប់សកម្ម ភាពរំលោភនានា និងប្រសិនបើចាំបាច់ ត្រូវផ្តល់ព័ត៌មានដល់លោកប្រធានអគ្គស្នងការស្តីពីការរំលោភ ទាំងនេះ ។ គណៈប្រតិភូត្រូវផ្តល់ព័ត៌មានជានិច្ចជាកាលដល់លោកប្រធានអគ្គស្នងការ ស្តីអំពីសកម្មភាព របស់ខ្លួន ។

មាត្រា ៦: តួនាទីរបស់ប្រធានអគ្គស្នងការ

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

៣- ដោយមានការយល់ព្រមពីសំណាក់ភាគីដែលទទួលស្គាល់រូបលោក លោកប្រធានអគ្គស្នងការនឹងមានសិទ្ធិបង្គាប់អោយមានការស៊ើបអង្កេត ឬក៏ធ្វើការស៊ើបអង្កេតនោះដោយខ្លួនលោកផ្ទាល់ ។

៤- លោកប្រធានអគ្គស្នងការនឹងតំណាងអោយបណ្តាភាគី ឬតំណាងអោយបណ្តាអាជ្ញាធរការពាររបស់ភាគីក្នុងជំនោះ ធ្វើរាល់សកម្មភាពដែលលោកចាត់ទុកជាការមានប្រយោជន៍ដល់ការអនុវត្តអនុសញ្ញា ។

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

៦- ប្រសិនបើគ្មានអាជ្ញាធរការពារទេ ប្រធានអគ្គស្នងការនឹងអនុវត្តតួនាទីជាអាជ្ញាធរការពារ 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: អ្នកទទួលអាជ្ញាធរការពារ

ប្រសិនបើភាគីមួយក្នុងជំនាន់ពុំបានទទួលផលប្រយោជន៍ ឬត្រូវគេទប់ស្កាត់មិនអោយទទួលបានប្រយោជន៍
ពីសកម្មភាពរបស់អាជ្ញាធរការពារ ប្រទេសអព្យាក្រឹតមួយអាចត្រូវគេសុំអោយមានតួនាទី ជាអាជ្ញាធរ
ការពារ ដែលមានភារកិច្ចតែងតាំងប្រធានអគ្គស្នងការទទួលបន្ទុកការងារសម្បត្តិវប្បធម៌ ស្របទៅតាម
បែបបទដូចមានចែងនៅក្នុងមាត្រា៤ពីខាងលើ ។ ប្រធានអគ្គស្នងការដែលត្រូវបានគេតែងតាំងឡើងនេះ
បើចាំបាច់ នឹងប្រគល់ជូនលោកអធិការ នូវតួនាទីជាប្រតិភូនៃអាជ្ញាធរការពារ ដូចសេចក្តីដែលបានចែង
កំណត់នៅក្នុងបទបញ្ជានេះ ។

មាត្រា១០: ការចំណាយ

ការទូទាត់ និងការចំណាយរបស់ប្រធានអគ្គស្នងការទទួលបន្ទុកការងារសម្បត្តិវប្បធម៌ អ្នកអធិការ
និងអ្នកឯកទេស ត្រូវរ៉ាប់រងដោយប្រទេសដែលគេកំពុងបំពេញភារកិច្ច ។ ការទូទាត់ និងការចំណាយទៅ
លើគណៈប្រតិភូនៃអាជ្ញាធរការពារ និងអាស្រ័យដោយការព្រមព្រៀងរវាងប្រទេស និងអាជ្ញាធរទាំង
នោះ ដោយឈរនៅលើទស្សនៈនៃការការពារផលប្រយោជន៍រួមគ្នា ។

ជំពូកទី២

ការការពារពិសេស

មាត្រា១១: ជំនក់រក្សាសម្បត្តិវប្បធម៌ជាបន្ទាន់

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

២- បើសិនជា លោកប្រធានអគ្គស្នងការយល់ថា វិធានការបែបនេះសមស្របទៅនឹងស្ថានភាពហើយ
ក៏ដោយសារសារៈសំខាន់នៃសម្បត្តិវប្បធម៌ត្រូវការពារ ដែលមាននៅក្នុងទីរក្សាជាបន្ទាន់នោះ លោកអាច
អនុញ្ញាតិអោយប្រទេសចុះកិច្ចសន្យានោះដាក់បង្ហាញនៅនឹងកន្លែងរក្សានោះ នូវផ្នែកសញ្ញាដូចមាន
ពណ៌នៅក្នុងមាត្រា១៦នៃអនុសញ្ញា ។ ប្រធានអគ្គស្នងការត្រូវផ្សព្វផ្សាយសេចក្តីសម្រេចចិត្តរបស់លោក

ដោយគ្មានបង្គង់ដល់បណ្តាប្រតិភូរបស់អាជ្ញាធរការពារដែលទាក់ទិន ប៉ុន្តែប្រតិភូនីមួយៗ ក្នុងចំណោម
ប្រតិភូទាំងនេះ ក្នុងកំឡុងកំណត់៣០ថ្ងៃ ក៏អាចចេញបញ្ជាអោយដកផ្ទាក់សញ្ញានោះចេញជាបន្ទាន់បាន
ដែរ ។

៣- ជាបន្ទាន់ បន្ទាប់ពីបណ្តាប្រតិភូបានចុះហត្ថលេខាព្រមព្រៀងរបស់ខ្លួន ឬបើក្នុងរយៈពេល៣០ថ្ងៃ គ្មាន
ប្រតិភូដែលពាក់ព័ន្ធឈាមួយសំដែងការជំទាស់ទេនោះ និងប្រសិនបើតាមទស្សនៈរបស់ប្រធានអគ្គស្នង
ការ ទីជំរកនោះបានបំពេញតាមលក្ខខណ្ឌដូចមានចែងនៅក្នុងមាត្រា៨ នៃអនុសញ្ញា លោកប្រធានអគ្គ
ស្នងការត្រូវលើកសំណើជូនទៅលោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌នៃសហប្រជាជាតិ
អោយបញ្ជូនទីជំរកនោះបញ្ជូនទៅក្នុងបញ្ជីនៃសម្បត្តិវប្បធម៌ដែលស្ថិតនៅក្រោមការការពារពិសេស ។

**មាត្រា១២: ការចុះបញ្ជីអន្តរជាតិនៃសម្បត្តិវប្បធម៌ដែលជាក់អោយស្ថិតនៅក្រោម
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 មជ្ឈមណ្ឌលដែលមានក្បួនតំណែលវប្បធម៌ និងអចលនសម្បត្តិវប្បធម៌ដទៃទៀត ។
លោកអគ្គនាយកនឹងកំណត់ថា តើខ្លឹមសារលំអិតអ្វីខ្លះដែលនឹងត្រូវរៀបរាប់នៅក្នុងជំពូកនីមួយៗនោះ ។

មាត្រា១៣: សំណើសំរាប់ការចុះបញ្ជី

១- ប្រទេសចុះកិច្ចសន្យានីមួយៗ អាចដាក់ជូនលោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌
នៃសហប្រជាជាតិ នូវពាក្យសុំបញ្ជូនទៅក្នុងបញ្ជី នូវទីជំរករក្សាសម្បត្តិវប្បធម៌ មជ្ឈមណ្ឌលដែលមាន
មរតកវប្បធម៌ ឬអចលនសម្បត្តិវប្បធម៌ដទៃទៀត ដែលមាននៅក្នុងដែនដីរបស់ខ្លួន ។ ពាក្យសុំបែបនេះ
ត្រូវរួមមានការពិពណ៌នាអំពីទីកន្លែងរបស់សម្បត្តិវប្បធម៌នោះតាំងនៅ ហើយនឹងមានបញ្ជាក់ថា សម្បត្តិ
វប្បធម៌នោះមានលក្ខខណ្ឌសមស្របទៅតាមប្រការដែលមានចែងនៅក្នុងមាត្រា៨ នៃអនុសញ្ញា ។

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

មាត្រា ១៤: ការជំទាស់

១- ប្រទេសចុះកិច្ចសន្យានីមួយៗអាចតាមរយៈលិខិត ផ្ញើជូនទៅលោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រនិងវប្បធម៌ នៃសហប្រជាជាតិ ដើម្បីធ្វើការជំទាស់បដិសេធចំពោះការចុះបញ្ជីនៃសម្បត្តិវប្បធម៌ ។ លោកអគ្គនាយក ត្រូវតែបានទទួលលិខិតថ្លែងការជំទាស់នោះក្នុងអំឡុងពេល៤ខែ គិតចាប់ពីថ្ងៃដែលលោកបានផ្សព្វផ្សាយពាក្យស្នើសុំចុះបញ្ជី ។

២- រាល់ការជំទាស់ទាំងឡាយ ត្រូវប្រកាសបញ្ជាក់ពីមូលហេតុដែលនាំអោយមានការជំទាស់ ហើយចំនុចដែលអាចជាបុព្វហេតុជំទាស់បាននោះគឺ:

- ក- សម្បត្តិនោះពុំមែនជាសម្បត្តិវប្បធម៌
- ខ- សម្បត្តិនោះគ្មានលក្ខណសម្បត្តិស្របទៅនឹងលក្ខខណ្ឌដូចមានចែងនៅក្នុងមាត្រា៨ នៃអនុសញ្ញាឡើយ ។

៣- លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ដោយគ្មានបង្គង់នឹងធ្វើលិខិតជំទាស់មួយច្បាប់ទៅប្រទេសចុះកិច្ចសន្យានីមួយៗ ។ ប្រសិនបើចាំបាច់ លោកនឹងស្នើសុំយោបល់ពីសំណាក់គណៈកម្មការអន្តរជាតិទទួលបន្ទុកប្រុងប្រយោជន៍ លានដ្ឋានប្រវត្តិសាស្ត្រនិងសិល្បៈ និងកិច្ចការកំណាយបុរាណវត្ថុ ហើយនិង បើសិនលោកគិតថាសមស្រប គឺពីសំណាក់អង្គការ ឬបុគ្គលមានសមត្ថកិច្ចដទៃទៀតផងដែរ ។

៤- លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ឬប្រទេសដែលធ្វើសំណើចុះបញ្ជី ត្រូវបំភ្លឺយ៉ាងណាដើម្បីធ្វើអោយប្រទេសចុះកិច្ចសន្យាដែលបានធ្វើលិខិតសុំជំទាស់នោះ យល់ថាចាំបាច់ត្រូវលុបចោលការជំទាស់នោះវិញ ។

៥- ប្រសិនបើប្រទេសចុះកិច្ចសន្យាមួយ ដែលបានដាក់ពាក្យសុំចុះបញ្ជីនៅពេលប្រទេសខ្លួនមានសន្តិភាព ហើយស្រាប់តែចូលប្រឡូកទៅក្នុងវិវាទប្រដាប់អាវុធមួយ មុនការចុះទៅក្នុងបញ្ជីនូវសម្បត្តិវប្បធម៌ដែលគេបានស្នើសុំនោះ សម្បត្តិដែលមានពាក់ព័ន្ធនោះនឹងត្រូវបានបញ្ចូលភ្លាម និងជាបណ្តោះអាសន្នទៅក្នុង

បញ្ជី ដោយលោកអគ្គនាយក នៅក្នុងពេលរង់ចាំការបញ្ជាក់បន្ថែមអំពីការដែលត្រូវដកចេញ ឬលុបចោល ទៅវិញនូវសំណើជំនាស់ណាមួយ ដែលអាចនឹង ឬដែលបានត្រូវធ្វើឡើងនោះ ។

៦- បើសិនជាក្នុងរយៈពេល៦ខែ គិតចាប់ពីកាលបរិច្ឆេទដែលគេទទួលបានលិខិតជំនាស់ លោកអគ្គនាយកពុំ បានទទួលពីប្រទេសដែលសុំជំនាស់នូវលិខិតលុបចោលការជំនាស់នោះ ប្រទេសដែលបានដាក់ពាក្យ ស្នើសុំចុះបញ្ជីអាចធ្វើសំណើអោយមានការសំរេចនៃអាជ្ញាកណ្តាល ស្របទៅតាមបែបបទដូចមានចែង នៅក្នុងកថាខ័ណ្ឌខាងក្រោយនេះ ។

៧- សំណើសុំអោយមានការសំរេចពីអាជ្ញាកណ្តាលពុំអាចធ្វើឡើងលើសពីរយៈពេល១ឆ្នាំ បន្ទាប់ពីលោក អគ្គនាយកបានទទួលលិខិតជំនាស់ឡើយ ។ ប្រទេសនីមួយៗ ក្នុងចំណោមប្រទេសទាំងពីរដែលមានទំនាស់ នឹងគ្នា ត្រូវតែងតាំងអាជ្ញាកណ្តាលម្នាក់មួយ ។ កាលណាមានការជំនាស់លើសពីមួយធ្វើឡើងប្រឆាំង សំណើសុំចុះបញ្ជីមួយ បណ្តាប្រទេសដែលសុំជំនាស់នឹងព្រមព្រៀងគ្នាតែងតាំងអាជ្ញាកណ្តាលតែមួយនាក់ គត់ ។ អាជ្ញាកណ្តាលទាំងពីររូប និងជ្រើសរើសប្រធានអាជ្ញាកណ្តាលម្នាក់ពីក្នុងបញ្ជីអន្តរជាតិដែលបាន ចែងកំណត់នៅក្នុងមាត្រា១នៃបទបញ្ជានេះ ។ ប្រសិនបើអាជ្ញាកណ្តាលទាំងនេះពុំអាចព្រមព្រៀងគ្នាលើ ការជ្រើសរើសរបស់គេទេនោះ គេនឹងស្នើដល់ប្រធានតុលាការអន្តរជាតិអោយជួយតែងតាំងប្រធានអាជ្ញា កណ្តាល ដែលគេពុំចាំបាច់ជ្រើសរើសចេញពីក្នុងបញ្ជីអន្តរជាតិនោះទេ ។ តុលាការកាត់ក្តីដែលបង្កើតនេះ នឹងបង្កើតវិធីធ្វើការងារផ្ទាល់របស់គេ ។ តុលាការនេះនឹងដាក់ចេញនូវសេចក្តីសំរេចដោយបិទផ្លូវពីទាំង អស់ ។

៨- ប្រទេសចុះកិច្ចសន្យានីមួយៗអាចប្រកាស នៅពេលកើតមានទំនាស់ហើយដែលប្រទេសខ្លួន គឺជាភាគី មួយដែរនោះ ថាខ្លួនពុំមានបំណងអនុវត្តវិធីធ្វើការងារដើម្បីដំណើរការកាត់ក្តីដូចមានចែងក្នុងកថាខ័ណ្ឌ ខាងលើនេះទេ ។ ក្នុងករណីបែបនេះ ការជំនាស់ចំពោះពាក្យសុំចុះបញ្ជី នឹងត្រូវលោកអគ្គនាយកបញ្ជូន ទៅគ្រប់ប្រទេសចុះកិច្ចសន្យាទាំងអស់ ។ គេនឹងយល់ព្រមទទួលយកសំណើជំនាស់លុះត្រាតែមានចំនួនពីរ ភាគបីនៃប្រទេសចុះកិច្ចសន្យាសំរេចចិត្តដូច្នោះតាមរយៈការបោះឆ្នោត ។ ការបោះឆ្នោតនឹងប្រព្រឹត្តទៅ តាមរយៈលិខិតឆ្លើយឆ្លង លើកលែងតែលោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហ ប្រជាជាតិ យល់ថាជាការចាំបាច់ត្រូវកោះអញ្ជើញអោយមានការប្រជុំ ដែលជាសិទ្ធិដែលបានផ្តល់ជូន លោក ដូចសេចក្តីមានចែងនៅក្នុងមាត្រា២៧ នៃអនុសញ្ញា ។ ប្រសិនបើលោកអគ្គនាយកសំរេចធ្វើការ បោះឆ្នោតដោយលិខិតឆ្លើយឆ្លង លោកនឹងស្នើសុំអោយបណ្តាប្រទេសចុះកិច្ចសន្យាធ្វើឆ្នោតរបស់គេជា

លិខិតផ្លូវការមានបោះព្រា ក្នុងអំឡុងពេល៦ខែ គិតចាប់ពីថ្ងៃដែលប្រទេសទាំងនោះបានទទួលលិខិតស្នើ
អោយបោះឆ្នោត។

មាត្រា ១៥: ការចុះបញ្ជី

១- លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ត្រូវផ្តល់អោយមានការ
បញ្ចូលក្នុងបញ្ជី តាមលេខរៀងត្រឹមត្រូវ នូវវត្ថុនីមួយៗនៃសម្បត្តិវប្បធម៌ដែលត្រូវបានគេស្នើសុំបញ្ចូល
វត្ថុទាំងនោះទៅក្នុងបញ្ជី អោយតែលោកពុំបានទទួលការជំទាស់ណាមួយ ក្នុងរយៈពេលកំណត់ដូចមាន
ចែងនៅក្នុងកថាខ័ណ្ឌទី១ នៃមាត្រា១៤ ។

២- បើសិនជាមានសំណើជំទាស់ និងដោយគ្មានការលំអៀងចំពោះប្រការដែលមានចែងនៅក្នុងកថាខ័ណ្ឌ
ទី៥ នៃមាត្រា១៤ 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
បង្កង់ ដល់លោកអគ្គលេខាធិការអង្គការសហប្រជាជាតិ ដល់បណ្តាប្រទេសចុះកិច្ចសន្យា និងយោងតាម
សំណើរបស់ប្រទេសដែលដាក់ពាក្យសុំចុះបញ្ជី បញ្ជូនទៅប្រទេសដទៃទៀតដូចមានអធិប្បាយនៅក្នុង
មាត្រា៣០ និង៣២ នៃអនុសញ្ញា នូវច្បាប់ចម្លងបញ្ជាក់មួយស្តីពីការបញ្ចូលសម្បត្តិវប្បធម៌នីមួយៗទៅ
ក្នុងបញ្ជី។ ការចូលទៅក្នុងបញ្ជី នឹងមានអនុភាពក្រោយ៣០ថ្ងៃ បន្ទាប់ពីការបញ្ជូនច្បាប់ចម្លងទាំងនោះ
ទៅគ្រប់ទីកន្លែង ។

មាត្រា ១៦: ការលុបចោលសំណើសុំចុះបញ្ជី

១- លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ នឹងលុបចោលការចុះបញ្ជី
នូវសម្បត្តិវប្បធម៌ណាមួយ:

ក- តាមសំណើរបស់ប្រទេសចុះកិច្ចសន្យាដែលសម្បត្តិវប្បធម៌នោះតាំងនៅ

ខ- ប្រសិនបើប្រទេសចុះកិច្ចសន្យាដែលស្នើសុំអោយមានការចុះបញ្ជី បានប្រកាសបដិសេធឈ្មោះ
អនុសញ្ញាវិញ និងនៅពេលដែលការប្រកាសបដិសេធវិញនោះបានចូលជាធរមានហើយ

គ- ក្នុងករណីពិសេសដូចមានចែងក្នុងកថាខ័ណ្ឌទី៥ មាត្រា១៤ ពេលដែលពាក្យសុំដំណាច់ បានទទួលការ
យល់ព្រមដោយឆ្លងកាត់ដំណើរការដូចមានចែងក្នុងកថាខ័ណ្ឌទី៧ ឬទី៨ នៃមាត្រា១៤ ។

២- លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ត្រូវធ្វើដោយគ្មានបង្កង់
ជូនទៅលោកអគ្គលេខាធិការអង្គការសហប្រជាជាតិ និងជូនដល់ប្រទេសទាំងអស់ដែលបានទទួលលិខិត
ចំណងមួយច្បាប់ស្តីពីការបញ្ជូនទៅក្នុងបញ្ជី នូវលិខិតបញ្ជាក់មួយច្បាប់ស្តីពីការលុបចោលការចុះបញ្ជី
នោះវិញ ។ ការលុបចោលនឹងចូលជាធរមានក្រោយ៣០ថ្ងៃ បន្ទាប់ពីការចែកចាយលិខិតទាំងនោះទៅ
កាន់គ្រប់ទីកន្លែង ។

ជំពូកទី៣

ការដឹកជញ្ជូនសម្បត្តិវប្បធម៌

មាត្រា១៧: បែបបទដើម្បីទទួលបានអត្ថប្រយោជន៍

១- សំណើដូចមានចែងនៅក្នុងកថាខ័ណ្ឌទី១ មាត្រា១២ នៃអនុសញ្ញា និងត្រូវគេបញ្ជូនទៅលោកប្រធាន
អគ្គស្នងការទទួលបន្ទុកការងារសម្បត្តិវប្បធម៌ ។ សំណើនោះត្រូវបង្ហាញពីមូលហេតុដែលត្រូវអោយមាន
ការផ្លាស់ប្តូរទីកន្លែងសម្បត្តិវប្បធម៌នោះ និងបញ្ជាក់នូវចំនួនប្រហាក់ប្រហែល និងអំពីសារសំខាន់នៃវត្ថុ
ដែលត្រូវដឹកជញ្ជូន ទីកន្លែងបច្ចុប្បន្នរបស់វា ទីកន្លែងដែលគ្រោងនឹងបញ្ជូនវត្ថុនោះទៅទុកមធ្យោបាយ
ដឹកជញ្ជូនដែលត្រូវប្រើ ផ្លូវដែលត្រូវឆ្លងកាត់ កាលបរិច្ឆេទសំរាប់ការដឹកជញ្ជូន និងព័ត៌មានទាក់ទងដទៃ
ទៀត ។

២- ប្រសិនបើលោកប្រធានអគ្គស្នងការ បន្ទាប់ពីបានគិតពីកំរិតដែលយល់ថាសមស្រប យល់ថាការដឹក
ជញ្ជូនផ្លាស់ប្តូរទីកន្លែងនេះមានហេតុផលសមស្រប លោកនឹងពិគ្រោះយោបល់ជាមួយគណៈប្រតិភូនៃ
អាជ្ញាធរការពារដែលទាក់ទង ទៅលើវិធានការដែលលើកឡើងសំរាប់អនុវត្តការងារដឹកជញ្ជូន ។ បន្ទាប់
ពីការពិគ្រោះយោបល់នោះមក លោកប្រធានអគ្គស្នងការត្រូវផ្តល់ព័ត៌មានដល់បណ្តាភាគីក្នុងជំនោរ អំពី
ការដឹកជញ្ជូន រួមទាំងព័ត៌មានសមស្របដទៃទៀតផងដែរ ។

៣- លោកប្រធានអគ្គស្នងការត្រូវតែងតាំង អធិការម្នាក់ ឬច្រើននាក់ ដែលជាអ្នកធានាថាត្រូវដឹកជញ្ជូន
តែវត្ថុដែលមានបញ្ជាក់ក្នុងសំណើ ហើយការដឹកជញ្ជូនត្រូវតែប្រព្រឹត្តទៅតាមទម្រង់ការដែលបានព្រម

ព្រៀងរួចហើយ ហើយត្រូវមានភ្ជាប់ទាំងផ្នែកសញ្ញាផងដែរ។ អធិការទាំងនេះនឹងត្រូវទៅតាមវត្តដឹក
ជញ្ជូននោះជាប់រហូត ទាល់តែវត្តនោះបានទៅដល់គោលដៅរបស់វា។

មាត្រា១៨: ការដឹកជញ្ជូននៅប្រទេស

ពេលដែលការដឹកនាំស្ថិតនៅក្រោមការការពារពិសេស ត្រូវបានប្រព្រឹត្តទៅពីប្រទេសមួយចូលទៅកាន់
ដែនដីនៃប្រទេសមួយទៀត វានឹងត្រូវប្រព្រឹត្តទៅដោយមិនត្រឹមតែអនុលោមទៅតាមមាត្រា១២ នៃ
អនុសញ្ញា និងមាត្រា១៧ នៃបទបញ្ជានេះប៉ុណ្ណោះទេ តែត្រូវតែប្រព្រឹត្តទៅតាមចំណុចបន្ថែមដូចតទៅ
នេះ:

ក- ពេលដែលសម្បត្តិវប្បធម៌ស្ថិតនៅលើទឹកដីប្រទេសមួយផ្សេងទៀត ប្រទេសនោះនឹងក្លាយទៅជា
កន្លែងទទួលថែរក្សាសម្បត្តិទាំងនោះ ហើយប្រទេសនោះត្រូវតែយកចិត្តទុកដាក់ថែទាំយ៉ាងប្រុងប្រយ័ត្ន
នូវសម្បត្តិទាំងនោះ ហាក់បីដូចជាខ្លួនយកចិត្តទុកដាក់ថែរក្សាសម្បត្តិវប្បធម៌ដ៏មានតំលៃផ្ទាល់ខ្លួនដូច្នោះ
ដែរ

ខ- ប្រទេសដែលទទួលថែរក្សា និងបញ្ជូនសម្បត្តិនោះសងមកវិញ តែនៅពេលបញ្ចប់ជំនាញ ហើយការ
បញ្ជូនត្រឡប់មកវិញនោះនឹងមានអនុភាពនៃរយៈពេល៦ខែ បន្ទាប់ពីកាលបរិច្ឆេទដែលគេស្នើឡើង

គ- ក្នុងរយៈពេលនៃប្រតិបត្តិការដឹកជញ្ជូនផ្សេងៗ និងនៅពេលដែលវាស្ថិតនៅលើដែនដីនៃប្រទេសមួយ
ទៀត សម្បត្តិវប្បធម៌នឹងត្រូវបានរួចផុតពីគ្រប់ការប្រហារបីបង្កស និងពុំអាចត្រូវបានចាត់ចែង បែងចែក
ដោយអ្នកថែទាំ ឬដោយកន្លែងទទួលថែទាំសម្បត្តិនោះបានឡើយ។ លើសពីនេះទៀត នៅពេលដែល
សភាពការណ៍សន្តិសុខសំរាប់សម្បត្តិនោះត្រូវប្រទេសដែលទទួលថែរក្សា ដោយមានការយល់ព្រមពីអ្នក
ថែទាំផង អាចបញ្ជូនសម្បត្តិនោះទៅកាន់ដែនដីនៃប្រទេសទីបីទៀត ដោយត្រូវគោរពតាមលក្ខខណ្ឌដូច
មានអធិប្បាយនៅក្នុងមាត្រានេះ

ឃ- សំណើសុំការការពារពិសេសត្រូវបញ្ជាក់អោយច្បាស់ថា ប្រទេសដែលគេចំរុះនឹងបញ្ជូនសម្បត្តិ
វប្បធម៌ទៅនោះ ពិតជាទទួលយកបញ្ញត្តិទាំងឡាយដែលបានចែងនៅក្នុងមាត្រានេះ។

មាត្រា១៩: ដែនដីដែលគេចូលទៅកាន់កាប់

នៅពេលណាដែលប្រទេសចុះកិច្ចសន្យាមួយ ចូលទៅកាន់កាប់ទឹកដីរបស់ប្រទេសចុះកិច្ចសន្យាមួយទៀត
ហើយបានបញ្ជូនសម្បត្តិវប្បធម៌ទៅកាន់កន្លែងថែរក្សាដែលស្ថិតនៅទីណាមួយក្នុងទឹកដីនោះ ដោយពុំ
អាចអនុវត្តតាមបែបបទដូចមានចែងនៅក្នុងមាត្រា១៧ នៃបទបញ្ជានេះ ការដឹកជញ្ជូនផ្លាស់ប្តូរទីកន្លែង

នោះ នឹងពុំត្រូវគេចាត់ទុកថាជាការយកទៅធ្វើជាកម្មសិទ្ធិរបស់ខ្លួនដោយខុសច្បាប់ ដូចសេចក្តីដែលមាន
ចែងនៅក្នុងមាត្រា៤នៃអនុសញ្ញាទេ ប្រសិនបើប្រធានអគ្គស្នងការទទួលបន្ទុកការងារសម្បត្តិវប្បធម៌
បានបញ្ជាក់ជាលាយលក្ខណ៍អក្សរ បន្ទាប់ពីបានពិគ្រោះយោបល់ជាមួយស្នងការការពារថា ការដឹកជញ្ជូនប្តូរទី
កន្លែងនេះ ប្រព្រឹត្តទៅក្រោមកាលៈទេសៈដ៏ចាំបាច់នោះ ។

ជំពូកទី៤

ផ្នែកសញ្ញាសំគាល់

មាត្រា២០: ការលើកផ្នែកសញ្ញា

១- ការដាក់ភ្ជាប់នូវផ្នែកសញ្ញា ហើយនិងកំរិតនៃការបញ្ចេញអោយឃើញផ្នែកសញ្ញា នឹងត្រូវសំរេច
ដោយរដ្ឋអំណាចមានសមត្ថកិច្ចនៃប្រទេសចុះកិច្ចសន្យានីមួយៗ ។ គេអាចលើកបង្ហាញផ្នែកសញ្ញានៅលើ
ទង់ ឬនៅលើប្រឡងដៃ ។ គេក៏អាចគូរវានៅលើវត្ថុអ្វីមួយ ឬបង្ហាញតាមទម្រង់សមស្របដទៃទៀតបាន
ដែរ ។

២- យ៉ាងណាក៏ ដោយពុំអោយច្រឡំទៅនឹងផ្នែកចំណាំដទៃទៀតដែលអាចមាន ផ្នែកសញ្ញានេះក្នុងករណី
មានជំលោះប្រដាប់អាវុធ ឬក្នុងករណីដូចមានអធិប្បាយក្នុងមាត្រា១២ និង១៣ នៃអនុសញ្ញានឹងត្រូវបាន
គេដាក់បង្ហាញនៅលើយានដឹកជញ្ជូន ដើម្បីអោយគេអាចមើលវាឃើញច្បាស់ នៅពេលថ្ងៃពីលើអាកាស
ក៏ដូចជានៅនឹងដី ។ គេអាចមើលឃើញផ្នែកសញ្ញានៅនឹងដីដោយៈ

ក- ក្នុងគំរូគ្រឹះឡើងទាត់ ដែលគ្រប់គ្រាន់ដើម្បីបង្ហាញយ៉ាងច្បាស់នូវបរិវេណ មជ្ឈមណ្ឌលដែលមាន
មរតកវប្បធម៌ស្ថិតក្រោមការការពារពិសេស

ខ- នាមាត់ច្រកចូលទៅកាន់អចលនសម្បត្តិវប្បធម៌ដទៃទៀត ដែលស្ថិតនៅក្រោមការការពារពិសេស ។

មាត្រា២១: អត្តសញ្ញាណប័ណ្ណរបស់បុគ្គលិក

១- បុគ្គលដូចមានរៀបរាប់នៅក្នុងមាត្រា១៧ កថាខ័ណ្ឌទី២ ក និងគ នៃអនុសញ្ញា អាចពាក់ប្រឡងដៃ
ដែលមានផ្នែកសញ្ញាដែលចារ និងបោះត្រាដោយរដ្ឋអំណាចមានសមត្ថកិច្ច ។

២- បុគ្គលបែបនេះអាចកាន់អត្តសញ្ញាណប័ណ្ណពិសេសដែលមានផ្នែកសញ្ញាសំគាល់ ។ អត្តសញ្ញាណប័ណ្ណ
នេះត្រូវអធិប្បាយយ៉ាងហោចណាស់គឺ តោត្តនាម និងនាម កាលបរិច្ឆេទកំណើត មុខងារឬឋានៈ និង
តួនាទីរបស់អ្នកកាន់អត្តសញ្ញាណប័ណ្ណ ។ អត្តសញ្ញាណប័ណ្ណនេះនឹងមានបិទបិទរបស់ម្ចាស់អ្នកកាន់ រួម

ទាំងហត្ថលេខា ឬស្នាមផ្ដិតម្រាមដៃ ឬទាំងពីរមុខ ។ អត្តសញ្ញាណប័ណ្ណនេះត្រូវមានបោះត្រាផុសរបស់រដ្ឋ
អំណាចមានសមត្ថកិច្ច ។

៣- ប្រទេសចុះកិច្ចសន្យានីមួយៗ នឹងបង្កើតនូវប្រភេទអត្តសញ្ញាណប័ណ្ណរបស់ប្រទេសខ្លួនស្របទៅតាម
គំរូដែលភ្ជាប់ជាមួយទុកជាឧទាហរណ៍នៅក្នុងបទបញ្ជានេះ ។ ប្រទេសចុះកិច្ចសន្យានីមួយៗនឹងធ្វើអោយ
គ្នាទៅវិញទៅមកនូវគំរូអត្តសញ្ញាណប័ណ្ណដែលប្រទេសគេប្រើប្រាស់ ។ អត្តសញ្ញាណប័ណ្ណនឹងត្រូវធ្វើឡើង
ប្រសិនបើអាច យ៉ាងហោចណាស់ជាពីរច្បាប់ មួយច្បាប់ត្រូវរក្សាទុកដោយរដ្ឋអំណាច ដែលជាអ្នកចេញ
អត្តសញ្ញាណប័ណ្ណនេះ ។

៤- បុគ្គលដូចពណ៌នាមកនេះ បើគ្មានមូលហេតុត្រឹមត្រូវតាមច្បាប់ ពុំអាចត្រូវគេដកហូតអត្តសញ្ញាណ
ប័ណ្ណ ឬសិទ្ធិពាក់ប្រឡង់ដែរបស់គេឡើយ ។

ពិធីសារ

បណ្តាប្រទេសចុះកិច្ចសន្យា បានព្រមព្រៀងដូចតទៅ៖

១-

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

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

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

៤- ប្រទេសចុះកិច្ចសន្យា ដែលមានកាតព្វកិច្ចទប់ស្កាត់ការនាំចេញសម្បត្តិវប្បធម៌ក្នុងដែនដីដែលខ្លួនបាន ចូលទៅកាន់កាប់ ត្រូវទូទាត់សងទៅម្ចាស់ទ្រព្យណាដែលបានទិញសម្បត្តិនោះដោយសុចរិត នៅពេល ដែលសម្បត្តិនោះត្រូវសងត្រឡប់ទៅម្ចាស់ដើមវិញ ស្របទៅតាមអត្ថន័យដូចមានចែងនៅក្នុងកថាខ័ណ្ឌ មុននេះ ។

២-

៥- សម្បត្តិវប្បធម៌ដែលបាននាំចេញពីដែនដីនៃប្រទេសចុះកិច្ចសន្យាមួយ ហើយដែលបានទុកដាក់នៅក្នុង ប្រទេសចុះកិច្ចសន្យាមួយទៀត ក្នុងគោលបំណងថែរក្សាការពារទ្រព្យនោះចៀសពីគ្រោះថ្នាក់ផ្សេងៗ ដែលបណ្តាលមកអំពីជំនោះប្រដាប់អាវុធ និងត្រូវបញ្ជូនត្រឡប់ទៅវិញដោយប្រទេសខាងក្រោយនេះ ទៅអោយរដ្ឋអំណាចមានសមត្ថកិច្ចនៃប្រទេសម្ចាស់ទ្រព្យនៅពេលបញ្ចប់អវិភាព ។

៣-

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

៧-

ក) ពិធីសារនេះនឹងត្រូវទទួលការផ្តល់សច្ចានុម័តពីសំណាក់ប្រទេសហត្ថលេខី ស្របទៅតាមរដ្ឋធម្មនុញ្ញ របស់ប្រទេសនីមួយៗទាំងនោះ ។

ខ) ឯកសារផ្លូវការនៃការផ្តល់សច្ចានុម័ត និងត្រូវបញ្ជូនដល់លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ។

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

៩- បណ្តាប្រទេសទាំងឡាយដូចមាននិយាយយោងនៅក្នុងកថាខ័ណ្ឌទី៦ និងទី៨ អាចប្រកាសក្នុងពេលចុះ ហត្ថលេខាផ្តល់សច្ចានុម័ត ឬពេលចុះហត្ថលេខាសុំចូលជាសមាជិក ថាខ្លួននឹងមិនអនុវត្តតាមបញ្ញត្តិទាំង ឡាយនៃផ្នែកទី១ និងទី២ នៃពិធីសារនេះបាន ។

១០-

ក) ពិធីសារនេះនឹងចូលជាធរមាននៅរយៈពេល៣ខែ បន្ទាប់ពីគេបានទទួលឯកសារផ្លូវការនៃការ ផ្តល់សច្ចានុម័តចំនួន៥ច្បាប់ រួមមកនោះ ។

ខ) ចាប់ពីពេលនោះទៅ វានឹងចូលជាធរមានសំរាប់ប្រទេសចុះកិច្ចសន្យានីមួយៗនៅរយៈពេល៣ខែ បន្ទាប់ពីពេលដែលប្រទេសនោះផ្តល់ឯកសារនៃការផ្តល់សច្ចានុម័ត ឬឯកសារផ្លូវការនៃការសុំចូលជា សមាជិក ។

គ) ស្ថានភាពដូចមានចែងនៅក្នុងមាត្រា១៨ និង១៩ នៃអនុសញ្ញា ស្តីពីការការពារសម្បត្តិវប្បធម៌ក្នុង គ្រាមានជម្លោះប្រដាប់អាវុធ ដែលបានចុះហត្ថលេខានៅទីក្រុងឡាអេ ថ្ងៃទី១៤ ឧសភា ឆ្នាំ១៩៥៤ និង ផ្តល់អនុភាពភ្លាមដល់សច្ចានុម័ត និងពាក្យសុំចូលជាសមាជិកដែលស្នើឡើងដោយប្រទេសទាំងឡាយក្នុង ជម្លោះ ទាំងមុន ឬក្រោយការចាប់ផ្តើមនៃជម្លោះ ឬការចូលកាន់កាប់ទឹកដី ។ ក្នុងករណីបែបនេះ លោក អគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ត្រូវបញ្ជូនព័ត៌មានដូចមានចែងក្នុង កថាខ័ណ្ឌទី១៤ ដោយវិធីណាមួយយ៉ាងឆាប់រហ័សបំផុត ។

១១-

ក) ប្រទេសនីមួយៗដែលជាសមាជិកនៃពិធីសារនេះ នាពេលដែលពិធីសារចូលជាធរមាន ត្រូវចាត់ គ្រប់វិធានការចាំបាច់នានាដើម្បីធានាការអនុវត្តអោយមានប្រសិទ្ធិភាព ក្នុងរយៈពេល ៦ខែ គិតចាប់ពីថ្ងៃ ពិធីសារចូលជាធរមាន ។

ខ) រយៈពេល៦ខែនេះ គឺគិតចាប់ពីថ្ងៃផ្តល់ឯកសារផ្លូវការនៃការផ្តល់សច្ចានុម័ត ឬការសុំចូលជាសមាជិក សំរាប់ប្រទេសណាដែលផ្តល់ឯកសារផ្លូវការនៃការផ្តល់សច្ចានុម័ត ឬ ឯកសារផ្លូវការនៃការសុំចូលជា សមាជិក ក្រោយពេលដែលពិធីសារចូលជាធរមានរួមមក ។

១២- ប្រទេសចុះកិច្ចសន្យានីមួយៗអាចប្រកាស ក្នុងពេលផ្តល់សច្ចានុម័ត ឬក្នុងពេលសុំចូលជាសមាជិក ឬពេលណាមួយក៏បានបន្ទាប់ពីនោះ ដោយផ្តល់ព័ត៌មានជូនចំពោះលោកអគ្គនាយកអង្គការអប់រំ វិទ្យា សាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ថាពិធីសារនេះនឹងត្រូវផ្សព្វផ្សាយនៅទូទាំងប្រទេស ឬទូទាំងដែន

ដីណាមួយដែលខ្លួនទទួលខុសត្រូវផ្នែកទំនាក់ទំនងអន្តរជាតិ ។ ការផ្តល់ព័ត៌មាននេះនឹងមានអនុភាពក្នុង
រយៈពេល៣ខែ បន្ទាប់ពីពេលដែលលោកអគ្គនាយកបានទទួល ។

១៣-

ក) ប្រទេសចុះកិច្ចសន្យានីមួយៗ អាចប្រកាសបដិសេធរូបបោលពិធីសារនេះវិញបាន ដោយតាងនាម
ខ្លួនផ្ទាល់ ឬតាងនាមអោយដៃនដីណាមួយដែលខ្លួនទទួលខុសត្រូវលើផ្នែកទំនាក់ទំនងអន្តរជាតិ ។

ខ) ការប្រកាសបដិសេធវិញនេះនឹងត្រូវធ្វើឡើងដោយឯកសារផ្លូវការ ជាលាយលក្ខណ៍អក្សរបញ្ជូនទៅ
លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ។

គ) ការប្រកាសបដិសេធវិញ នឹងមានអនុភាពក្រោយរយៈពេលមួយឆ្នាំបន្ទាប់ពីគេបានទទួលឯកសារផ្លូវ
ការប្រកាសបដិសេធនោះ ។ ទោះយ៉ាងណាក្តី ក្នុងពេលផុតកំណត់រយៈពេលនេះ ប្រសិនបើប្រទេសដែល
ប្រកាសបដិសេធនោះ មានជាប់ទាក់ទិននៅក្នុងវិវាទប្រដាប់អាវុធជាមួយវិញនោះការប្រកាសបដិសេធនោះ
នឹងពុំបានទទួលប្រសិទ្ធិភាពទេ រហូតទាល់តែជំលោះនោះបានត្រូវបញ្ចប់ ឬរហូតទាល់តែប្រតិបត្តិការ
បញ្ជូនសម្បត្តិវប្បធម៌សងគ្រឿងទៅវិញត្រូវបានបំពេញរួចរាល់សិន ទើបការប្រកាសបដិសេធនោះនឹង
បានចូលជាធរមានជាក្រោយ ។

១៤- លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ត្រូវផ្តល់ព័ត៌មានដល់
ប្រទេសទាំងឡាយដូចមានចែងនៅក្នុងកថាខ័ណ្ឌទី៦ និងទី៨ ព្រមទាំងជូនដល់អង្គការសហប្រជាជាតិផង
ដែរ ស្តីអំពីការផ្តល់ឯកសារផ្លូវការនៃការផ្តល់សច្ចានុម័ត ការសុំចូលជាសមាជិក ឬការទទួលស្គាល់ ដូច
មានចែងនៅក្នុងកថាខ័ណ្ឌទី៧ ៨ និង១៥ ហើយនិងការផ្តល់ឯកសារផ្លូវការនៃការផ្តល់ព័ត៌មាន និងការ
ប្រកាសបដិសេធវិញ ដូចមានចែងនៅក្នុងកថាខ័ណ្ឌទី១២ និង១៣ ។

១៥-

ក) ពិធីសារនេះអាចនឹងត្រូវកែសំរួលឡើងវិញ ប្រសិនបើមាន លើសពីមួយភាគបីនៃប្រទេសចុះ
កិច្ចសន្យាស្នើសុំអោយធ្វើវិសោធនកម្ម ។

ខ) លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ត្រូវកោះបើកសន្និសីទ
សំរាប់គោលបំណងនេះ ។

គ) វិសោធនកម្មនៃពិធីសារនេះនឹងចូលជាធរមានបាន លុះត្រាតែប្រទេសទាំងអស់ដែលចូលរួមក្នុង
សន្និសីទ បានអនុម័តជាឯកច្ឆ័ន្ទ នឹងទទួលយកដោយភាគីនីមួយៗនៃប្រទេសចុះកិច្ចសន្យា ។

ឃ) ការទទួលយក ពីសំណាក់ប្រទេសចុះកិច្ចសន្យាទាំងអស់នូវវិសោធនកម្មលើពិធីសារនេះដែលបាន
អនុម័តដោយសន្និសីទ ដូចមានរៀបរាប់នៅក្នុងអនុកថាខ័ណ្ឌ ខ និងគ នឹងទទួលបានអនុភាពដោយការ
ផ្តល់ឯកសារផ្លូវការជូនទៅលោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហប្រជាជាតិ ។

ង) បន្ទាប់ពីវិសោធនកម្មនៃពិធីសារចូលជាធរមានរួចមក គឺមានតែអត្ថបទនៃពិធីសារដែលបានធ្វើ
វិសោធនកម្មនេះទេដែលនឹងស្ថិតនៅជាចំហសំរាប់ការផ្តល់សច្ចានុម័ត ឬការសុំចូលជាសមាជិក ។

អនុលោមទៅតាមមាត្រា១០២ នៃធម្មនុញ្ញរបស់អង្គការសហប្រជាជាតិ ពិធីសារនេះនឹងត្រូវចុះបញ្ជីនៅ
លេខាធិការដ្ឋានរបស់អង្គការសហប្រជាជាតិ តាមសំណើរបស់លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ
និងវប្បធម៌ នៃសហប្រជាជាតិ ។

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

សេចក្តីសម្រេច

សេចក្តីសម្រេចទី១

សន្និសីទសំដែងនូវសេចក្តីសម្បើមថា អង្គការមានសមត្ថកិច្ចនានារបស់អង្គការសហប្រជាជាតិនឹងធ្វើការ
សំរេចចិត្ត ក្នុងករណីកើតមានប្រតិបត្តិការយោធានៅក្នុងពេលអនុវត្តអនុសញ្ញា គឺតំរូវអោយកងយោធា
ដែលកំពុងធ្វើសកម្មភាពប្រដាប់អាវុធទាំងនោះ ត្រូវតែគោរពអនុវត្តតាមមាត្រាបញ្ញត្តិទាំងឡាយរបស់
អនុសញ្ញា ។

សេចក្តីសម្រេចទី២

សន្និសីទសំដែងនូវសេចក្តីសម្បើមថា ប្រទេសចុះកិច្ចសន្យានីមួយៗ ពេលក្លាយទៅជាសមាជិកអនុសញ្ញា
គប្បីបង្កើតឡើង នៅក្នុងក្របខ័ណ្ឌនៃប្រព័ន្ធធម្មនុញ្ញនិងរដ្ឋាភិបាលរបស់ខ្លួននូវគណៈកម្មាធិការពិគ្រោះ
យោបល់ជាតិមួយ ដែលរួមមានបុគ្គលល្បីឈ្មោះមួយចំនួន ជាឧទាហរណ៍មាន មន្ត្រីជាន់ខ្ពស់មួយចំនួននៃ
អង្គការសេវាកម្មផ្នែកបុរាណវិទ្យា ផ្នែកសារមន្ទីរ ។ល។ ប្រតិភូយោធាម្នាក់ ប្រតិភូក្រសួងការបរទេសម្នាក់

អ្នកឯកទេសច្បាប់អន្តរជាតិម្នាក់ និងសមាជិកមួយចំនួនទៀតដែលមានភារកិច្ច ឬមានឯកទេសលើវិស័យ ទាំងឡាយដែលបាននិយាយយោងនៅក្នុងអនុសញ្ញា ។

គណៈកម្មាធិការនេះគប្បីស្ថិតនៅក្រោមឱវាទរបស់ទេសរដ្ឋមន្ត្រី ឬមន្ត្រីជាន់ខ្ពស់ដែលទទួលខុសត្រូវក្នុង វិស័យសេវាកម្មជាតិ ដែលទាក់ទងជាពិសេសទៅនឹងការងាររក្សាការពារសម្បត្តិវប្បធម៌ ។ តួនាទីសំខាន់ៗ របស់គណៈកម្មាធិការនេះគឺ៖

- ក) ផ្តល់យោបល់ជូនរដ្ឋាភិបាលអំពីបណ្តាវិធានការចាំបាច់សំរាប់ការអនុវត្តអនុសញ្ញា លើវិស័យច្បាប់ បច្ចេកទេស ឬយោធា ទាំងក្នុងពេលដែលប្រទេសជាតិមានសន្តិភាព និងទាំងក្នុងពេលមានសង្គ្រាម ។
- ខ) ផ្តល់ជូនរដ្ឋាភិបាល នៅគ្រាមានកើតវិវាទប្រដាប់អាវុធ ឬនៅពេលដែលអធិការណ៍ហៀបនឹងផ្ទុះឡើង នូវទស្សនៈក្នុងការធានាថា សម្បត្តិវប្បធម៌ដែលស្ថិតនៅក្នុងដែនដីរបស់ប្រទេសខ្លួន ឬនៅក្នុងដែនដីរបស់ ប្រទេសដទៃទៀត ត្រូវបានទទួលស្គាល់ គោរព និងការពារ ពីសំណាក់កងកំលាំងប្រដាប់អាវុធរបស់ ប្រទេសខ្លួន ស្របទៅតាមមាត្រាបញ្ញត្តិទាំងឡាយរបស់អនុសញ្ញា ។
- គ) រៀបចំចាត់ចែង ដោយព្រមព្រៀងជាមួយរដ្ឋាភិបាលរបស់ខ្លួន អោយមានសម្ព័ន្ធភាព និងសហ ប្រតិបត្តិការជាមួយគណៈកម្មាធិការជាតិស្រដៀងគ្នានេះដទៃទៀត និងជាមួយអាជ្ញាធរអន្តរជាតិមាន សមត្ថកិច្ចណាមួយ ។

សេចក្តីសម្រេចទី៣៖

សន្និសីទសំដែងនូវសេចក្តីសង្ឃឹមថា លោកអគ្គនាយកអង្គការអប់រំ វិទ្យាសាស្ត្រ និងវប្បធម៌ នៃសហ ប្រជាជាតិ នឹងកោះប្រជុំប្រទេសប្តូរកិច្ចសន្យាទាំងអស់ អោយបានរាប់តាមដែលអាចធ្វើទៅបានបន្ទាប់ ពីអនុសញ្ញាស្តីពីការការពារសម្បត្តិវប្បធម៌ក្នុងគ្រាមានជំនោះប្រដាប់អាវុធ បានមូលជាធរមានរួចហើយ នោះ ។