



United Nations Educational, Scientific and Cultural Organization

Special committee of government experts to prepare a draft convention and a draft recommendation to Member States concerning the protection of monuments, groups of buildings and sites

Unesco House, 4-22 April 1972

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Translated from the French

DRAFT REPORT

A. GENERAL

1. A Committee of Government Experts, convened in application of resolution 3.412, adopted by the General Conference at its sixteenth session (October-November 1970), was held at Unesco House in Paris from 4 to 22 April 1972 to examine and finalize, on the basis of drafts submitted by the Unesco Secretariat, a draft convention and a draft recommendation for the protection of the cultural and natural heritage of mankind.
2. The representatives of 60 Member States of Unesco took part in the proceedings as chief participants with the right to vote. Six other Member States and two non-Member States were represented by observers. The following also took part in the proceedings as observers:
  - representatives of two organizations of the United Nations system, one of whom is a representative of the Secretariat responsible for preparing the Stockholm Conference on the Environment;
  - representatives of two other intergovernmental organizations; and
  - representatives of five international non-governmental organizations.The complete list of participants in the meeting is given in Annex III of this report.

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3. The secretariat for the meeting was provided by the Secretariat of Unesco.
4. In accordance with its rules of procedure, adopted at its first meeting, the Committee appointed Mr. Rafik Said (Tunisia) as President. It also appointed four Vice-Presidents - Mr. Renato Soeiro (Brazil), Mr. P.H. Bennett (Canada), Mrs. Suleiman (Indonesia) and Mr. W. Sieroszewski (Poland) - and a Rapporteur-General, Mr. H. Foramitti (Austria).
5. The Committee held 22 plenary meetings to study the draft convention and 5 plenary meetings to study the draft recommendation. The text of these two draft instruments is given in Annexes I and II respectively. During the proceedings, the Committee set up two working groups and two drafting committees, one committee to prepare the draft convention and the other to prepare the draft recommendation.
6. In the course of its work the Committee was presented with 128 draft amendments to the draft Convention and 46 draft amendments to the draft Recommendation.
7. The Director-General of Unesco, Mr. René Maheu, opened the meeting. After tracing the background history of the draft regulations prepared by the Secretariat and emphasizing that they had always covered both the cultural heritage and the natural heritage, he stated that on the eve of the Stockholm Conference on the Environment it seemed that the regulations envisaged "did not perhaps bring out the two aspects of the question (cultural heritage and natural heritage) clearly enough and did not strike a completely satisfactory balance between them". He therefore invited the Committee to give this question particular consideration in the light of the comments made by a number of Member States.
8. Before the Committee began its general discussion, the delegations of Algeria, the Byelorussian SSR, Iraq, Poland, the Ukrainian SSR and the USSR expressed their regret that the German Democratic Republic had not been invited to take part in the work of the Committee and they asked that their statement

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Following on the presentation of the draft regulations by the representative of the Director-General, a wide ranging general debate took place on the main questions of principle raised by the two draft instruments, in particular the field of application of the regulations contemplated, the respective scope of the two proposed instruments as regards national protection, the international machinery to be set up - bodies, a restricted list or international register, the nature of contributions to the International Fund and the procedure for international assistance. At the conclusion of this debate, the Committee appointed its Working Group I, composed of the representatives of Afghanistan, Algeria, Brazil, the Federal Republic of Germany, the Netherlands, Nigeria, the United States, the USSR and, ex officio, the Chairman and the Rapporteur-General, to propose a new structure for the draft Convention which would take into account the comments received from States subsequent to the preparation by the Secretariat of the draft Convention it had circulated in February 1972. Working Group I held two meetings, and proposed to the Committee both a new structure and new definitions of the cultural and natural heritages; this structure and these definitions were accepted in principle by the Committee, which then began its examination of the draft Convention - an examination to which it had meantime given priority - article by article, taking as working texts, in each case, either draft provisions prepared by the Working Group or the Secretariat, or texts proposed by Member States, in particular the United States of America.

10. The present report follows the structure finally adopted in the draft Convention prepared by the Drafting Committee, and an effort has been made to clarify certain points regarding the content of each article in this draft and to give a brief account of its origin.

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I. DEFINITIONS OF THE CULTURAL HERITAGE AND OF THE NATURAL HERITAGE

11. In view of the concern expressed by several Member States as well as by the Director-General, the Committee has tried throughout the draft Convention to strike a better balance between provisions relating to the cultural heritage and those relating to the natural heritage which are defined at the beginning of the Draft in Articles 1 and 2. These two provisions are so to speak the keystone of the building. They were drawn up by Working Group II, consisting of representatives of the following States: Brazil, France, Netherlands, Nigeria, Poland, Spain, United Kingdom, United States of America, USSR and ex officio the Rapporteur-General. Experts in the natural heritage and the representative of the International Union for the Conservation of Nature and Natural Resources (IUCN) participated in the discussions of this Working Group.

ARTICLE 1

12. The definition of the cultural heritage, which is divided into three parts - monuments, groups of buildings and (cultural) sites - was the subject of ten written draft amendments and a great many proposals for amendments submitted orally in the course of the discussion. Several were sent to Working Group II or to the Drafting Committee, which took them into account in preparing the final version. Others were formally adopted by the Committee, in particular:

an amendment seeking to limit the application of the Convention to parts of the cultural heritage which are "of outstanding universal value", and two amendments extending the field of application to works "of monumental sculpture and painting", that is, to paintings incorporated in immovable assets, on the one hand, and to "inscriptions" and "cave dwellings", on the other.

## ARTICLE 2

13. The definition of the natural heritage is also divided into three parts: natural features, special formations and areas and natural sites. When referring to "areas", the draft specifies that they must be "strictly delineated". As in the case of the cultural heritage, the natural heritage covered by the Convention must be "of outstanding universal value". Seven written draft amendments related to the draft provision drawn up by the Working Group and in this case, too, several amendments were submitted orally in the course of the discussion. Most of them were forwarded to Working Group II, which took them into account in the text if submitted, to which only minor amendments were made in the Committee. However, some members pointed out that in their view the use of an aesthetic criterion ("natural beauty") to define a protected natural area was likely to make the idea of the cultural heritage too broad, so that it could be applied to whole regions, such as the Côte d'Azur in France.

## ARTICLE 3

14. This new provision was inserted by Working Group II in order to make it clear that each State Party to the Convention is to determine which properties situated on its territory are part of the cultural or natural heritage, whether these properties constitute monuments, groups of buildings or cultural sites and, within these categories, whether they come under the heading of architectural works or of works of monumental sculpture and painting, etc. Similarly, each State Party must decide whether the part of its natural heritage that is in question is a natural feature, a geological formation or a natural site constituting the habitat of species of valuable and threatened animals and plants etc. Lastly, this provision means that it is the duty of each State Party to the Convention to delineate the topographical limits of the property to be protected, as for example a group of buildings or a natural site. Each State Party may of course regard a property that is part of its cultural heritage

or some part of its natural heritage as being of outstanding universal value, although it may not be considered as such for the purposes of the Convention - that is, it may not be included in one of the two lists provided for in Article 11. This is stated explicitly in Article 12 (see below).

15. It should be noted that, from Article 3 on, the provisions of the draft Convention apply equally to the cultural heritage and the natural heritage, thus ensuring the desired balance. There are no exceptions to the principle of applicability to both types of heritage, except where it is for practical reasons impossible to apply a provision either to the cultural heritage, or the natural heritage.

II. NATIONAL PROTECTION AND INTERNATIONAL PROTECTION OF THE CULTURAL AND NATURAL HERITAGE

ARTICLE 4

16. Under this provision, the States Parties recognize that they bear the chief responsibility for the cultural and natural heritage  included in the lists specified in Article 11 and  situated on their territory. They are primarily responsible for ensuring its identification, protection, conservation, presentation, rehabilitation and transmission to future generations. The notions of identification, protection, conservation, presentation and rehabilitation appear here for the first time in the draft Convention. All these notions or some of them recur several times in the course of the draft instrument. The ideas of conservation and identification were added as a result of the submission of two written amendments relating to Article 4. With regard to the latter, it should be understood that identification includes the actions of investigation and discovery.

ARTICLE 5

17. Some Member States raised the question whether a provision relating to protection at the national level should not be included in the

1. Recommendation rather than in the Convention. Some delegations would have preferred a provision containing no details with regard to the form that national protection should take. The majority of the Committee members, however, believed that a provision stipulating that protection should be afforded at the national level and specifying the best methods of ensuring such protection should be included in the Convention.

The Committee also added a provision urging States Parties to foster the establishment or development of national or regional training centres and to encourage scientific research in the fields covered by the Convention.

#### ARTICLE 6

18. While expressly retaining their sovereignty and any existing property rights to the cultural and natural heritage situated on their territory, the States Parties to the Convention recognize that the cultural and natural heritage included in the lists referred to in Article 11, constitutes a universal heritage and that they consequently have responsibilities for it on the international level. States Parties also undertake not to take any deliberate measures which might damage such heritage. The latter principle was adopted as the result of a written draft amendment submitted by a delegation. In similar conditions it was decided to stipulate that States Parties would carry out their undertaking to give help only on the request of the State Party on whose territory the cultural or natural heritage in question is situated. The Committee also decided not to specify in this provision the type of assistance that States Parties would undertake to provide, this question being the subject of provisions relating to the resources of the World Fund and international assistance measures.

#### ARTICLE 7

19. This provision sets forth the essential purpose of the Convention - to establish a system of international co-operation designed to preserve

becoming to a certain extent institutionalized. Proposals that two committees, or sub-committees, be established, one for the cultural heritage, the other for the natural heritage, were similarly rejected. Here, too, the majority of members of the Committee were anxious to preserve the unity of the Convention with regard to these two types of heritage.

#### ARTICLE 9

24. This provision establishes a system of rotation for the members of the World Heritage Committee, one third of which will be designated every two years. Thus, while the Committee is composed of 15 members, 5 members will be replaced every two years. When the number of members of the Committee has reached 21, seven members will be replaced every two years. Temporary provisions have been adopted in respect of the term of office of members during the six years following the entry into force of the Convention. Furthermore, it is laid down that the persons designated by the States Parties to sit on the Committee must be qualified in the field of the cultural or natural heritage.

#### ARTICLE 10

25. This provision stipulates that the World Heritage Committee shall adopt its Rules of Procedure and, furthermore, that it shall have complete freedom to consult public or private organizations or individuals, either in the course of its meetings or apart from them.

#### ARTICLE 11

26. This is one of the most important provisions of the Convention, since it assigns to the World Heritage Committee the task of establishing:  
a "World Heritage List" of all the properties of the cultural and natural heritage which the Committee considers as having outstanding universal value in terms of such criteria as it shall be called upon to establish;  
a "List of World Heritage in Danger", in which shall appear properties

"for the conservations of which major operations are necessary and for which international assistance has been requested under the present Convention". This second list may include only such property "as is threatened by serious and specific dangers".

27. These two lists are to be regularly kept up to date and distributed, and international assistance is to be used for property appearing in either one of these lists or in both of them. The inclusion of a property in these lists requires the consent of the State Party concerned. Although a request by the latter will be necessary before a property may be included in the "List of World Heritage in Danger", the Committee will be able to include a property in the "World Heritage List" without the State concerned having requested it, but on condition that it consents.

28. Prior to the establishment of these lists, the States Parties are to make every effort to submit to the World Heritage Committee inventories of property belonging to the cultural and natural heritage situated in their territory.

29. The system which has just been described was adopted after a series of lengthy discussions in the course of which eight draft amendments were submitted in writing. A proposal to establish different lists for the cultural heritage and the natural heritage was not adopted. It was suggested that inventories and lists be deposited at the future Unesco-ICOMOS documentation centre. The idea of taking steps to establish an international inventory was abandoned, mainly on account of the difficulties of a practical nature that this would entail.

#### ARTICLE 12

30. The principle set forth in this Article has already been referred to in the part of the present report which deals with Article 3. The principle proposed by one delegation in a draft amendment submitted in writing is

from taking the initiative in submitting proposals for revision of the Convention to the General Conference of Unesco. Such a possibility would be likely to facilitate the procedure of revision within the framework of the relevant regulations.