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Educational, Scientific and
Cultural Organization

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Организация
Объединенных Наций по
вопросам образования,
науки и культуры

منظمة الأمم المتحدة
للتربية والعلم والثقافة

联合国教育、
科学及文化组织

World Heritage

22 GA

WHC/19/22.GA/10

Paris, 14 October 2019

Original: English

UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

TWENTY-SECOND SESSION OF THE GENERAL ASSEMBLY OF STATES PARTIES TO THE CONVENTION CONCERNING THE PROTECTION OF THE WORLD CULTURAL AND NATURAL HERITAGE

Paris, UNESCO Headquarters

27-28 November 2019

Item 10 of the Provisional Agenda: Possibility of elaboration of a Code of Conduct for the States Parties, the World Heritage Centre and the Advisory Bodies

SUMMARY

This Document is presented in conformity with Decision **43 COM 12**, by which the World Heritage Committee encouraged informal consultations between States Parties on the possibility of the elaboration of a Code of Conduct for States Parties, the World Heritage Centre and the Advisory Bodies. By the same Decision, the Committee requested the World Heritage Centre to include an item to initiate discussion on the Code of Conduct in the agenda of the forthcoming 22nd session of the General Assembly of States Parties.

Draft Resolution: 22 GA 10, see point III.

I. BACKGROUND

1. By **Decision 38 COM 13** (Doha, 2014) the World Heritage Committee established, at the initiative of its members, an intersessional ad hoc working group with the aim to further discuss some critical issues between Committee sessions. Composed of members of the Committee and of States Parties non-members of the Committee, the Ad Hoc group presents its recommendations at each session of the Committee since 2015.
2. By Decision **43 COM 12** (Baku, 2019), the World Heritage Committee took note of the discussions held by the Ad Hoc Working Group which met in 2018/2019. In this framework, it encouraged informal consultations between States Parties on the possibility of the elaboration of a Code of Conduct for States Parties, the World Heritage Centre and the Advisory Bodies. It also requested the World Heritage Centre to include an item to initiate discussion on the Code of Conduct in the agenda of the forthcoming 22nd session of the General Assembly of States Parties.

II. NOTION OF CODE OF CONDUCT

3. It has appeared over the last decade that the credibility of the World Heritage system was at risk, due to profound changes in the practice and working methods of the World Heritage Committee, notably concerning inscriptions on the World Heritage List (i.e. a trend in practices of systematically deviating from experts' advice and overlooking provisions of the Operational Guidelines). On several occasions, it was noted by the Committee Members and States Parties that the principles of objectivity and impartiality - the fundamental principles of the Convention – were at stake.
4. Consequently, discussions and reflection around the indispensable ethical values of the different stakeholders of the Convention to ensure that the fundamental principles of objectivity, transparency and impartiality are respected and promoted within the process of decision-making of the Governing bodies of the 1972 Convention, have taken place both during World Heritage Committee and General Assembly sessions over the past 10 years. In this framework, several workshops, and meetings between States Parties, Advisory Bodies and the Secretariat were organized to further discuss these important issues (Workshop on the Future of the Convention (2009), Thinking Ahead initiative (2012 and 2015)). On these several occasions, elements that falls under the scope of a code of conduct were evoked.
5. Furthermore, at the request of the World Heritage Committee, the UNESCO's Internal Oversight Service (IOS) undertook in 2016 a study on *Comparative Mapping of Forms and Models for Use of Advisory Services by International Instruments and Programmes*. The outcomes of the study were included in the mandate of the 2017/2018 intersessional Ad Hoc Working Group which extensively discussed and analysed its 4 recommendations, among which one focuses on the need to identify the root cause(s) for Committee decisions deviating from Advisory Bodies advice.
6. The main root causes identified by the Working Group were: political interests and pressure given the huge financial and human investment in the preparation of nominations; a complicated nomination preparation process; and differences in scientific opinion. Based on these, above-mentioned root causes, the Working Group discussed and identified in 2018 possible ways and solutions to avoid such deviations. The proposals included, among others, the introduction of a "code of conduct for Committee Members".

7. The 2018/2019 Working Group agreed that a “Code of Conduct” for the States members of the Committee, the Advisory Bodies, the Secretariat to the Convention as well as the States Parties to the Convention was necessary. Such a Code should reflect the shared values, roles and responsibilities of all stakeholders expressed through the Convention, but also in its Operational Guidelines and the Rules of Procedure.
8. Consequently, the Working group recommended to the Committee to continue discussions on the introduction of Code of Conduct for Committee members, States Parties to Convention and the Advisory Bodies.
9. Further to Decision **43 COM 12**, the General Assembly is invited to discuss this matter.
10. For the purpose of the reflection on the possibility of elaboration of a code of conduct, it should be noted that the Advisory Bodies - IUCN, ICOMOS and ICCROM - are subject to their own staff rules and regulations (under different denomination such as staff Rules, Code of conduct and Professional Ethics or Ethical Principles). These standards apply to each of the above-mentioned Organizations in their own capacity but can be considered as reference in the framework of the reflection on the elaboration of a Code of Conduct addressed to all stakeholders of the 1972 World Heritage Convention.
11. Furthermore, and as noted by the Legal Adviser of UNESCO during the debates of the 43rd session of the Committee on this matter, the Secretariat of the Committee is composed of officials of UNESCO – appointed by the Director General of UNESCO – whose duties and obligations are embodied in UNESCO’s Staff Regulations that are approved by the General Conference. Pursuant to these Staff Regulations, UNESCO officials are subject to the authority of the Director-General and are responsible to the Director-General in the exercise of their duties. The Staff Regulations also provide that members of the Secretariat shall not accept instructions from any authority external to the Organization. It follows from the above that only the General Conference of UNESCO and the Director-General are entitled to impose rules of conduct on the Secretariat. The code of conduct could however refer, with respect to the Secretariat, to ethical principles that are enshrined in UNESCO’s Staff Rules and Regulations (i.e independence, impartiality and integrity).
12. In addition, as explained by the Legal Adviser, it would not be possible, through the adoption of a code of conduct, to impose on the States Parties to the Convention obligations additional to those foreseen in the Convention, nor could a code of conduct include procedural measures that would be in contradiction with the Rules of Procedure of the Committee.
13. Furthermore, consultations were made by the Secretariat regarding existing guidelines or norms of conduct that may be applicable to stakeholders of other normative instruments in the field of culture. In this regard, it is to be noted that Ethical Principles for Safeguarding Intangible Cultural Heritage have been elaborated for the stakeholders of the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage. They represent a set of overarching aspirational principles that are widely accepted as constituting good practices for governments, organizations and individuals directly or indirectly affecting intangible cultural heritage (see <https://ich.unesco.org/en/ethics-and-ich-00866>). While not fully comparable, such ethical principles might assist the reflection in a larger framework discussion concerning the elaboration of a code of conduct addressed to all stakeholders of the 1972 Convention.

14. At the close of its discussion the General Assembly may wish to adopt a resolution along the following lines:

III. DRAFT RESOLUTION 22 GA 10

The General Assembly,

1. Having examined Document WHC/19/22 GA 10,
2. Recalling Decisions **42 COM 12** and **43 COM 13** of the World Heritage Committee adopted respectively in 2017 and 2018,
3. Recalling also the need to respect the highest standards of integrity and transparency of working methods within the process of decision-making of the Governing bodies of the Convention;
4. Noting the informal consultations between the States Parties to the Convention;
5. Decides.....