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

**CONVENTION CONCERNING THE PROTECTION OF
THE WORLD CULTURAL AND NATURAL HERITAGE**

WORLD HERITAGE COMMITTEE

Thirty-fourth Session

**Brasilia, Brazil
25 July – 3 August 2010**

**Item 8 of the Provisional Agenda: Establishment of the World Heritage List
and of the List of World Heritage in Danger**

INF.8B4: Advisory Bodies' background information document on referral and
deferral of nominations (based on Decision **33 COM 8B.54**)

I. Advisory Bodies' background information document on referral and deferral of nominations (Based on Decision 33 COM 8B.54)

A. Background

1. At its 33rd session, (Seville, 2009), the World Heritage Committee requested the Advisory Bodies to prepare a background information document on the "processes, benchmarks and time constraints resulting from World Heritage Decisions on referral and deferral" for presentation to the 34th session of the World Heritage Committee (decision **33 COM 8B.54**). The present paper has been prepared jointly by IUCN and ICOMOS in response to this request.

B. Definition

2. The notions of referral and deferral are defined by paragraphs 159 and 160 of the *Operational Guidelines for the Implementation of the World Heritage Convention*.

Referral of Nominations

159. Nominations which the Committee decides to refer back to the State Party for additional information may be resubmitted to the following Committee session for examination. The additional information shall be submitted to the Secretariat by 1 February of the year in which examination by the Committee is desired. The Secretariat will immediately transmit it to the relevant Advisory Bodies for evaluation. A referred nomination which is not presented to the Committee within three years of the original Committee decision will be considered as a new nomination when it is resubmitted for examination, following the procedures and timetable outlined in paragraph 168.

Deferral of Nominations

160. The Committee may decide to defer a nomination for more in depth assessment or study, or a substantial revision by the State Party. Should the State Party decide to resubmit the deferred nomination, it shall be resubmitted to the Secretariat by 1 February. These nominations will then be reevaluated by the relevant Advisory Bodies during the course of the full year and a half evaluation cycle according to the procedures and timetable outlined in paragraph 168.

C. Processes, time constraints and benchmarks

3. Refer and defer are different tools, clearly defined in the *Operational Guidelines*, and are used with careful consideration by the Advisory Bodies whilst they are making their recommendations. As set out in the conclusions to the Phuket meeting, they are both essentially 'upstream tools', constructive options that can assist States Parties to further develop nominations that may be successfully inscribed.

Referred properties:

4. The Advisory Bodies decide to recommend that a property should be referred back to the State Party when additional information that is needed from the State Party is minor, and supplementary to the original nomination, can be provided in a short period of time and does not need to be assessed through a new mission to the property.

5. A referred nomination may be re-submitted in any of the three years following its first assessment. As prescribed by the *Operational Guidelines*, a nomination that is referred back in Year N could be re-assessed by the session of the World Heritage Committee in Year N + 1. The additional information would need to be sent to the World Heritage Centre by 1st February of the same year during within which it is to be presented to the World Heritage Committee session. The referral mechanism allows States Parties up to Year N+3 to prepare the relevant additional information, which is a longer period than the minimum time taken to evaluate a resubmitted deferred nomination, but with the same short time between the deadline for submission of information, and the Committee session.
6. The time available for the Advisory Bodies to assess a referred nomination is normally very short. The time between when the Advisory Bodies receive the additional information and the deadline when the working documents need to be delivered to the World Heritage Centre, (six weeks before the Committee session) is less than three months. During this time the Advisory Bodies are expected to assess the supplementary information, present their preliminary recommendations to their panels convened to consider such nominations, finalise and translate their reports, and forward them to the World Heritage Centre. Within this schedule there is not enough time for a mission to be organised, nor to assess a new or substantially changed nomination dossier. The referral mechanism does not in any case imply any provision for a mission, and no budget is provided for this.
7. This time constraint, and the fact that no mission can be organised, means that the referral mechanism is only suitable in circumstances where there is already a high degree of certainty about the potential merits of the nomination, and the requirements for further information, and where the additional information can be satisfactorily assessed on the basis of a desk study alone and in a relatively short period of time.
8. Referred back properties should meet the following requirements: the property has been confirmed as meeting at least one criterion, the Outstanding Universal Value (OUV) has been demonstrated (even if in some cases the selection of the attributes could be refined), the comparative analysis is appropriate, the conditions of authenticity and integrity have been met (even though, for integrity, boundary modifications might need to be made that remove but do not add attributes that convey OUV), the management system or management plan is in place but could be reinforced. The reasons for referral could be associated with the lack of adequate definition of the property, the lack of legal protection, the lack of processes to address threats that might have an impact on the property, or the inadequacy of the boundary or boundaries. The additional information requested does not lead "to the requirement for more in depth assessment or study, or a substantial revision by the State Party".

Deferred properties:

9. The Advisory Bodies decide to recommend that a property should be deferred if the additional information from, or actions needed, by the State Party are more major, would lead to a substantial revision of the nomination and thus a new or substantially revised nomination dossier, and would need to be assessed through a new mission to the property.
10. The two main causes emerging for the deferred properties could be associated with the lack of adequate justification of the OUV (necessity of deeper or more extended comparative analysis, necessity of reviewing the application of criteria; necessity of determining the attributes that convey OUV) and the need to improve and/or implement the management system or the management plan.

11. For a property that is deferred, the nomination may be re-submitted in any subsequent year including the year following the one it was originally examined by the Committee – i.e. Year N + 1. It is subject to a one and a half year evaluation process in the same way as new nominations. Thus the earliest a deferred property could be reconsidered for inscription by the Committee in Year N+2.
12. Thus whether or not the property is referred or deferred, the nomination may be re-submitted on the 1st February following the Committee session at which it was originally assessed.

D. Implications of Referral and Deferral

13. The recommendations of the Advisory Bodies endeavour to reflect the best interests of the property. The Advisory Bodies consider that there are clear differences between these two mechanisms, and they understand these mechanisms to have been established as part of the framework to offer the best and most constructive processes to support further work on nominations that are not recommended for inscription, but where continued examination is justified. The Advisory Bodies carefully weigh up the merits of these different options in making their recommendations to the World Heritage Committee.
14. Although the decision to refer is seen as being more encouraging to a State Party and might lead to a quicker inscription, referral can for some properties be an option that is limiting as the changes that a State Party can make to the nomination dossier are, or should be, minor, as there is no possibility to include new attributes or to enlarge boundaries to encompass areas that have not been assessed by the first evaluation mission, or to add new or substantially change justifications for OUV which might need time to be assessed by the relevant experts.
15. Referring a property that was recommended for deferral could in some circumstances have an impact on the chance of the property of being inscribed on the World Heritage List. In some cases properties recommended for deferral by the Advisory Bodies and referred back by the World Heritage Committee have become “trapped” in a difficult cycle, as the revised nominations could not be amended sufficiently to address the reasons why the property was not successful the first time, as there was no possibility for substantial revisions to what had been originally nominated.
16. This is frustrating for all parties and could damage the credibility of the *Convention*. Although it is not a phrase introduced by the Advisory Bodies, the changing of deferral to referral was noted by the expert meeting on Upstream Processes held in Phuket in 2010, as potentially representing a “poisoned gift” to a nomination, which can “needlessly limit the options available to a State Party to refine its nomination, including with the assistance of the Advisory Bodies” (see report under WHC-10/34.COM/12A).
17. In a few cases properties that were recommended for deferral were referred by the Committee and subsequently inscribed without some fundamental issues and concerns being addressed, that subsequently have led to the reactive monitoring process. In a number of cases, properties that were referred had new substantially amended nomination dossiers re-submitted, including extensions to the boundaries, and in one instance a very large area was inscribed that had never been visited by a mission. In the worst case scenario, such an outcome may have the perverse result that premature inscription on the World Heritage List might actually damage the cultural or natural heritage that is the subject of the nomination, for example by leading to unsustainable visitation before an adequate management system has been established.

18. Deferral seems to be understood as a harder option than referral. However, a deferred nomination in year N can be re-submitted by the State Party by 1st February N + 1 and examined by the World Heritage Committee in the year N + 2. A deferred property stands more chance of addressing the issues that frustrated its first attempt, as a thorough revision can be made to the nomination dossier and the Advisory Bodies can undertake a full assessment, including through a mission to the property. Referral is seen as a step closer to the inscription whereas it is a tool which implies different mechanisms of assessment and if not use advisedly can delay, sometimes indefinitely, the inscription of a property by denying the nominated property the continued support that it requires within the *World Heritage Convention*.

E. Conclusions

19. In summary the Advisory Bodies consider that referral and deferral are both useful, but different, processes to support the nominations made by States Parties. The implications of changing a recommendation from defer to refer (or refer to inscribe) can be very significant, which is why the Advisory Bodies examine in depth these options in making recommendations to the World Heritage Committee. The Advisory Bodies trust that the present paper assists the Committee in its consideration of the merits of both options, and the positive and negative implications of the choice between these recommendations, in providing access to continued support, advice and assistance to the State Party making the nomination.