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UNITED NATIONS EDUCATIONAL,
SCIENTIFIC AND CULTURAL ORGANIZATION

INTERNATIONAL REGULATIONS FOR THE PROTECTION OF
MONUMENTS, GROUPS OF BUILDINGS AND SITES

Final report drawn up in accordance with Article 10.3 of the Rules of Procedure concerning Recommendations to Member States and International Conventions covered by the terms of Article IV, paragraph 4, of the Constitution.

SUMMARY

This introductory document lists the States that have replied to circular letter CL/2156 of 20 July 1971, under cover of which they were sent document SHC/MD/17, containing the preliminary report together with a preliminary draft recommendation and a preliminary draft convention prepared by the Director-General in pursuance of resolution 3.412, adopted by the General Conference at its sixteenth session.

These replies are given in full in Annex I.

An analytical study of the comments and proposals contained in them is given in Annex II.

As some changes have been made both in the preliminary draft recommendation and in the preliminary draft convention revised versions of both drafts are given in Annexes III and IV, respectively.

28 FEVR 1972

INTRODUCTION

1. In pursuance of resolution 3.412, adopted by the General Conference of Unesco at its sixteenth session, on the subject of international instruments for the protection of monuments, groups of buildings and sites, the Director-General prepared a preliminary report accompanied by a preliminary draft recommendation and a preliminary draft convention (SHC/MD/17), which was sent out to Member States on 20 July 1971 under cover of circular letter CL/2156. That letter invited them to make comments and observations on the drafts that had been prepared.
2. By 20 January 1972, 18 replies had been received by the Unesco Secretariat.
3. Kuwait and the Republic of Viet-Nam replied that they had no observations to make on the two texts submitted.
4. Bulgaria, the Arab Republic of Egypt, Guyana, Korea and Thailand replied that they approved both the preliminary draft recommendation and the preliminary draft convention. Finland considered the recommendations prepared by the Director-General acceptable. Except for the reply from Thailand, which drew attention to a misprint in the English version of the preliminary draft convention, these replies do not refer to any provisions or specific articles in the preliminary drafts and contain no proposals for amendments.
5. The following States, on the other hand, have put forward observations relating to the substance of the questions dealt with, or suggesting amendments to provisions contained in the preliminary drafts: Australia, Austria, Brazil, France, Italy, Japan, Poland, Sweden, United Kingdom and United States of America.
6. The text of the replies received will be found in Annex I to this document. Annex II gives an analysis of the replies which contained proposals concerning substance or suggested drafting amendments to certain provisions in the preliminary drafts. In the light of the replies received, the Secretariat has prepared a revised draft recommendation and a revised draft convention, which will be found in Annexes III and IV.
7. This document supplements the preliminary report, SHC/MD/17, dated 30 June 1971, which was sent out to Member States, and should be regarded as constituting with it, the final report by the Director-General which will be submitted for consideration by the Committee of Government Experts to be responsible, in conformity with resolution 3.412, for finalizing the draft recommendation and draft convention to be considered by the General Conference at its seventeenth session. This Committee will meet in Paris from 4 to 22 April 1972.

ANNEX I

REPLIES TO CIRCULAR LETTER CL/2156 AND TO DOCUMENT SHC/MD/17
RECEIVED FROM STATES ON 14 JANUARY 1972

AUSTRALIA

The preliminary report and preliminary draft recommendation and convention relating to International regulations for the protection of monuments, groups of buildings and sites has been circulated to relevant authorities in Australia. The comments received so far indicate that both drafts are supported in general principle as being steps towards an effective implementation of greater international concern for the preservation of monuments, buildings and sites of historic interest.

Following are some more detailed comments:

Significance of sites

Although the document lists (a) "monuments" (b) "groups of buildings" and (c) "sites", it was considered that not enough attention was given to (c). For example, certain problems such as the protection of important or unique national environment could perhaps receive more attention. The inclusion of the very broad concept of national values in category (c) raises a whole new set of problems which do not seem to have been sufficiently considered.

A particular problem which arises (especially with regard to (c)) and on which perhaps some principles could be laid down is the possible conflict between scientific research on, and preservation of, a monument or site. Some research, for example excavation of an archaeological site, is by nature destructive. However, such research is often the only means of ascertaining the significance of a site and of obtaining important information from it. A further point is that sites in category (c), while undoubtedly a very important part of the world's cultural heritage, often have research values rather than aesthetic or public recreation values.

Marine aspects

Attention was drawn to the draft recommendation (Annex I, page 8, paragraphs 49-51) which concerns the legal measures needed to give protection to underwater archaeological sites, and, in particular, flotsam and jetsam. It was considered that other "marine debris" besides flotsam and jetsam (such as lagan, wreck and salvage) have their own special problems, and it may be more appropriate to refer to items of historical interest found below the surface of the sea or washed up on the seashore.

In paragraph 49 the statement is made that flotsam and jetsam for which title is unclaimed should be the property of the State, but paragraph 50 contains an implication that the finder may acquire special rights on the property by virtue of finding. This is considered to be an undesirable situation and it was recommended that States legislation should provide for the finder to receive a reasonable recompense for his work, but that the amount should be related to costs of finding rather than to monetary value of the find.

It was thought that paragraph 51 should mention the great difficulties to be found in connexion with underwater archaeology because of problems of obtaining proof and of dealing with offences occurring outside territorial waters. In addition, since the destruction of underwater archaeological sites requires the use of much valuable equipment, including vessels, it was considered that the deterrent should include the confiscation of equipment used in illicit excavation.

Although the problems of sub-marine archaeology are mentioned in the sections dealing with legal measures it was thought that there ought to be corresponding sections to deal with the special problems arising from the conservation and educational use of such material. It was suggested that appropriate statements should be added to Item 13, page 4, Annex I, to make provision for special conservation laboratories under the general heading of "specialized public services" and within Items 21-29 pp. 5-6, under the general heading "scientific and technical measures". The educational problem should it was thought, be included under Item 69 on pages 9-10 of Annex I.

Scientific and technical measures

It was felt that some reference should be made, in paragraphs 21-29 of the draft recommendation, Annex I, page 5, (or elsewhere if appropriate) to very thorough and comprehensive overall surveys to determine the number and relative importance of various monuments, groups of buildings, and sites. Particularly in countries where there are large areas of undeveloped land, many sites are as yet completely unlocated and unknown, officially, yet often in considerable danger from local vandalism, development, or simply the natural processes of decay. This is especially true of sites relating to hunter gather cultures, and to national sites such as the habitat of a rare species of plant or animal. It was thought that before decisions can be made on the national or international importance of a given monument, group of buildings or sites, it must be compared with other objects of the same type. Therefore, such a survey was considered to be an essential first step.

Educational and cultural action

It was considered that insufficient attention had been given to the rôle of educational and cultural action (paragraphs 81-82). The identification of national and cultural treasures, appreciation of their significance and a real willingness to retain them were thought to be interconnected requirements for any conservation programme and could only be provided by a continuing educational programme of high quality.

Other comments

Article 4 of the Convention appears inappropriate despite the explanation on page 22, paragraph 87, and may tend to confuse issues by referring to internal matters more properly covered by the recommendation. In particular it would confuse the position if Article 19 is extended to cover non-signatory countries (paragraph 2). If it is intended to imply that all countries holding sites etc., of universal interest should maintain them or assist in maintaining them, this is covered more reasonably by Articles 15 and 16 and particularly Article 24.

AUSTRIA

In the first place, it should be clearly stated that the preliminary drafts correspond by and large to Austrian views with regard to the protection of historical or artistic monuments and of nature.

However, the manner in which authority is divided between the State (the Federation) and the Länder (federal provinces) raises serious problems.

According to the Austrian Constitution, the principal authority for the protection of monuments is vested in the State, but authority in the areas of conservation of nature, building legislation and land use planning is vested in the Länder, and in fact as regards the application of the legal provisions governing construction, it is the communes which have primary jurisdiction. If Austria were to adhere to the Convention (in its present preliminary draft form), she would therefore be unable to undertake commitments whereby the Länder would be obliged to take certain measures in conformity with the provisions of the said Convention in the fields of their competence. Austria could only commit herself as far as concerns the protection of monuments, for which the State is responsible, and request the Länder or communes to act in conformity with the Convention within their own fields of competence.

With regard to certain articles in the two preliminary drafts, my Government wishes to make the following observations:

Annex I (Recommendation)

Article 42: Although ordering the owner to carry out work would be an efficient means of protecting monuments, it would appear rather difficult to put into practice, since the State would be obliged to contribute to the cost of the work of protection and this would entail the allocation of substantial budgetary funds.

Annex II (Convention)

Preamble: The two paragraphs "Recalling Unesco's Constitution..." and "Considering that the 1954 Hague Convention..." seem to suggest that the present Convention is also applicable to movable cultural property, whereas Article 1 specifically states that the Convention applies solely to immovable monuments. A better co-ordination between the wording of the Preamble and that of Article 1 would, therefore, seem to be desirable.

Article 4: The undertakings specified in this Article do not appear acceptable to Austria (and no doubt this applies to most of the other Member States), since they would entail extremely heavy expenditure. It would be desirable at least to add the reservation "as far as possible". The best solution would be to alter the first words of Article 4 and to replace the words "they undertake" by the words "they will make every effort".

Articles 12 and 13: The maximum contributions made by States Parties to the Convention should be determined on the basis of criteria which remain to be defined by the present Convention.

Article 16.1: Here again it would seem desirable to add "as far as possible".

Article 29: The clause stating that reservations to the Convention are not permitted would probably prevent its ratification by Austria, since the State cannot enter into commitments on behalf of the Länder in their fields of competence, but can only request them to apply the Convention.

From the Austrian point of view, it would be desirable for the Convention to be divided into two (one for historical and artistic monuments, and the other for works of nature).

Lastly, Austria suggests that similar preparatory studies already carried out by the United Nations (especially with regard to the protection of works of nature) and by the Council of Europe which, at a recent meeting (23 November-3 December 1971), examined the draft of a basic law for the protection of immovable cultural property in Europe, should be taken into consideration. Co-ordination of the activities of the United Nations, the Council of Europe and Unesco with respect to international instruments for the protection of monuments, groups of buildings and sites seems to be called for.

BRAZIL

I have pleasure in sending you herewith a translation of the comments I have recently received.

The Service for the National Historical and Artistic Heritage has also instructed me to inform you that it considers the documents prepared by Unesco on this subject to be of the greatest value.

I should therefore be grateful if you would include the suggestions of the Brazilian Government in the text of the two preliminary drafts.

1. In Annex I, we suggest that the following passage be inserted between paragraphs 23, 24 and 25, on page 5 of the printed document:

"Studies and surveys should be made on a scientific basis with a view to the organization, guidance and planning of urban and industrial development, the development of tourism and roads, and regional development, in such a way as to safeguard and enhance the monuments, groups of buildings and sites".

Comment: Experience has shown that measures taken a posteriori are ineffectual, particularly in countries and regions where industry or tourism are developing rapidly and where a real population explosion is taking place. It is only when plans have been prepared in advance and kept continually under review that anything positive has ever been done to protect monuments, and particularly groups of buildings and sites, while preserving their distinctive character and their setting.

2. In Annex II, we suggest that the following sentence be added to Article 2 paragraph 2, on page 2:

"The decision as to which examples of such property merit designation as being of universal interest should also take account of their continental and regional significance".

Comment: The countries or regions regarded as the youngest in terms of when they were colonized or came into contact with the civilized world, and which at present comprise a considerable proportion of the international community, do not as a rule possess property of cultural value comparable with the great works of architecture or town-planning to be found in parts of the world where successive civilizations have flourished for thousands of years. These are, however, precisely the regions which find it most difficult to protect their cultural property, although this heritage is an essential element of world culture.

3. Again with reference to Annex II, we suggest that the following words be added at the end of Article 20 on page 6:

"., or very rapid development of towns and of tourism".

Comment: Reasons same as those set out in paragraph 1 above.

BULGARIA

From a thorough study of the draft recommendation concerning the protection, at national level, of monuments, groups of buildings and sites and the draft convention concerning the international protection of monuments, groups of buildings and sites of universal value, the National Institute of Cultural Monuments in Bulgaria found that their provisions are identical, in intention and content, with the basic principles of the 1969 Bulgarian Cultural Monuments and Museums Act.

In essence, therefore, the recommendation is already taken into consideration in Bulgaria's national policy regarding the study, conservation and popularization of cultural monuments situated in Bulgaria.

The Institute came to the same conclusion about the draft convention. It feels that its adoption would greatly contribute to the success of man's endeavours to conserve the cultural monuments of ancient and of more recent civilizations.

ARAB REPUBLIC OF EGYPT

I have the honour to inform you that the competent authorities of Egypt have made no comment concerning the report and the two drafts, and approve them.

FINLAND

The recommendations are carefully prepared and they can be applied to protection of historical buildings, groups of buildings and larger areas in Finland.

The recommendations and their principles are all acceptable and they include sufficient alternatives for their realization on national level.

FRANCE

The French Government shares the views expressed at the sixteenth session of the General Conference of Unesco regarding the advantages of international action to preserve the monuments, groups of buildings and sites forming part of the artistic and cultural heritage of mankind.

It has often been observed, that, for want of assistance between two or more countries, considerable parts of this heritage disappear or are inevitably damaged. It is no less important for each country to have at its disposal a sufficient array of measures to forestall the various kinds of damage threatening its own cultural property in this category. France, which has in the past joined of its own free will in a number of large-scale operations involving international solidarity, particularly in Nubia and many other places, accordingly considers the adoption of internationally elaborated measures of a legislative or statutory, financial and technical character to be an appropriate step and a means of remedying what would otherwise be a dire situation.

The French Government is thus in agreement about the aims pursued and had the following comments to make on the documents that have been drawn up:

1. With regard to the preliminary draft recommendation, the measures in question are part of a process that has already made considerable headway, under the auspices not only of Unesco - with three conventions already in force - but also of other organizations, particularly the Council of Europe (European Convention on the Protection of the Archaeological Heritage). The proposed recommendation accordingly in some respects merely adds force to what is already being done while, in others, it represents a marked extension.

The French Government therefore considers that there are benefits to be had in asking all countries to join in these efforts, as regards both standardization of their procedures and international co-operation, on the understanding, however, that as far as international co-operation is concerned, the utmost account should evidently be taken of what has already been achieved on a bilateral basis, as well as under the conventions referred to above.

2. The principle underlying the preliminary draft convention is not opposed by the French Government, which has a number of reservations to make, however, about the terms and conditions proposed:
 - (a) The definitions of monuments, groups of buildings and sites of universal value are exceedingly broad, and there are also virtually no limits set as to the nature of the various dangers by which they may be threatened. The combination of Articles 2, 5 and 9 could well produce a situation in which a great many large groups of buildings and sites came within the scope of the convention and it was necessary to choose between them, without there being any sufficiently clear-cut criteria for doing so or for giving one priority over another. The idea of a short list is an excellent one, but it is not on its own a sufficient basis for deciding what operations to carry out.
 - (b) For the foregoing reason and for others, Article 9, of the preliminary draft should provide more details regarding decision-making and the majorities required, for it is to be feared that the proposed committee will witness a clash of interests.
 - (c) In the case of major catastrophes, international consultation appears not only desirable but essential. Choices will be made according to the urgency of the operations involved and the impact on public opinion, of which the governments concerned will make themselves the interpreters.
 - (d) The financial arrangements mentioned in the draft, and in particular the principle of a compulsory contribution, meet with reservations on our part. This principle may well frighten off in advance those Member States which would like to contribute, by means of the proposed fund, to the protection of monuments and sites of universal interest, but might have difficulty in accepting the commitments automatically entailed by accession to the proposed convention. This applies particularly to States which cannot count on being made members of the committee that will be responsible for allocating the funds in question - a committee which, according to the draft, will consist of fifteen members only.

The French Government concludes from the foregoing that the draft does not go into sufficient detail concerning the criteria to be determined or the suggested operating procedures, particularly as regards the rules governing financing and management.

It would therefore like the Unesco Secretariat to study further, at expert level, the problems involved in the establishment of permanent machinery for safeguarding threatened monuments, groups of buildings and sites.

GUYANA

I have the honour to inform you that the Government of Guyana accepts and is prepared to subscribe to the preliminary draft recommendation and the preliminary draft convention concerning the protection of monuments, groups of buildings and sites.

ITALY

Preliminary draft recommendation

Since recommendations of this kind entail a primarily moral commitment and are not therefore absolutely binding, the few comments below are confined to the form of the document.

Preamble

Some of the preambular paragraphs may seem inappropriate. The fifth, for instance, lumps together the idea that the three types of immovable property (monuments, groups of buildings and sites) form a homogeneous whole and the idea that the heritage they represent must be integrated into the social and economic life of the nation. These are two separate and independent ideas which cannot be united.

In the ninth preambular paragraph the word "Desires" could be replaced by "Desiring".

I. Definitions

(b) (c) - It would seem preferable not to base the definition of groups of buildings and sites on the fact that they "warrant" protection but on their intrinsic value.

The phrase "warrant their protection and enhancement" should therefore be replaced in each case by "present a universal interest".

III. General principles

Paragraphs 8 and 9. We agree on the need to integrate monuments, groups of buildings and sites into present-day society, but it should be specified that this must be compatible with their cultural character, especially in the matter of tourism.

At the end of paragraph 1, incidentally, reference is made to traces of human industry or civilization, as though industry, together with other activities such as science, art and culture, were not a part of civilization. The reference should therefore be either omitted or completed.

IV. Organization of services

Paragraph 14. In addition to representatives of the major preservation societies and of the administrations concerned, it seems that mention ought also to be made of other scientific and technical experts, representing the relevant specialized branches of science and technology (teachers, research workers, etc).

Paragraph 19. The word "regional" should be added to the title.

V. Protective measures

Scientific and technical measures

Paragraph 28. Mention should also be made of trains since they sometimes do more harm through shocks and vibrations than "motor vehicles". The second part of this paragraph wrongly lumps together pollution and natural disasters. No preventive measures can be taken against the latter; all that can be done is to repair the damage. The text makes no provision for repairs.

Administrative measures

Paragraph 30. The reference to the particular attention to be paid to works of mainly environmental value might give the mistaken impression that more important works deserve less attention.

Paragraph 33. In the French text the word "universitaire" should be replaced by "educative" since any type of school may represent a suitable new use for certain categories of monumental building.

Legal measures

First of all, this category of measures should come before technical measures since the legal regulation of protection provides the basis and framework for every type of measure.

Moreover, paragraphs 40-46 refer to measures more administrative in character than legal and should therefore be placed under the previous heading.

On second thoughts, it might be preferable to do away with the distinction between administrative and legal measures, and adopt a single heading such as "protective measures" or "norms".

Financial measures

Paragraph 56. Law 1552 of 21 December 1961 empowers the State to assume, wholly or in part, restoration expenses.

Paragraph 62. It would be advisable to replace the word "should" by "might" since the setting up of "National Monuments Funds" might be useful but cannot be regarded as an obligation.

Paragraph 64. Similarly, the words "should be payable" ought to be replaced by "might be contemplated so as".

Preliminary draft convention

The idea of continual systematic action on behalf of monuments seems a sound one in itself, but the utmost caution will probably be needed when it comes to putting it into practice and prior consideration will have to be given to the known expenses which will accrue to the Contracting Parties, as well as the additional risks they may incur as a result.

As to the structure of the convention, it would be more logical to transpose Sections III and IV since it seems strange to speak of the functions of a committee whose purpose it is in effect to administer the International Fund (Article 11, paragraph 1) before mentioning the fund itself.

As regards the text of the convention, we have the following comments to make:

Preamble

The order of the preambular paragraphs should be changed so as to put the eighth paragraph, relating to the fact that it is for mankind as a whole to deal with the problem of the protection of monuments, before the fourth paragraph, wherein it is stated that international action should not take the place of action by individual States. Furthermore, the reference to The Hague Convention should be supplemented by reference to other international conventions.

I. Definitions

Our comments on the corresponding section of the recommendation also apply here.

II. National protection and international protection

We may wonder whether, in accepting the commitments resulting from this section, a State (even where such commitments might be offset by aid) is not running the risk of interference by other signatory States, even in the domain of national activities such as those specified in Article 4 (Items (a), (b), (c) and (d)).

To preclude this possibility, adherence to the principles and methods referred to in Articles 3 and 4 should not be presented in the form of statutory commitments, which could not subsequently be enforced, and the convention should confine itself to recognizing their validity.

III. Intergovernmental Committee

According to Article 9 of the draft convention, the function of this body seems somewhat varied. First there is consideration of requests for assistance and decisions concerning the nature and scale of the assistance itself (paragraph 1), determination of an order of priorities (paragraph 2) and the preparation and circulation of lists of particularly important property and operations carried out (paragraphs 3 and 4). Then there is the conclusion of agreements with the governments concerned (paragraph 1) and management of the various funds collected through international action (paragraph 5). The former set of activities are strictly cultural, while the latter are mainly administrative. We are therefore faced with the question whether the same committee can have adequate competence and authority in two so different domains.

The functions of the Committee might accordingly be divided into two parts: the financial and the administrative part to be entrusted to a small board of management consisting of government representatives, competent to take financial and administrative decisions, which must be adopted on behalf of the governments acceding to the convention; and the cultural part, which might be entrusted to a committee of specialists and experts in the matter. There should be special rules governing the membership and functioning of the board of management.

IV. Resources

As stated above, this section should precede Section III concerning the Intergovernmental Committee.

We have no comments on the substance of this section, except to recall that as previous experience, for example with the "International Centre for the Study of the Preservation and Restoration of Cultural Property" (Rome Centre), has shown, States are always ill-disposed to compulsory contributions.

In this particular case, payments to the International Fund by the States acceding to the convention might, according to paragraph 98 of document SHC/MD/17, amount to two per cent of their financial contributions to Unesco's budget.

Finally, we would repeat that there are many articles in the draft convention by virtue of which Contracting States undertake to adopt measures and take action of a strictly national and generally limited character within their territory. Instead of the constantly recurring word "undertake", it would therefore be more appropriate, and easier to accept in the text of a convention, simply to use the future tense, indicating the action that is to be taken (as is already done, for instance, in Article 28).

JAPAN

The Government of Japan is in agreement with the contents of the preliminary report SHC/MD/17, dated 30 June 1971, as well as with what is described in the preliminary draft recommendation concerning the protection, at national level, of monuments, groups of buildings and sites. As to the

preliminary draft convention concerning the protection of monuments, groups of buildings and sites of universal value, while not having any disagreement with its purposes, in view of the decision taken by the intergovernmental working group on "Conservation" of the Preparatory Committee for the Third United Nations Conference on the Environment, the Government of Japan deems it desirable that co-ordination be secured for the purpose of avoiding duplication between the convention in question and the draft convention concerning world heritage foundation, which is expected to be adopted in 1972.

KOREA

With reference to your letter, CL/2156, dated 20 July 1971, concerning the international regulations for the protection of monuments, groups of buildings and sites, I am instructed to inform you that the Korean Government is in support of the following documents which you have forwarded to my Government for its comment and observation:

The preliminary report on the situation which is the subject of international regulations for the protection of monuments and sites of universal value.

The preliminary draft recommendation and the preliminary draft convention prepared by the Unesco Secretariat to this effect.

KUWAIT

In reply, we wish to inform you that we have no comments or observations on the preliminary draft recommendation and preliminary draft convention (document SHC/MD/17) on the situation of the above-mentioned subject.

POLAND

In reply to letter CL/2150 dated 20 July 1971 on the desirability of establishing an international instrument for the protection of monuments, groups of buildings and sites, we wish to submit the following comments.

The Polish nation and the Government of the Polish People's Republic are always delighted to welcome any proposals for extending the scope of international protection for cultural property being convinced that this is one of the most effective ways of promoting international understanding and thus maintaining stability and peace. There is no doubt that the proposed draft legislation meets the desired purpose of providing international protection for cultural property of exceptional importance whose preservation for future generations is in the interest of all mankind.

These objectives are consonant with the accepted principles of our country's legislation, and would require no basic change in our legislative provisions. The proposed recommendation and convention concerning the protection of monuments, groups of buildings and sites of universal value are thus entirely acceptable to us.

Turning to the document in question, we wish to stress the importance of the definitions, which, thanks to their precision, make a valuable contribution to international terminology in the field of the preservation of cultural property by eliminating any possibility of misunderstanding.

We also have great pleasure in noting that the acceptance, as a basis for the draft texts, of the principle that cultural policy should be reoriented towards the integration of monuments, groups of buildings and sites with contemporary social life, in order that in future they may not retard, but on the contrary constitute a decisive element in, national expansion. This principle has already been operative in Poland for some time, and was officially confirmed by the Law of 1962 concerning museums and the protection of cultural property. We are glad that it is now being applied to international legislation.

As already noted, the recommendation would not oblige us to make any changes in the organization of the services responsible for the preservation of monuments, in the method of financing that preservation, or in the penal sanctions and other legislative provisions in force in our country.

As regards the convention, we agree in principle with its terms, particularly in view of the fact that it also is consonant with our national legislation; we wish, however, to submit some comments:

Article 6: In order that the Committee may be as representative as possible of different countries, different parts of the world and different political and social systems, it appears desirable to increase its membership from 15 to 21 countries. In that case it should also be decided how many members should be designated by the States Party to the convention and how many by the Unesco General Conference (e.g. 15 and 6 respectively).

Article 7: In view of what has just been said with regard to the preceding Article, the number of members whose term of office is to cease at the end of the first ordinary session of the General Conference following that at which they were elected should be increased from 7 to 10.

Article 9, paragraph 2: In determining an order of priority for its operations, the Committee should bear in mind, in addition to the consideration already listed, the extent to which the country in whose territory the threatened monument, group of buildings or site is located can protect the said monument, group of buildings or site by means of its own resources.

Article 12, paragraph (b): We consider it necessary that there should be a direct contribution from Unesco to the International Fund. A new sub-paragraph (ii), consisting of the word "Unesco", should therefore be inserted after sub-paragraph (i), and the subsequent sub-paragraphs renumbered.

Article 13: In view of the magnitude of Member States' existing financial commitments to Unesco, compulsory contributions should be kept as small as possible; the amount of compulsory payments to the International Fund should therefore be determined by at least a three-fifths majority of those voting.

Member States' contributions might also where appropriate be made in the form of experts' reports, special surveys and studies or restoration works carried out at Member States' expense.

Article 19, paragraph 2: In view of the fact that a monument of great value to all mankind may be located on the territory of a State which is not a Party to the convention and is unable to preserve the monument by its own means, it does not seem right to exclude such a State from receiving aid from the International Fund.

Article 20: We suggest replacing the words "for political or religious reasons" by the words "for any reason". This expression would cover all monuments threatened with abandonment, whether voluntary or otherwise, not excluding political or religious reasons but not explicitly referring to them, since cases could arise in which countries might take offence at such a reference as infringing their national sovereignty.

SWEDEN

By letter of 20 June 1971 (CL/2156) you invited the Swedish Government to comment on a preliminary report and two preliminary draft instruments for the protection of monuments, groups of buildings and sites. In pursuance of this request I have the honour to enclose comments, prepared within the Ministry of Education and Cultural Affairs after consultation with the competent Swedish authorities, on the draft recommendation and draft convention.

Swedish comments on the preliminary draft instruments for the protection of monuments, groups of buildings and sites

Being aware of the dangers threatening immovable cultural property all over the world today, the Swedish Government is generally in favour of an international programme for the furtherance of a more effective protection of such property in all countries.

The preliminary draft recommendation

The situation with regard to the protection and maintenance of cultural property still varies considerably from country to country. The Swedish Government holds the view that the drawing up of a recommendation of the type presented in document SHC/MD/17 would contribute to a more rapid development in those countries which are still lagging behind in this field.

The preliminary draft recommendation can, generally speaking, be said to reflect the ideology embraced today by the Swedish competent authorities. In their opinion the text in its present form constitutes a good basis for further discussion. It is true that Swedish legislation on monument protection is still to a very large extent concentrated on individual buildings and groups of buildings of particular eminence. Today's lively debate concerning the human environment shows, however, that maintenance of the immovable cultural assets is no longer merely a question of protecting individual monuments but a much wider problem, namely how to bring about a harmonious development of the physical environment in built-up areas.

At this preliminary stage the Swedish Government does not wish to comment on the draft in all its details. The text contains a great number of recommendations, often of a rather technical nature, which may be advantageous if the recommendation is to be looked upon as a check-list of possible measures at national level. An elaborate text like this, on the other hand, is difficult to read and therefore risks to be less referred to by national authorities. It may also lead to misinterpretations. Moreover, a simpler and more flexible wording of the proposals for protective measures in Chapter V would be generally advisable in view of the diverging administrative, legislative and fiscal systems in member countries.

The preliminary draft convention

The Swedish Government is highly aware of the common responsibility of all nations for safeguarding cultural property of universal value. In its opinion it is essential that a permanent international system for the protection of outstanding monuments and sites be established to the benefit of all countries, the developing countries in particular. The necessity of identifying the monuments, groups of buildings and sites, which urgently need protection, and of establishing priorities between them is clearly recognized by the Swedish authorities. So is the need for an international body to which this responsibility could be entrusted. The Swedish Government is therefore in favour of the establishment of an Intergovernmental Committee, attached to Unesco, for the purpose of making an overall assessment of the most imminent needs for international monument protection. This Committee should, furthermore, have the responsibility to review all questions under sub-chapter 3, "Preservation and Development of the Cultural Heritage" of Unesco's programme and budget, which concerns projects of a character referred to in the preliminary draft convention.

The idea of a special fund at the Committee's disposal has not, however, met with the approval of the Swedish competent authorities. Resources should be made available, instead, within the framework of the Regular programme and budget for studies concerning i.a. effective methods of safeguarding ancient monuments and sites, as well as other background documentation for the Committee's work.

When it comes to granting financial assistance for actual rescue or restoration operations the Swedish Government holds the view that such assistance should be directed towards saving the cultural assets in countries which are economically less developed. In view of the very high importance attached by the developing countries themselves to the safeguarding of their national cultural heritage, the most appropriate way of channelling international assistance seems to be through UNDP. Projects for the restoration of cultural property would thus be included in the general scheme of Country programming.

THAILAND

The Department of Fine Arts, Ministry of Education of Thailand has no observation or comments on the draft recommendation. As for the draft convention, the Department of Fine Arts notes that the statement in Article 19 (1) lines 4-5 which reads: "in addition to indications and estimates

provided in Article 1 paragraph 5 of this convention.....", appears to be incorrect as there is no mention of "indications" or "estimates" in paragraph 5 of that article. The statement should be corrected so that "Article 1, paragraph 5", be changed to "Article 1, paragraph 3".

The Department of Fine Arts, Ministry of Education approves and supports the report and the two preliminary drafts in general.

UNITED KINGDOM

These are complex regulations requiring deep and detailed study, and the situation has been further complicated by the IUCN draft convention on the "world heritage" to be considered at the Stockholm Conference. You doubtless have this very much in mind in preparing for the Unesco meeting of experts scheduled for April 1972. I attach a note (Appendix A) which sets out the United Kingdom's attitude on the relationship between these two conventions, the substance of which will also be communicated to the Secretariats of the United Nations Preparatory Committee and of IUCN.

Against this background, and in the hope that they will be helpful, I attach as Appendices B and C respectively interim comments on the Unesco draft convention and recommendation. (One or two other points are still under consideration and further comments may follow - this will be confirmed soon one way or the other). Nothing in these comments should, of course, be taken to imply that the United Kingdom would be prepared at a later stage to adhere to international instruments in this field.

APPENDIX A

UNESCO DRAFT CONVENTION ON THE PROTECTION OF MONUMENTS, GROUPS OF BUILDINGS AND SITES

United Kingdom's comments on relationship with draft convention on the world heritage.

Following preliminary work started by the International Union for Conservation of Nature, that body was invited by the Preparatory Committee for the United Nations Conference on the Human Environment to prepare a draft convention on conservation of the world heritage. This draft was considered by an Intergovernmental Working Group on Conservation in September 1971. The Working Group made certain recommendations to the Secretary-General of the Conference (A/CONF.48/PC.11/Add.3), and he is to report progress on preparing various draft conventions to the 4th meeting of the Preparatory Committee in March 1972 (A/CONF.48/III/CRP.14/Add.3, paragraph 35). Meanwhile all States members of the United Nations are being consulted about the draft world heritage convention. These comments will be available to the Preparatory Committee. The United Kingdom considers it desirable that the Preparatory Committee should also have available to it the views expressed by governments on the Unesco draft convention.

The United Nations Conference Secretary-General has already commented that the existence of two draft conventions raises a matter of principle, which has yet to be resolved. He considered that governments would be in a position to express their intentions regarding the creation of a world heritage foundation consistent with the draft convention being elaborated by Unesco through the present round of consultations on the two (A/CONF.48/PC.11/Add.3, paragraphs 12 and 13).

The United Kingdom considers that these matters must be resolved before the Unesco meeting of experts in April and believes that if a summary of all comments submitted by governments on both draft conventions is made available to the Preparatory Committee for its March meeting, that Committee can advise governments how to deal with the two draft conventions. This is a question that cannot be left to the secretaries of the three bodies involved to resolve, though it would be of value to the Preparatory Committee if they were to meet and consider what advice they might give to governments.

The United Kingdom is opposed to the proliferation of overlapping international conventions. It is particularly concerned to avoid duplication between the world heritage convention and the Unesco convention. The IWG on Conservation suggested that this could be achieved by the former concentrating

on "natural" sites. While accepting that this might be possible, the United Kingdom is not convinced that it is necessary or desirable to have two separate conventions, and would therefore hope that the United Nations Conference Preparatory Committee will consider this point carefully when it meets in March. The United Kingdom considers that the best way of avoiding duplication would be to have a single convention. This should be under Unesco auspices, since that Organization has competence over the whole field - either directly, or through its relations with non-governmental bodies, such as IUCN.

If the preparatory Committee were to agree in March that a single convention should be prepared, then the Unesco meeting of experts would be invited to take account of the "IUCN" draft convention, and of comments made on it, in preparing their composite convention for Autumn. The possibility of appointing IUCN to administer that section of the convention which is concerned with natural sites should be considered; specific provision could be made for this in the convention.

If, however, a majority of governments favour two conventions, then the United Kingdom would wish to have the "IUCN" convention confined to natural sites and the Unesco convention to exclude these.

APPENDIX B

PRELIMINARY DRAFT CONVENTION CONCERNING THE PROTECTION OF MONUMENTS, GROUPS OF BUILDINGS AND SITES OF UNIVERSAL VALUE

General

The preamble to the draft convention is much too long and should, if possible, be considerably shortened. Although such long preambles are common in international agreements of this kind, they are dangerous, even if they are very carefully drafted, since, by using the preamble, one can often read into the convention meanings which were not intended.

The draft convention embraces most types and conditions of natural sites including "areas of country of special interest by reason of their beauty", but no attempt is made to define these "areas", be they large or small.

Article 4

The words "active development" in line 1 seem inappropriate as applied to ancient monuments (i. e. ruins).

Article 9.3

Clarification is needed. Is the list to be based on the requests envisaged in 9.1? If so, well and good. Or is it to be compiled by the Committee itself? If so, this sets the Committee on the unwelcome path of unsolicited intervention in the affairs of sovereign States (notwithstanding the reference in Article 5.2 respecting sovereignty).

Articles 11-18

The United Kingdom cannot accept the financial proposals. It must oppose the establishment of a sectoral international fund, particularly one to which governments would be obliged to make compulsory contributions. Nor could it accept any international obligation to introduce administrative, legal and fiscal measures for the purposes set out in Articles 15, 16 and 18. It is also pertinent to point out that the wording of these Articles, particularly 18.2, is such that they appear to be directed in part to monuments, etc., which are not of universal value; despite the "safeguard" in Article 2, there would seem to be advantage in tightening up the wording of these Articles so that they relate only to monuments etc., of "universal value".

Article 19.1

It would seem that the reference to Article 9.5 should be to Article 9.3.

Article 19.2

There are dangerous implications in allowing the Committee to thrust its attentions on sovereign States who have not asked for them, and it is thought likely that a considerable number of Contracting States would not take kindly to this Article of the convention.

Article 20

This seems a bit too tightly drawn. For instance, there may be cases where the deterioration is slow, but the cost of arresting it is beyond the means of the country owning the monument.

Article 22(d)

Presumably non-repayable is meant.

Article 24

It is perhaps worth considering whether "certain exceptions" should be defined.

APPENDIX C

PRELIMINARY DRAFT RECOMMENDATION CONCERNING THE PROTECTION,
AT NATIONAL LEVEL, OF MONUMENTS, GROUPS OF BUILDINGS AND SITES
(Annex I to SHC/MD/17)

General

The recommendation attempts to cover too much ground and also goes too much into detail. This leads to difficulties, anomalies and imprecisions. To quote just one instance, a number of the provisions are clearly aimed at occupied places ("historic buildings") but these are often not appropriate to ruined structures (ancient monuments). No attempt is made to pick up all of these in the detailed comments below, but it is suggested that, to avoid large-scale, detailed amendments, there might somewhere be a paragraph to the general effect that the precise measures to be adopted should depend on the legislation and the organizational systems of each country. This would make it much easier for countries to accept some of the detailed provisions elsewhere which, for sound legal or administrative reasons, they would not be able fully to implement. There is a precedent for this in paragraph 13 of the recommendation concerning the preservation of cultural property endangered by public or private works.

Paragraph 1

1. The definitions could hardly be broader, not only in the range of things to be protected but also within some of the categories. For instance, any monument would seem to qualify however slight its interest. This would appear to make for difficulties in the effective application of the very detailed provisions of the recommendation. As a minimum it is therefore suggested that paragraph 1 (a) should be made more selective, e.g. by inserting "such" before "archaeological" and adding "as to warrant their protection" at the end. Should it not also be made clear that the definition is limited to immovable things?

2. The inclusion of underwater archaeological sites could cause difficulties for some countries.

Paragraph 2

The "active development" of ancient monuments (ruins) is not something the United Kingdom would welcome, e.g. if it means conjectural reconstruction.

Paragraph 5

This seems too sweeping. It may sometimes be necessary to move a monument (e.g. Abu Simbel) in its own interest.

Paragraph 11

Not all governments may wish to appeal for money to the taxpayers who have already provided the money the governments spend in this field.

Paragraphs 21 and 22

These are virtually impossible tasks having regard to the broadness of the definition in paragraph 1.

Paragraph 27

1. Having regard especially (but not perhaps exclusively) to the broad definition "in no case" is too sweeping. And the "surroundings" of a monument could include unsuitable modern intrusions whose removal would benefit it.

Paragraph 30

The broad definition makes the task in the first sentence (note the word "all") an impossible one.

Paragraph 45

In the ancient monuments field at least the idea of expropriation and transfer to private persons will cause difficulties.

Paragraphs 49-51

Since the recommendation is concerned with immovable items, flotsam and jetsam should be deleted.

Paragraph 62

This will not be acceptable to some countries.

Paragraph 63

The United Kingdom would have reservations about this so far as ancient monuments are concerned.

Paragraph 65

The United Kingdom doubts if this would be at all appropriate for ancient monuments.

UNITED STATES OF AMERICA

I

In response to your circular letter CL/2156 dated 20 July 1971, I am enclosing a commentary on Unesco's preliminary report on international instruments for the protection of monuments, groups of buildings and sites (document SHC/MD/17). This commentary was prepared in consultation with the Advisory Council on Historic Preservation.

The commentary, as you will observe, recommends that there be anticipation of further submission by the United States either prior to or during the deliberations of the Special Committee scheduled to meet in Paris in April 1972.

Policy matters related to international instruments concerning the protection of monuments, groups of buildings and sites, is under active consideration by the United States Government at this time. The results of these deliberations and the policy positions reached will have a direct bearing

on the contribution of the United States to the work of the Special Committee in April, as well as the position that the United States delegation will take when the recommendation and the international convention will be presented to the Unesco General Conference for adoption.

Commentary: Preliminary draft recommendation concerning the protection,
at national level, of monuments, groups of buildings and sites

In general, the preliminary draft recommendations to Member States to be used in setting up or improving national systems for the protection of monuments, groups of buildings and sites is acceptable and consistent with the announced policies of the United States Government. The preliminary draft incorporates previous submissions to Unesco on this subject as well as the views of United States experts participating in the preparatory meetings leading to the present draft.

Paragraph-by-paragraph commentary

35. Consultative bodies

For clarification, the third paragraph of this section should be amended. It now reads: "It is composed of 17 members, six of whom are members of the President's Cabinet and 11 other specialists ..." It should read: "It is composed of 20 members, 10 of whom are ex officio and represent the President's Cabinet as well as institutional leadership and 10 private citizen specialists appointed by the President ..."

The preliminary draft

By title and definition, this draft encompasses monuments, buildings and sites. Sites are described as topographic areas whether the work of nature or the combined work of nature and man. It is under this item that natural resources fall and receive consideration. The preliminary draft recommendation is written in a manner and with terminology and emphasis that gives disproportionate attention to cultural resources. It should be carefully edited throughout in order to establish the desirable level of balance if it is intended that the protection of natural resources and the protection of cultural resources should receive equal attention by national governments.

Scientific and technical measures

21-29 Many aspects of these several paragraphs focus on styles or techniques. Such styles or techniques may vary from country to country or region to region depending upon the processes acceptable to the various authorities. A more suitable approach in this section of recommendations might be to state the scientific and technical measures in a more general fashion especially in light of the anticipation that Unesco will, in the months to come, make available to Member States publications that will deal with restoration and protection techniques.

Legal measures

38-55 Several proposals in this section are inconsistent with the rights and privileges of property ownership practised and enjoyed by several Member States of Unesco. Once again, generalizations rather than specifics might be a more desirable approach to recommended legal measures.

Commentary: Preliminary draft convention concerning the protection of
monuments, groups of buildings and sites of universal value

The United States has supported the international effort to protect, preserve and restore monuments, groups of buildings and sites of universal value. Evidence of this support can be found in the financial contributions of this Government, the assisting participation of government experts and finally in the statements of Richard M. Nixon, President, contained in his environmental message sent to the Congress of the United States in February of 1971. He said:

"World Heritage Trust

As the United States approaches the centennial celebration in 1972 of the establishment of Yellowstone National Park, it would be appropriate to mark this historic event by a new international initiative in the general field of parks. Yellowstone is the first national park to

have been created in the modern world, and the national park concept has represented a major contribution to world culture. Similar systems have now been established throughout the world. The United Nations lists over 1,200 parks in 93 nations.

The national park concept is based upon the recognition that certain areas of natural, historical, or cultural significance have such unique and outstanding characteristics that they must be treated as belonging to the nation as a whole, as part of the nation's heritage.

It would be fitting by 1972 for the nations of the world to agree to the principle that there are certain areas of such unique world-wide value that they should be treated as part of the heritage of all mankind and accorded special recognition as part of a World Heritage Trust. Such an arrangement would impose no limitations on the sovereignty of those nations which choose to participate, but would extend special international recognition to the areas which qualify and would make available technical and other assistance where appropriate to assist in their protection and management. I believe that such an initiative can add a new dimension to international co-operation.

I am directing the Secretary of the Interior, in co-ordination with the Council on Environmental Quality, and under the foreign policy guidance of the Secretary of State, to develop initiatives for presentation in appropriate international forums to further the objectives of a World Heritage Trust.

Confronted with the pressures of population and development, and with the world's tremendously increased capacity for environmental modification, we must act together now to save for future generations the most outstanding natural areas as well as places of unique historical, archaeological, architectural, and cultural value to mankind."

In light of this proposal by President Nixon, the deliberations currently in progress regarding the implementation of the President's proposal, and in light of other international efforts on behalf of the human environment, generally, any commentary on the Unesco preliminary draft convention concerning the protection of monuments, groups of buildings and sites of universal value would be premature. It is anticipated that there could be a commentary on the preliminary draft convention available to the committee of experts that will consider this matter when the committee is convened in April 1972.

II

At the September meeting of the Working Group on Conservation held in New York, the United States tabled a draft entitled "World Heritage Trust", which included natural, cultural, and historic areas and for which funding was to be through voluntary sources. Although the Working Group recommended limiting the "World Heritage Trust" to mainly natural areas and the Unesco convention to mainly cultural and historical areas, the United States firmly believes that a "World Heritage Trust" should include all three areas. Further, the Secretariat mentioned in the "World Heritage Trust" could be Unesco, with the programme activities for primarily natural areas performed by IUCN under contract or through another arrangement with Unesco. ICOMOS could have a similar rôle on cultural and historical areas.

Noting that Unesco can accept Secretariat responsibilities for the "World Heritage Trust" only on action of its General Conference, the United States believes that the following schedule could meet the interests of all concerned:

- A. Including appropriate consultation with the Stockholm Conference staff, Unesco, IUCN, ICOMOS, the United States plans to develop a new "World Heritage Trust" draft using the United States September draft together with appropriate portions of the Unesco draft convention. The new draft "World Heritage Trust" will be prepared by the end of January and submitted as the United States comments to Unesco on its proposed convention.
- B. The United States objective is that the U.S. new draft be the basis for discussions and refinements by the Unesco Group of Experts Meeting in April 1972, which should include representatives of the Stockholm Conference staff, IUCN and ICOMOS.

- C. The resulting document would be available at the Stockholm Conference under an appropriate resolution urging completion of the convention and initiation of national actions covered by the draft convention.
- D. The Unesco General Conference in October-November would complete action on the convention.

The United States hopes that Unesco will look favourably on the concept of the "World Heritage Trust" as outlined above and will initiate discussions with IUCN and the Stockholm Conference Secretariat as soon as possible in order to develop the details of the procedure for the completion of the convention with appropriate involvement by the Stockholm Conference.

THE REPUBLIC OF VIET-NAM

In reply to your letter under reference, I have the honour to inform you that the Secretariat of State for Cultural Affairs has no proposals to make regarding the report and the preliminary draft recommendation and convention concerning the protection of monuments, groups of buildings and sites.

ANNEX II

ANALYSIS OF THE GENERAL COMMENTS AND OBSERVATIONS
PUT FORWARD BY MEMBER STATES, INVOLVING
PROPOSALS FOR THE AMENDMENT OF THE PRELIMINARY DRAFT
RECOMMENDATION AND PRELIMINARY DRAFT CONVENTION
DOCUMENT SHC/MD/17

1. It should be noted that the comments as a whole are in favour of the action taken by Unesco with a view to the adoption by the General Conference of a Recommendation concerning the protection at national level of monuments, groups of buildings and sites, and of a convention concerning the international protection of monuments, groups of buildings and sites of universal value.
2. A summary of the observations made by Member States on the provisions of the preliminary drafts, together with the Secretariat's comments, will be found below. These observations have been grouped in the order of the paragraphs of the preliminary draft recommendation and of the articles of the preliminary draft convention to which they refer.

A. Observations on the preliminary draft recommendation
General

3. Most of the replies, in their general observations, endorse Unesco's action in this field, pointing out that it is in line with the new trends that have developed or are taking shape in the setting up or improvement of regional and national systems for the protection of monuments, groups of buildings and sites, and stating that the provisions of the preliminary draft recommendation constitute an excellent basis for international co-operation.

Other Member States emphasize that the provisions of the preliminary draft recommendation are extremely detailed and at times difficult to implement.

Secretariat comment - The latter observations will be dealt with in the chapter on "protective measures".

PREAMBLE

4. Italy criticizes the wording of the fifth preambular paragraph, which deals in a single sentence with two separate ideas: the idea that the various components of the heritage to be safeguarded form a homogeneous group and the need to integrate them into the social and economic life of each nation.

Italy also draws attention to a printing error in the tenth paragraph of the preamble, where the word: "Desires" at the beginning of the paragraph should be replaced by the present participle: "Desiring".

Secretariat comment -

5. Both these observations have been taken into account in the revised preamble.

PARAGRAPH-BY-PARAGRAPH COMMENTARY

I. DEFINITIONS

Paragraph 1

6. Australia remarks that insufficient attention has been given to the wording of paragraph (c) with regard to the definition of "sites". Furthermore, a possible conflict might arise between scientific research on a site or monument and the preservation of such site or monument. Archaeological excavation, for example, is by nature destructive.

A further point made is that sites falling within category (c), while representing an important part of the world's cultural heritage, often have research values rather than aesthetic or public recreation values.

Italy considers that it would be preferable not to base the definitions of groups of buildings and sites on the fact that they "warrant" protection, but on their intrinsic qualities.

With regard to traces of human industry or civilization, Italy also points out that industry, together with other activities such as science, art and culture, are a part of such civilization.

The United States of America considers that disproportionate attention is given to cultural resources as compared with natural resources and would like a balance to be established between the two categories of resources so that they will receive equal attention from national governments.

The United Kingdom underlines the broadness of the definitions of the range of things to be protected. It should be made clear that the definition is limited to immovable things. It would be advisable to redraft paragraph 1(a) to restrict the definition to property of such interest as to warrant protection.

Secretariat comment -

7. These observations are well-founded. However, they do not all call for radical amendment of the wording of the definitions, at least at the present stage of work on the draft recommendation.

The pertinent observation made by Australia will be noted for transmission to the competent services of States responsible for authorizing work or excavations either in or on protected monuments, groups of buildings or sites. Even though some destruction in a part of the monument or site which is of minor interest may be entailed, permits will nevertheless be issued, if the work is carried out under suitably strict scientific supervision and if it is designed to enhance the interest or value of the immovable property in question. The revised text of the recommendation takes account of the two observations made by Italy: the definitions have been amended accordingly. At the same time, since civilization is necessarily "human", it has been thought preferable to omit the adjective.

To establish a balance between the definitions of cultural and natural resources, as proposed by the United States of America, and to take into account the observation made by Australia, it seems necessary to include works of nature, as well as architectural works or works of monumental sculpture, in the definitions under paragraph (a) Monuments. With the same intent, national parks and nature reserves have been added to the definition of sites in paragraph (c). It should be made clear that, in the discussions of the meetings of experts held before the preliminary draft recommendation was prepared, neither of the two categories of resources considered was given preferential attention; on the contrary, it was stated that all such resources, whether cultural or natural, formed a homogeneous whole and should all receive equal protection from States, without distinction.

This principle was upheld and endorsed by the General Conference's decision regarding the preparation of a recommendation to cover both categories of resources. The amendments made in the revised draft to the definitions of the things to be protected help to rectify any impression of a lack of balance which the preliminary draft might have given.

In any case, the attention of the Special Committee of Government Experts is drawn to the problem of definitions, which is perhaps more troublesome in connexion with the draft Convention as explained in section B of this document.

II. NATIONAL POLICY

Paragraph 2

8. The United Kingdom states that the "active development" of ancient monuments (ruins) would not be acceptable if it means conjectural reconstruction.

Secretariat comment -

9. In general, the French term "mise en valeur", when applied to monuments, groups of buildings and sites, is taken to mean conserving and arranging them to bring out their potentialities to best advantage. It is difficult to find a concise and entirely satisfactory English equivalent and it would seem that the association of the adjective "active" with the word "development" may account for the disquiet expressed. A more appropriate form of words should be found for the English.

III. GENERAL PRINCIPLES

Paragraph 5

10. The United Kingdom points out that the provision contained in this paragraph is too sweeping since it may sometimes be necessary to move a monument in its own interest (e. g. Abu Simbel).

Secretariat comment -

11. To take account of the United Kingdom's comment, the words "in principle" have been inserted in this clause.

Paragraphs 8 and 9

12. Italy argues that, while it is certainly desirable to give monuments, groups of buildings and sites a place in contemporary life, as provided in paragraph 9, any such use should be compatible with their cultural character, especially so far as tourism is concerned.

Secretariat comment -

13. Account has been taken of this observation in the revised wording of paragraph 8, but since it is applicable regardless of the use made of the property in question, it was not thought advisable to make special mention of tourism.

Paragraph 11

14. The United Kingdom considers that some governments may not wish to appeal to tax-payers for financial support.

Secretariat comment -

15. The wording of this paragraph has been amended to take account of the United Kingdom's comment.

IV. ORGANIZATION OF SERVICES

Specialized public services

Paragraph 13

16. Australia would like the study of the scientific problems arising in connexion with the conservation of material produced by sub-marine archaeological excavations to be mentioned in the paragraphs dealing with laboratories.

Secretariat comment

17. Although the recommendation is essentially concerned with the protection of the immovable cultural and natural heritage of States, it seems possible to include this proposal concerning movable items, since the laboratories in question are responsible, in many Member States for both immovable and movable property.

Advisory bodies

Paragraph 14

18. The United States of America has the following correction to make to section 35 of document SHC/MD/17:

"For clarification, the third paragraph of this section should be amended. It now reads: It (the Advisory Council) is composed of 17 members, six of whom are members of the President's Cabinet and 11 other specialists ...". It should read: "It is composed of 20 members, ten of whom are ex officio and represent the President's Cabinet as well as institutional leadership, and ten are private citizen specialists appointed by the President ...".

Italy considers that it would be well to mention, besides representatives of the major preservation societies and of the administrations concerned, other scientific and technical experts (teachers, research workers, etc.) who do not necessarily represent such societies or administrations.

Secretariat comment -

19. The comment by the United States of America is a simple statement of fact, entailing no amendment to the text of the recommendation. With regard to Italy's remark, the inclusion of the word "experts" in this provision would seem to cover all the categories of persons mentioned above.

Competence of central, federal and local bodies

Paragraph 19

20. Austria brings up a peculiar problem of its own, with regard to the division of authority between the Federation (the State) and the Länder (federal provinces).

Italy asks that the word "regional" be added to the title of the paragraph.

Secretariat comment -

21. The problem raised by Austria will be dealt with in the analysis of the observations relating to the preliminary draft Convention. Action has been taken to meet Italy's request.

V. PROTECTIVE MEASURES

Paragraph 20

22. The United Kingdom suggests that, in order to avoid large-scale amendments to the provision of the recommendation (which it considers to be too long and detailed), a paragraph be included to the general effect that the precise measures to be adopted should depend on the legislation and the

organizational systems of each country. It points out that there is a precedent for this in paragraph 13 of the recommendation concerning the preservation of cultural property endangered by public or private works, adopted by the General Conference of Unesco at its fifteenth session in 1968.

Sweden considers that the proposals for protective measures in Chapter V are difficult to read, and that it would be advisable to adopt a simpler and more flexible wording, because of the widely varying administrative, legislative and fiscal systems of Member States.

The United States of America specifically proposes that references to the scientific and technical measures to be taken for protection (paragraphs 21-29), which may vary from one country or region to another, should be in more general terms, especially since Unesco in the months to come is to make available to Member States publications dealing with restoration and protection techniques.

Secretariat comment -

23. One of the publications referred to in the reply from the United States would seem to be the manual entitled "Preserving and Restoring Monuments and Historic Buildings", which has just come out. The articles in this book, and others published under Unesco's auspices, are the responsibility of their authors alone and can therefore serve only as useful sources of information concerning scientific and technical developments with regard to protection. While it feels that the recommendations regarding protection contained in Chapter V are in very general terms, the Secretariat fully appreciates the desirability of their being harmonized with the legislation of Member States.

Account has accordingly been taken of the United Kingdom's suggestion in the wording of paragraph 20. Furthermore, several paragraphs in Chapter V have been amended in accordance with suggestions put forward by Member States, with due regard for the views of the United Kingdom, Sweden and the United States of America. Should it be found necessary, later on, to alter the structure of Chapter V any more, so that the measures provided for therein may be more compatible with the diverse administrative, legislative and fiscal systems of Member States, this will be a matter for the Special Committee of Government Experts.

Paragraphs 21-22

24. In connexion with paragraph 22, Australia asks for mention to be made of carrying out very thorough and comprehensive overall surveys to determine the number and relative importance of various monuments, groups of buildings and sites and to identify sites that are not yet officially known or precisely located.

The United Kingdom remarks that the tasks implied in these paragraphs are virtually impossible in view of the broadness of the definitions.

Brazil suggests that the following passage be inserted among paragraphs 23, 24 and 25:

"Studies and surveys should be made on a scientific basis with a view to the organization, guidance and planning of urban and industrial development, the development of tourism and roads, and regional development, in such a way as to safeguard and enhance the monuments, groups of buildings and sites."

Secretariat comment -

25. These comments are pertinent although mutually contradictory. The Secretariat can only leave it to the Committee of Experts and the General Conference to decide on the scope and extent of this chapter. Australia's comment might also come in under paragraph 30.

The wording of paragraphs 21 and 22 has been slightly amended in line with the United Kingdom's comments.

Paragraph 27

26. The United Kingdom points out that modern intrusions may be found in the surroundings of a monument, and it might be in the interests of the monument for them to be demolished.

Secretariat comment

27. The wording of this paragraph is not at variance with the wishes of the United Kingdom. To avoid its being interpreted too literally, the words "in principle" have been inserted.

Paragraph 28

28. Italy suggests that the measures taken against shocks and vibrations should be extended to those caused by trains. It also criticizes the second part of this paragraph as wrongly lumping together pollution and natural disasters against which no preventive measures can be taken, and points out that there is no reference in the text to possible repair work.

Secretariat comment -

29. The revised wording of paragraph 28 takes the gist of these observations into account, but nothing has been done to meet the objection concerning the lumping together in the same sentence of pollution and natural disasters since, contrary to what is said in the observation, preventive measures can be taken against natural disasters (against earthquakes or fires, etc., as for instance in Japan).

Administrative measures:

Paragraph 30

30. Italy remarks in general that, in its opinion, administrative measures should come before technical measures, while the measures that are more administrative than legal in character, contained in paragraphs 40-46, should be grouped with the other administrative measures. It also feels that legal and administrative measures could be regrouped under a single heading entitled "protective measures".

Lastly, Italy points out that the reference, in paragraph 30, to the particular attention to be paid to buildings which, without being of special importance, are inseparable from their environment and contribute to its character, might give the impression that less care need be devoted to works of great importance.

The United Kingdom remarks that the word "all" (in the English text) makes the tasks described in this paragraph impossible to accomplish.

Secretariat comment -

31. The measures specified in paragraphs 40 to 46 are not essentially administrative in character. Chapter V as a whole is entitled "Protective measures", which would seem to be in line with Italy's proposal.

The suggested sub-divisions - (1) scientific and technical; (2) administrative; (3) legal; (4) financial - appear to be logical. Points of detail as regards the content may be matters for discussion but the general scheme does not seem open to criticism.

On the other hand, the ambiguity noted by Italy has been removed in the amended text proposed for paragraph 30.

The word "tous" does not appear in the French text. The English version has therefore been altered.

Paragraph 33

32. Italy suggests that the word "universitaire" in the French text of this paragraph should be replaced by the word "éducative" since any type of school may represent a suitable new use for certain categories of monuments or buildings.

Secretariat comment

33. The word "universitaire" has a broad meaning covering any educational institution, regardless of the level of instruction, and a narrower meaning relating only to higher education. In any event, the suggested substitution is acceptable and has been inserted in the new version of paragraph 33.

Legal measures:

Paragraphs 42 and 44

34. The United States of America considers that several of the legal proposals² are inconsistent with the system of property ownership in many Member States. Generalizations would be preferable to over-specific provisions.

Austria considers that it would be difficult to put into practice paragraph 42, which provides for ordering the owner of a protected building whose conservation is seriously endangered to have the necessary work done, since the necessary State contribution to the financing of the work of protection would entail the allocation of substantial budgetary funds.

Secretariat comment -

35. In response to the wishes expressed by the United States of America and Austria for less specific and more flexible provisions, the wording of paragraphs 42 and 44 has been amended.

Paragraph 45

36. The United Kingdom notes that the idea of expropriation and transfer of ownership to private persons would cause difficulties, at least in the ancient monuments field.

Secretariat comment -

37. Paragraph 45 has been revised as far as possible to take this suggestion into account.

Paragraphs 49 and 51

38. Australia points out that, under the terms of paragraph 49, flotsam and jetsam to which title is unclaimed should be the property of the State, whereas paragraph 50 implies that the finder may acquire special rights in the property by virtue of finding. This is considered an undesirable situation; it would be preferable for the recompense given to the finder to be related to the costs of finding rather than to the monetary value of the find.

Furthermore, Australia points out that the destruction of underwater archaeological sites involves the use of valuable equipment, including vessels. It would therefore be desirable for provision to be made for the confiscation of equipment used in illicit sub-marine excavation, as a deterrent, among the penalties mentioned in paragraph 51.

The United Kingdom proposes the deletion of all mention of flotsam and jetsam in the text of paragraphs 49-51, since the recommendation is concerned solely with immovable items.

Secretariat comment -

39. Although the observation of the United Kingdom is justified, it was considered necessary to protect flotsam and jetsam since they form part of the seabed before excavations are carried out.

The two ideas contained in paragraph 49 and in paragraph 50, respectively, are not contradictory. The rights of the finder are not to be considered as rights of ownership. On the other hand, if he has run risks and had expenses to bear, it is natural that he should receive some compensation, some recompense. The paragraph does not state that the compensation should be related to the monetary value of the find.

However, to dispel any misunderstanding, the revised wording of paragraph 50 specifies, in accordance with the wishes of Australia, that the recompense to be paid to the finder shall be "calculated by reference to the costs he may have incurred".

To deter clandestine sub-marine excavations, the penalties provided for in paragraph 51 have been increased at the request of Australia.

Financial measures:

Paragraph 60

40. The wording of this paragraph has been modified by the addition of the phrase "as far as possible". This is in line with the amended wording of paragraphs 42 and 44.

Paragraph 62

41. Italy would like the word "should" to be replaced by "may", since the setting up of "National Monuments Funds" may be useful but cannot be regarded as an obligation.

The United Kingdom believes this clause will not be acceptable to some countries.

Secretariat comment -

42. To take account of the views expressed by Italy and the United Kingdom, the wording of paragraph 62 has been amended.

Paragraph 63

43. The United Kingdom has reservations about this paragraph.

Secretariat comment -

44. The paragraph has been slightly amended.

Paragraph 64

45. For the same reasons as stated above, Italy asks that the words "should be payable" be replaced by "might be contemplated so as".

Secretariat comment -

46. The new wording of paragraph 64 meets this wish.

Paragraph 65

47. The United Kingdom doubts whether the provisions of this paragraph would be appropriate.

Secretariat comment -

48. This paragraph has been slightly amended.

VI. EDUCATIONAL AND CULTURAL ACTION

Paragraphs 66-69

49. Australia considers that insufficient attention has been given to the rôle of educational and cultural action in the recommendation, adding that any conservation programme calls for identification of natural treasures, appreciation of their significance and a real willingness to safeguard them.

Secretariat comment -

50. There is no doubt that educational action is of basic importance in this connexion. It has already been dealt with in paragraphs 37-42 of the recommendation concerning the safeguarding of the beauty and character of landscapes and sites, adopted in 1962, and in paragraphs 31-34 of the recommendation concerning the preservation of cultural property endangered by public or private works, adopted in 1968. Such action might even be the subject of a special recommendation; but in the context of the present recommendation, which is considered somewhat overdetailed by the United States of America and Sweden, it would seem difficult to act on Australia's proposal.

B. Observations on the preliminary draft convention
General observations

51. Most of the replies received explicitly approve the action taken by Unesco with a view to the adoption of the General Conference of a Convention concerning the protection of monuments, groups of buildings and sites of universal value. The question of the field of application of this instrument has, however, been raised in connexion with the preparation by the International Union for Conservation of Nature and Natural Resources (IUCN) of a draft convention on conservation of the world heritage, to be submitted to the United Nations Conference on the Human Environment, which is to be held in Stockholm next June.

The United Kingdom, after referring to certain suggestions that the IUCN draft should be confined to natural sites while the Unesco Convention would apply to monuments, states that it is opposed in principle to the proliferation of overlapping international conventions and considers that a single convention applying to both natural sites and to monuments should be prepared and adopted. In the United Kingdom's view, this single convention should be drawn up by Unesco, since it has competence over the whole field, while IUCN is in consultative status with it. The Special Committee of Government Experts meeting in April should, in this event, be asked to consider the IUCN draft and might, if appropriate, model some clauses on provisions contained therein.

Austria and Japan also recommend that the activities of the United Nations should be closely co-ordinated with those of Unesco in order to avoid overlapping in international regulations concerning the protection of monuments and sites. In Austria's view, account should also be taken of the recent studies carried out by the Council of Europe in connexion with the drafting of a basic law for the protection of immovable cultural property in Europe.

Austria also considers that it would be desirable for the convention to be divided into two separate parts (one dealing with historical and artistic monuments, and the other with nature).

The United States of America, in a preliminary reply, indicated that at the present stage of the work in progress for the implementation of President Nixon's message sent to the Congress of the United States in February 1971 regarding the World Heritage Trust, and of recent international efforts on behalf of the protection of the environment, they were not yet in a position to comment on the preliminary draft convention. Observations would probably be put forward in time for submission to the Special Committee of Government Experts to meet on 4 April 1972.

In a later communication, the United States expressed the opinion that protection of the world heritage should be dealt with in a single convention covering the three areas - natural, cultural and historical - which constitute this heritage. This convention should be adopted by the General Conference of Unesco at its next session. The functions of the Secretariat to be provided for therein should be carried out by Unesco, while certain responsibilities for the execution of some programme activities might be entrusted to IUCN for natural areas and to ICOMOS for cultural and historical areas.

Secretariat comment -

52. The Secretariat shares the views expressed by the above-mentioned States on the dangers of a proliferation of international instruments and the need for securing closer co-ordination of the

efforts of the organizations concerned in order to avoid overlapping. As mentioned by the United Kingdom, international protection of natural sites falls within the competence of Unesco.

The Unesco General Conference, moreover, adopted a recommendation in 1962 concerning the safeguarding of the beauty and character of landscapes and sites and, by its resolution 3.412 adopted at its sixteenth session, instructed the Director-General to prepare a draft international convention concerning the international protection of both monuments and sites.

It is thus clear that the General Conference's intention was to institute international protection in these two areas by means of a single instrument, to be submitted to it for adoption at its next session.

The United States proposal regarding the rôle that might be entrusted to IUCN and to ICOMOS - both of which have consultative and associate relations (category A) with Unesco - in the implementation of certain specific programmes, meets with no objection on the part of the Secretariat.

If the provisions of the preliminary draft concerning natural sites seem inadequate to the Special Committee of Government Experts, it will be their task to supplement them after considering all the suggestions put forward, including those from IUCN.

As is explained below, the definitions of natural sites contained in the preliminary draft have already been expanded.

PREAMBLE

53. Austria would like paragraphs 5 and 6 of the preamble, referring respectively to Unesco's Constitution and to the 1954 Hague Convention, to be drafted in such a way as to eliminate any doubt that the new convention applies solely to immovable property.

Italy suggests that the preamble should refer not only to the 1954 Hague Convention but also to other international conventions.

Italy further proposes that the fourth and the eighth preambular paragraphs should be transposed.

The United Kingdom would like the preamble to be shortened if possible.

Secretariat comment -

54. Some of these observations have been acted on in the revised draft of the preamble. It should be noted, however, that the single reference to The Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict makes it possible to place greater emphasis on the need to draw up a new instrument to provide for the protection of monuments, groups of buildings and sites of universal value in peace time as well.

ARTICLE-BY-ARTICLE COMMENTARY

I. Definitions

Articles 1 and 2

55. Australia considers that insufficient attention is given to the sites defined in Article 1(c). This observation coincides with the comments made by the United States of America regarding the preliminary draft recommendation, and with the Austrian proposal that the convention should be divided into two separate parts, one for historical and artistic monuments, the other for works of nature.

The United Kingdom notes that the definition of natural sites is inadequate.

Italy proposes that the phrase "warrant their protection and enhancement" at the end of paragraphs (b) and (c) of Article 1 be replaced by the words: "are of universal interest".

France points out that, since the definitions of monuments, groups of buildings and sites of universal value are not at all restrictive, a situation would well arise in which a great many large groups of buildings and sites came within the scope of the convention and into competition with one another.

Brazil suggests that Article II. 2 be amended to allow for taking into account, when deciding on the property to be placed under international protection, the significance of certain property for a continent or a large region of the world.

Secretariat comment -

56. The revised draft takes account of the observations made concerning the inadequate definition of natural sites. It also takes account of the Italian and Brazilian proposals.

II. National Protection and International Protection

Articles 3 and 4

57. Italy considers that, to preclude the possibility of interference in the domestic affairs of States Parties to the convention, Articles 3 and 4 should not be presented in the form of statutory commitments.

Australia considers that Article 4, defining the arrangements for national protection, is inappropriate in the convention and should appear only in the recommendation.

Similarly, Austria proposes that, in Article 4, the words "they undertake" be replaced by the words "they will make every effort".

The United Kingdom remarks that the words "active development", in the first line of Article 4, seem inappropriate. This comment applies only to the English text.

Secretariat comment -

58. The revised draft convention takes these observations and proposals into account.

III. Intergovernmental Committee for the Protection of Monuments, Groups of Buildings and Sites of Universal Value

Articles 6 and 7

59. Poland considers that, to ensure broad representation of the various parts of the world and political systems on the Intergovernmental Committee, its membership, which is limited in the preliminary draft to 15, should be increased to 21. The first partial renewal would then consequently involve ten members.

France also, when commenting on the problems of financing and the allocation of funds by the Intergovernmental Committee, draws attention to its small membership.

Secretariat comment -

60. With regard to the views expressed by Poland and France about the possibility of increasing the number of members of the Intergovernmental Committee, it should be pointed out that, in consequence of the effects produced by Article 33, such an increase would delay the convention's entry into force.

Although a convention, such as the one contemplated, cannot operate effectively until it has been widely accepted, a better solution might perhaps be to provide for a gradual increase in the membership of the Committee as more States become Parties to the convention. Fifteen would then merely be the initial number, allowing for entry into force at as early a date as could reasonably be expected.

In any event, the Special Committee will be called on to give its views on a rewording of Articles 6 and 7.

Article 9

61. Referring to the functions of the Intergovernmental Committee described in Article 9, Italy points out that they are of two sorts: partly technical, and partly administrative and financial. Italy suggests that the former might be entrusted to a committee of specialists and experts, while the latter would be carried out by a small board composed of States Parties to the convention.

France remarks that the definitions of monuments, groups of buildings and sites are exceedingly broad and that virtually no limits are set as to the dangers to which they may be exposed. There might consequently be strong competition for protection between items of immovable cultural or natural property. France therefore asks that Article 9 should provide more details regarding decision-making by the Committee, and the majorities required, for it is to be feared that any such body will witness a clash of interests.

Poland suggests that in determining the order of priority for its operations, the Committee should bear in mind the extent to which the country where the monuments are located can protect them by means of its own resources.

Sweden proposes that, in addition to the functions described in Article 9, the Intergovernmental Committee should have responsibility for reviewing all questions dealt with in Unesco's programme and budget under the heading "Preservation and Development of the Cultural Heritage", and relating to the field covered by the convention.

The United Kingdom raises the question whether the short list is to be confined to property in respect of which requests for assistance have been submitted by the governments concerned. If not, it considers there is a risk of unsolicited intervention in the affairs of sovereign States.

Secretariat comment -

62. With reference to the comments made by France, the Secretariat points out that the definitions of the property to be preserved, contained in Articles 1 and 2, and of the grave and specific dangers by which it may be threatened, set forth in Article 20, together with the criteria set forth in Article 9. 2 with regard to the order of priority, are calculated to provide the Committee with sufficient data and to guide it in decisions. In other respects, the revised draft convention takes account of the observations made by France and Poland, with particular reference to the establishment of the majorities required for the Committee's decisions and the adjunction of a further criterion for determining the order of priority.

As regards the Italian proposal, it should be noted that, under the terms of Article 8, the Committee, which should itself be composed of qualified persons within the meaning of Article 7.3, has power to associate specialists and experts with its work. The Committee may also set up consultative bodies, the membership of which will be determined by it. In addition, the Committee, under the terms of Article 10, is to be assisted by a Secretariat appointed by the Director-General of Unesco. This Secretariat naturally includes technicians and specialists as well as administrators. In these circumstances, it would seem preferable for an intergovernmental body to retain the final responsibility for all decisions regarding the provision of international protection.

With regard to the Swedish proposal, it is obvious that the work of the Committee should be closely co-ordinated with the execution of Unesco's programmes for the preservation and development of the cultural heritage.

Lastly, the revised draft convention takes account of the United Kingdom's observation regarding clarification of Article 9, paragraph 3.

IV. Resources

63. Italy considers that this section, dealing with the International Fund, should precede section III, which concerns the Intergovernmental Committee responsible inter alia for management of that Fund.

Articles 12 and 13

The United Kingdom and Sweden are opposed to the establishment of an international fund supplied by compulsory contributions from States.

France has reservations with regard to the system of compulsory contributions.

Italy mentions that the very idea of a compulsory contribution is not always readily accepted by States. In this case, however, it considers that the contribution might be set at 2% of a State's financial contribution to Unesco's budget.

Poland proposes that any decision regarding the amount of compulsory payments should be taken by at least a three-fifths majority of those voting. It also suggests provision for the possibility of paying States' contributions in kind (in the form of experts' reports, surveys or specialized services).

Austria considers that the criteria for determining the maximum contributions to be made by States should be specified in the convention.

France likewise considers that the rules covering financing and management are not dealt with in sufficient detail.

Poland proposes that express provision be made for a direct contribution from Unesco to the International Fund.

Sweden considers that the resources to be made available for international protection should come from the regular budget of Unesco and from the United Nations Development Programme.

Secretariat comment -

64. The revised draft convention takes account of many of the foregoing observations. The Secretariat thinks it necessary, however, to retain the system of compulsory contributions.

Articles 16-19

65. The United Kingdom states that it cannot accept the obligations set forth in Articles 15, 16 and 18 concerning certain administrative, legal and financial measures to be taken at the national level.

Austria proposes adding the words "as far as possible" to qualify the undertaking by States, under Article 16, to promote the establishment of national foundations or associations with the purpose of encouraging benefactions for the protection of monuments, groups of buildings and sites.

Italy further observes that there are various articles in the preliminary draft convention by virtue of which States formally undertake to carry out activities in many areas of national concern, and suggests that the relevant provisions be made less mandatory.

Secretariat comment -

66. The revised draft convention takes the foregoing observations into account.

V. Conditions and Arrangements for the Granting of International Protection

Article 19

67. The United Kingdom and Thailand point out a misprint in the English version of Article 19.1 of the preliminary draft: the reference to Article 9.5 should be to Article 9.3.

Poland replies affirmatively to the question raised in paragraph 106 of the preliminary report: whether in a case where a State that is not party to the convention fails to give a cultural asset of universal value, situated on its territory and in grave danger, the care which its conservation requires, the Intergovernmental Committee can spontaneously offer its services.

The United Kingdom, on the other hand, draws attention to the dangerous implications of authorizing such intervention in the affairs of a sovereign State, whether or not party to the convention.

Article 20

Poland suggests that, in order to avoid causing offence, the words "for political or religious reasons", qualifying the abandonment of a building of cultural interest, should be replaced by the words "for any reason".

Brazil proposes adding the development of towns and of tourism to the list of dangerous threatening cultural property that might justify their inclusion on the short list.

The United Kingdom points out that property in danger of disappearance due to deterioration, whatever its rate, and even if not "increasingly rapid", should qualify for international protection.

Secretariat comment

68. The revised draft convention takes these observations into account.

Article 22

69. The United Kingdom points out a misprint in the English version. The last words of subparagraph (d) should read "non-repayable subsidies".

Article 24

70. The United Kingdom wonders whether it would not be advisable to define what is meant by "certain exceptions", appearing in this paragraph.

VIII. Final Clauses

Article 29

71. Austria, after mentioning its federal structure and pointing out that the implementation of several of the provisions of the convention would be a matter for the Länder (federal provinces), expresses the view that the clause in Article 29 stating that reservations to the convention are not permitted might prevent ratification of the convention by Austria.

Secretariat comment -

72. The revised draft convention has considerably reduced the scope of commitments to be undertaken by States with regard to national activities. As regards the undertakings relating to international protection proper - which, incidentally, would appear to be within the competence of the Federal authorities - it is thought difficult to permit reservations.

ANNEX III

REVISED DRAFT RECOMMENDATION
CONCERNING THE PROTECTION, AT NATIONAL LEVEL,
OF MONUMENTS, GROUPS OF BUILDINGS AND SITES

The General Conference of the United Nations Educational, Scientific and Cultural Organization, meeting in Paris, at its seventeenth session, from _____ to _____ 1972.

Considering that, in a society where living conditions are changing at an accelerated pace, it is essential for man's equilibrium and development to preserve for him a fitting setting in which to live and, to this end, to give monuments, groups of buildings and sites an active function in community life and to have an overall policy for combining the remains left by past civilizations with the achievements of our own time.

Considering that particularly serious dangers engendered by new phenomena peculiar to our times are threatening monuments, groups of buildings and sites, which constitute an essential feature of mankind's heritage and a source of enrichment and harmonious development for present and future civilization.

Considering that every country in whose territory there are monuments, groups of buildings and sites has an obligation to safeguard this part of mankind's heritage and to ensure that it is handed down to future generations,

Considering that the study, knowledge and protection of monuments, groups of buildings and sites in the various countries of the world are conducive to mutual understanding among the peoples,

Considering that monuments, groups of buildings and sites form a homogeneous whole, the components of which are indissociable,

Considering that, if monuments, groups of buildings and sites are to be safeguarded, they must be integrated into the social and economic life of each nation,

Considering that such integration into social and economic life must be one of the fundamental aspects of regional development and national planning at every level,

Considering that a policy for the protection of monuments, groups of buildings and sites, thought out and formulated in common, is likely to bring about a continuing interaction among Member States and to have a decisive effect on Unesco's activities in this field,

Noting that the General Conference has already adopted international instruments for the protection of the cultural heritage consisting in land and buildings, such as the Recommendation on International Principles Applicable to Archaeological Excavations (1956), the Recommendation concerning the Safeguarding of the Beauty and Character of Landscapes and Sites (1962) and the Recommendation concerning the Preservation of Cultural Property endangered by Public or Private Works (1968).

Desiring to supplement and extend the application of the standards and principles laid down in such recommendations.

Having before it proposals concerning the protection, at national level, of monuments, groups of buildings and sites, which question appears on the Agenda of the session as Item ,

Having decided, at its sixteenth session, that this question should be made the subject of international regulations, to take the form of a recommendation to Member States,

Adopts this day of 1972, the present recommendation.

The General Conference recommends that Member States apply the following provisions by adopting measures, in the form of a national law or otherwise, to give effect, within the territories under their jurisdiction, to the standards and principles laid down in this recommendation.

The General Conference recommends that Member States bring this recommendation to the attention of the authorities, services or bodies concerned with the protection of monuments, groups of buildings and sites, regional development planning, the protection of nature and the development of tourism, as well as of the authorities responsible for formal and informal educational activities.

The General Conference recommends that Member States forward to it, at the dates and in the form that it shall prescribe, reports on the action taken by them to give effect to this recommendation.

I. DEFINITIONS

1. For the purposes of this recommendation, the following shall be considered as:

- (a) "Monuments" - architectural works or works of monumental sculpture, or combinations of natural features, that are of public interest from the point of view of history or art, or of nature conservation;
- (b) "Groups of buildings" - groups of separate or connected buildings which, because of their architecture, their homogeneity, or their place in the landscape, are of public interest from the point of view of history or art;
- (c) "Sites" - topographical areas, whether the work of nature or the combined work of nature and of man, which it is in the public interest to protect, for historical, artistic, aesthetic, scientific, ecological, ethnographical, literary, legendary or other reasons.

More especially, areas where traces of earlier civilizations survive shall constitute "archaeological sites on land or under water"; areas in which there are, or may be discovered, natural items of particular interest from the scientific standpoint, as regards geology, physiography, vegetation and fauna, for instance, shall constitute "scientific sites"; remote or extensive areas of country which are of special interest by reason of their beauty or from the point of view of education and recreation, such as national parks and nature reserves, in whole or in part, intended among other things for research concerning the creation, or the restoration of the landscape and the conservation of nature, shall constitute "natural sites".

II. NATIONAL POLICY

2. Each State should formulate, develop and apply a national policy whose principal aim should be to co-ordinate and make use, at the national, regional and local level, of all scientific, technical, cultural and other resources available with a view to taking active and continuing measures, for the present and for the immediate and more distant future, to secure the effective protection and presentation of its monuments, groups of buildings and sites.

III. GENERAL PRINCIPLES

- 3. Monuments, groups of buildings and sites represent collective wealth, the protection and development of which impose responsibilities on the States in whose territory they are situated, both vis-a-vis their own nationals and vis-a-vis the international community as a whole; Member States should take such action as may be necessary to meet these responsibilities.
- 4. The immovable cultural or natural heritage should be considered in its entirety as a homogeneous whole, comprising not only works of great intrinsic value, but also more modest items that have, with the passage of time, acquired cultural value.
- 5. None of these works and none of these items should, in principle, be dissociated from its environment.

6. As the ultimate purpose of protecting and enhancing the immovable cultural and natural heritage is the development of man, Member States should, as far as possible, give their work in this field a new direction, so that monuments, groups of buildings and sites may no longer be regarded as a check on national expansion but as a determining factor in such expansion.
7. The protection and effective presentation of monuments, groups of buildings and sites should be considered as one of the essential aspects of regional development plans, and planning in general, at the national, regional or local level.
8. Preventive and corrective regulations relating to monuments, groups of buildings and sites should be supplemented by others, designed to give each of the components of this heritage a function which will make it a part of the nation's social, economic and cultural life for the present and future, compatible with the cultural character of the property in question.
9. An active policy for the conservation of monuments, groups of buildings and sites, and for giving them a place in community life, should be developed. Member States should arrange for concerted action by all the public and private services concerned, with a view to drawing up and applying such a policy. Advantage should be taken in such activities of scientific and technical advances in all branches of study involved in the protection and development of the immovable cultural or natural heritage.
10. Increasingly generous financial resources should be made available by the public authorities for the work of safeguarding and developing the immovable cultural or natural heritage.
11. The general public should be directly associated with the measures to be taken for protection and should be called on for suggestions and help, with particular reference to the surveillance of monuments, groups of buildings and sites, and regard for the immovable cultural or natural heritage. Consideration might also be given to the possibility of the public's providing financial support.

IV. ORGANIZATION OF SERVICES

12. Although the diversity of constitutional provisions, traditions, psychological conditions and other factors make it impossible for all Member States to adopt a standard form of organization, certain common criteria should nevertheless be noted.

Specialized public services

13. With due regard for the conditions appropriate to each country, Member States should set up in their territory, wherever they do not already exist, one or more specialized public services to be responsible for the efficient discharge of the following functions:
 - (a) developing and putting into effect measures of all kinds designed to protect the country's immovable cultural or natural heritage and to make it an active factor in the life of the community;
 - (b) training and recruiting curators, administrators, laboratory research workers, architects and construction engineers, as well as specialists in the human sciences, sociologists, economists, ethnologists, geographers, geologists, agronomists, etc., to be responsible for working out protection and integration programmes and directing their execution;
 - (c) organizing close co-operation among these various specialists by constituting panels to study the technical conservation problems of monuments and groups of buildings, taking into account the contributions of all the disciplines concerned;
 - (d) using laboratories for the study of all the scientific problems arising in connexion with the conservation of monuments and groups of buildings, as well as the products of archaeological excavations and discoveries, both on land and under water;
 - (e) employing a permanent staff of skilled craftsmen, including masons, stone-cutters, sculptors, cabinet-makers, carpenters, etc., since the traditional crafts play such a large part in the conservation of immovable cultural property;

- (f) dealing with certain aspects of the sale and tenancy of ancient buildings in order to ensure that the new owners or tenants carry out the necessary restoration work and provide for the upkeep of the buildings in the best artistic and technical conditions.

Advisory bodies

14. The specialized services should be assisted by advisory bodies whose help is essential for the preparation of measures relating to monuments, groups of buildings and sites. Such advisory bodies should include experts, representatives of the major preservation societies, and representatives of the administrations concerned.

Co-operation among the various bodies

15. The specialized services dealing with the protection and development of monuments, groups of buildings and sites should carry out their work in liaison with other public services, more particularly those responsible for town planning, major public works, regional development, the environment, territorial planning, and economic and social planning.

16. The specialized services responsible for monuments, groups of buildings and sites should be given equal status with the services concerned with town planning, economic growth and regional development. Continuing co-operation at all levels should be organized among them whenever large-scale projects are involved, and co-ordinating bodies should be set up for that purpose, so that decisions may be made in concert, taking account of the various interests involved. Provision should be made for joint planning from the start of the studies.

17. The co-ordinating bodies should in no way take the place of the advisory bodies, which should, in any case, be consulted.

18. Provision should be made for some procedure for settling any conflicts that may arise between the specialized services for the protection of monuments, groups of buildings and sites and other public services.

Competence of central, federal, regional and local bodies

19. Considering the fact that the problems involved in the conservation of monuments, groups of buildings and sites are difficult to deal with, calling for special knowledge and sometimes entailing hard choices, and that there are not enough highly qualified staff available in this field, responsibilities in all matters concerning the devising and execution of protective measures in general should be divided among central or federal and regional or local authorities on the basis of a judicious balance adapted to the situation that exists in each State.

V. PROTECTIVE MEASURES

20. Member States should take all necessary scientific, technical, administrative, legal and financial measures to ensure the protection of monuments, groups of buildings and sites in their territories. Such measures should be determined in accordance with the legislation and organization of the State.

Scientific and technical measures

21. Having regard to the scientific, financial and other means available to them, Member States should arrange for careful and constant maintenance of their monuments, groups of buildings and sites in order to avoid having to undertake the costly operations necessitated by their deterioration; for this purpose, they should provide for regular surveillance of such property by means of periodic inspections. They should also draw up carefully planned programmes of restoration and development work based upon pilot projects gradually taking in all monuments, groups of buildings and sites, depending upon the scientific, technical and financial means at their disposal.

22. Any work required should be preceded and accompanied by such thorough scientific, historical and artistic studies as their importance may necessitate. Such studies should be carried out in co-operation with specialists in geology, geography, botany, hydrography, technology, soil

mechanics, etc., with the object of building up background data to be added to the studies of historical and typological source materials, photogrammetric surveys, archaeological analysis and the study of the techniques and materials used.

23. Member States should investigate effective methods of affording added protection to monuments, groups of buildings and sites that are threatened by new and unusually serious dangers. Such methods, based upon a knowledge of the processes of deterioration and dilapidation of the materials and structures of buildings and their surroundings, should take account of the interrelated scientific, technical and artistic problems involved and make it possible to determine the remedies to be applied.

24. The principal object of such investigations and studies should be to ascertain the present position with regard to the troubles affecting a monument or group of buildings, to analyse the causes of the facts observed, to study possible means of putting a stop to them, to apply the treatment recommended by the specialists, and to restore the monument or group of buildings to its former function or find it a new function better suited to it.

25. The purpose of the work done on such monuments, groups of buildings and sites should be to preserve their traditional appearance, and protect them from any new construction or remodeling which might impair the relations of mass or colour between them and their surroundings.

26. Substitutions for missing portions of a monument, while fitting into the structure as a whole, should be distinguished from the original portions by some form of marking, or by the use of different materials, or by setting the new surface slightly back from the original surface, or by any other appropriate method.

27. The harmony established by time and man between a monument and its surroundings is of capital importance and should in no case be disturbed or destroyed. The isolation of a monument by demolishing its surroundings should not, as a general rule, be authorized; nor should the moving, turning or raising of a monument be contemplated save as an exceptional means of dealing with a problem, justified by pressing considerations.

28. Member States should take measures against the effects of shocks and the vibrations caused by motor vehicles and trains. Regulations should allow for the possibility of prohibiting, in agreement with the services responsible for immovable cultural or natural property, flights by supersonic aircraft over certain regions at certain altitudes. Measures should also be taken to prevent pollution and guard against natural disasters and calamities, and to provide for the repair of damage to monuments, groups of buildings and sites.

29. Since the circumstances governing the rehabilitation of groups of buildings are not everywhere identical, Member States should provide for a sociological inquiry in each particular case, in order to ascertain precisely what are the social and cultural needs of the community in which the group of buildings concerned is situated. Any rehabilitation operation should pay special attention to enabling man to work, to develop and to achieve fulfilment in the restored setting.

Administrative measures

30. In order that measures for the protection and integration of their monuments, groups of buildings and sites may be taken in good time, Member States should have them surveyed and listed. Each Member State should draw up an inventory for the protection of its immovable cultural property, paying attention equally to all buildings, including those which, without being of outstanding importance, are inseparable from their environment and contribute to its character, as well as to sites threatened for any reason, such as population growth, economic development, major engineering works, etc.

31. The information obtained by such surveys of monuments, groups of buildings and sites should be collected in printed directories, which can easily be consulted and should be regularly brought up to date.

32. To ensure that monuments, groups of buildings and sites are effectively included in national, regional or local planning, Member States should carry out topographical and cartographical studies covering the cultural property in question.

33. Member States should give thought to finding new uses for groups of historic buildings no longer serving their original purpose. While industrial uses, except for crafts, should in general be excluded, other possible uses, for residential, educational, touristic, commercial, cultural, administrative and other purposes, might profitably be investigated for such groups.
34. It should be possible, while recognizing that monuments, groups of buildings and sites form an indissociable entity, to establish priorities for the execution of programmes of work to be done on them, taking into account all the circumstances involved.
35. Groups of buildings of historic or artistic interest should be declared "rehabilitation areas", with a permanent plan for their protection, development and rehabilitation. During the investigation preceding the designation of a rehabilitation area, the local authorities and inhabitants of the area should be consulted on the proposed measure.
36. The permanent protection, development and rehabilitation plan should be drawn up in the same conditions; it should take the place of a town-planning scheme for the area under consideration; it should stipulate the conditions for land use, the lay-out of roads, and building restrictions, besides specifying the buildings to be preserved and the conditions for their preservation. As regards rehabilitation, the permanent plan should stipulate the uses and, where appropriate, the new purposes to which the group of historic or artistic buildings is to be put, and the links there are to be between the rehabilitation area and the surrounding urban development.
37. Any work which might result in changing the existing state of the buildings in a rehabilitation area should be dependent on authorization by the competent administration. Such authorization should be granted only if the work contemplated is compatible with the terms of the permanent protection and development plan.

Legal measures

38. Depending upon their importance, monuments, groups of buildings and sites should be protected, individually or collectively, by legislation or regulations, in conformity with the legal procedures of each country. For that purpose, protective measures laying down restrictions and obligations, prohibiting demolition or alterations, and designed to put an end to the damage and harm done to monuments, should also be applicable, where necessary, to groups of buildings and sites.
39. Preventive and corrective measures for protection should be supplemented by new provisions needed to promote the conservation of the immovable cultural or natural heritage and to facilitate the development of its components. To that end, enforcement of protective measures should apply not only to individual owners but also to public authorities when they are the owners of monuments, groups of buildings and sites.
40. No new building should be erected, and no demolition, deforestation, transformation or modification carried out, on any real estate situated in the vicinity of a protected building, if it is likely to affect its appearance, without authorization by the specialized services.
41. The installation in groups of buildings of the modern conveniences needed for the well-being of their occupants should be allowed. Interior transformations should be authorized, provided they do not drastically alter the characteristic features of ancient dwellings. Similarly, any work carried out for the improvement of sanitation, the clearing of drains, the removal of old buildings devoid of any historic or artistic interest, the clearing of open spaces and pathways from one building to another, should be authorized.
42. Should the conservation of a protected building be seriously endangered through the owner's failure to fulfil his obligations, the specialized services should be empowered to order him to have the necessary work done within a specified time. The order should, so far as possible, be accompanied by an offer to make a financial contribution to the cost of the work.
43. Should the owner not carry out the work deemed necessary, the specialized services should exercise their powers to have the work done by their own means. In such cases, the owner should reimburse to the State that share of the costs which he would have paid if he had carried out the work himself.

44. Failing agreement with the owners, the specialized services should, so far as possible, have the right temporarily to occupy any protected architectural group and neighbouring buildings in order to carry out urgent work for the consolidation, repair or maintenance of such buildings.
45. Where required for the preservation of the property, the public authorities might be empowered to expropriate a protected building and transfer it, by mutual agreement, to public bodies or private persons, subject to terms and conditions to be specified by contract, after the previous owner has had the opportunity of putting his case.
46. Member States should establish regulations to control bill-posting, neon signs and other kinds of advertisement, commercial signs, camping, the erection of poles, pylons and electricity or telephone cables, the placing of television aerials, all types of vehicular traffic and parking, the placing of indicator panels, street furniture, etc., and, in general, everything connected with the equipment or occupation of monuments, groups of buildings and sites.
47. The effects of the measures taken to protect a monument, site or buildings forming a group should continue regardless of changes of ownership. Anyone alienating a protected building should inform the purchaser that it is under protection.
48. No legal easements that might affect a monument, group of buildings or site should be applicable thereto except with the agreement of the specialized services.
49. Flotsam and jetsam which is of archaeological, historical or artistic interest, and the owner of which is unknown, should be the property of the State. Any person discovering such flotsam or jetsam should declare it to the authorities nearest the place of discovery.
50. If the flotsam or jetsam is an isolated object, the specialized services should either give it to the salvager or deposit it in a public collection, offering the salvager such compensation as may be determined by amicable agreement or by expert opinion. If the find constitutes an archaeological site, recovery operations or work on the site should be carried out, in accordance with the rules applicable to under-water archaeological excavations, either directly by the specialized services or by the holder of a concession. The finder should have priority for the grant of such a concession, if he can offer the necessary guarantees, or, failing him, any other undertaking which can provide such guarantees. In the latter case, the finder should be entitled to compensation, to be determined by amicable agreement or by expert opinion, calculated by reference to the costs he may have incurred.
51. Any one who wilfully destroys, mutilates or defaces a protected monument, group of buildings or site, or flotsam or jetsam of archaeological, historical or artistic interest, should be punishable by a fine or imprisonment or both. In addition, equipment used in illicit sub-marine archaeology might be confiscated.
52. Heavy fines should be imposed upon those responsible for any other action detrimental to the protection or appearance of a protected monument, group of buildings or site, such as unauthorized alterations to such property, the erection of a building in the vicinity of a monument or in a protected group without authorization or in defiance of the regulations laid down.
53. To secure the material protection needed for a monument, a group of buildings or a site, Member States should provide for coercive measures, under which an offender could be ordered either to restore the protected property to its previous state or, where appropriate, to bring it into conformity with the requirements laid down by the competent services. This might be either accompanied by or independent of penal measures. In either case, in the event of resistance, judges should have power to impose a fine for every day that the offender persists in not complying with such orders.
54. Public authorities owning monuments, groups of buildings or sites should be answerable in the event of their failing to observe the legal provisions or regulations adopted to protect immovable cultural property, whether these be special rules for protecting monuments, groups of buildings and sites, or provisions in development plans.
55. Decisions by public authorities which infringe legal provisions or regulations concerning the protection of monuments, groups of buildings and sites, should be referred, by the procedures appropriate in each State, to some authority - if possible, a tribunal - having power to annul them.

Financial measures

56. The expenditure incurred in protecting, developing and rehabilitating privately-owned monuments, groups of buildings and sites should, so far as possible, be borne by their owners.
57. Tax concessions should be granted to private owners on both capital and income, if they are physical persons, in order to encourage them to carry out work for the protection, development and rehabilitation of their properties.
58. Subsidies should be granted to private owners as an incentive to them to carry out work for the maintenance, conservation, development, improvement of sanitation, and rehabilitation of the immovable cultural property for which they are responsible. Subsidies should also be granted to such owners to offset the additional expenditure which they are officially obliged to meet by reason of the application of protective measures.
59. The financial advantages accorded to private owners should, where appropriate, be dependent on their observance of certain conditions laid down for the benefit of the public, such as their allowing access to parks, gardens and sites, tours through all or parts of the monuments or groups of buildings, the taking of photographs, etc.
60. Central and local authorities should, as far as possible, appropriate, in their budgets, a certain percentage of funds, proportionate to the importance of their monuments, groups of buildings and sites, for the purposes of maintaining, conserving and developing property of which they are the owners, and of contributing financially to such work carried out on other property by the owners, whether public bodies or private persons.
61. Special funds should be set aside in the budgets of public authorities for the protection of monuments, groups of buildings and sites endangered by large-scale public or private works.
62. To increase the financial resources available to them, Member States may set up "National Monuments Funds", as legally established public agencies, entitled to receive private gifts and bequests, particularly from industrial and commercial firms.
63. In order to facilitate operations for the rehabilitation of monuments, groups of buildings and sites, Member States may make special arrangements, particularly by way of loans for renovation and restoration work, and should also make the necessary regulations to avoid price rises caused by real-estate speculation in the areas under consideration.
64. To avoid hardship to the poorer inhabitants consequent on their having to move from rehabilitated buildings or groups of buildings, compensation for rises in rent might be contemplated so as to enable them to keep their accommodation. Such compensation should be temporary and determined on the basis of the income of the parties concerned, so as to enable them to meet the increased costs occasioned by the work carried out.
65. Member States may facilitate the financing of work of any description for the benefit of monuments, groups of buildings and sites, by instituting "Loan Funds", supported by public institutions and private credit establishments, which would be responsible for granting loans to owners at low interest rates and with repayment spread out over a long period.

VI. EDUCATIONAL AND CULTURAL ACTION

66. Member States should undertake educational campaigns to arouse widespread public interest in, and respect for, monuments, groups of buildings and sites, and to give their people a better knowledge and understanding of the measures taken to make the immovable cultural heritage a part of the pattern of life today and tomorrow.
67. Without overlooking the great economic value of the immovable cultural heritage, measures should be taken to promote and reinforce the eminent cultural and educational value of that heritage, furnishing as it does the fundamental motive for protecting and developing it.

68. All efforts on behalf of monuments, groups of buildings and sites should take account of the cultural and educational value inherent in them as representative of an environment, a form of architecture or urban design commensurate with man and on his scale.
69. Steady efforts should be made to inform the public about what is being and can be done to protect the immovable cultural or natural heritage and to inculcate love and respect for the values it enshrines. For this purpose, the following media of information should be further developed:
- (a) illustrated articles should be published frequently in the press to arouse the interest of the general public in conservation and rehabilitation projects;
 - (b) radio and television programmes should draw attention to shortcomings and report on progress made in the protection of the immovable cultural or natural heritage;
 - (c) guidebooks for tourists should be prepared, giving detailed information about each monument, group of buildings and site, and about its setting;
 - (d) detailed studies should be published on major pilot projects for the development of monuments, groups of buildings and sites, setting out particulars of each problem and the methods and means used for solving it;
 - (e) universities, institutes of higher education and life-long education establishments should organize regular courses, lectures, seminars, etc., on the history of art, architecture, the environment and town planning, including discussions about familiar notions and views and leading to the formulation of new ideas for the protection of a country's immovable cultural heritage;
 - (f) voluntary organizations should be set up to encourage national and local authorities to make use of their powers with regard to protection, to afford them support and, if necessary, obtain funds for them; these bodies should keep in touch with local historical societies, amenity improvement societies, local development committees and agencies concerned with tourism, etc., and might also organize visits to, and guided tours of, monuments, groups of buildings and sites for their members;
 - (g) information centres might be set up to explain the work being carried out on monuments, groups of buildings and sites scheduled for rehabilitation.

VII. INTERNATIONAL CO-OPERATION

70. Member States should co-operate with regard to the protection and development of monuments, groups of buildings and sites, seeking aid, if it seems desirable, from international organizations, both intergovernmental and non-governmental. Such multilateral or bilateral co-operation should be carefully co-ordinated and should take the form of measures such as the following:
- (a) exchange of information and of scientific and technical publications;
 - (b) organization of seminars and working parties on particular subjects;
 - (c) provision of study and travel fellowships, scientific, technical and administrative staff, and equipment;
 - (d) provision of facilities for scientific and technical training abroad, by allowing young research workers and technicians to take part in architectural projects and archaeological excavations;
 - (e) co-ordination, within a group of Member States, of large-scale projects involving conservation, excavations, restoration and rehabilitation work, with the object of making the experience gained generally available.

ANNEX IV

REVISED DRAFT CONVENTION
CONCERNING THE PROTECTION OF MONUMENTS, GROUPS
OF BUILDINGS AND SITES OF UNIVERSAL VALUE

The General Conference of the United Nations Educational, Scientific and Cultural Organization, meeting in Paris from to 1972, at its seventeenth session,

Noting that monuments, groups of buildings and sites are increasingly threatened with destruction not only by the traditional causes of decay, but also by changing social and economic conditions which aggravate the situation with even more formidable phenomena of damage or destruction,

Considering that deterioration or disappearance of any item of cultural property or any natural environment constitutes a harmful impoverishment of the heritage of all the nations of the world,

Considering that protection of this heritage at the national level often remains incomplete because of the scale of the resources which it requires and of the insufficient economic, scientific and technical resources of the country where the property to be protected is situated,

Recalling that the Constitution of the Organization provides that it will maintain, increase and diffuse knowledge, by assuring the conservation and protection of the world's cultural heritage, and recommending to the nations concerned the necessary international conventions,

Considering that the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict provides for the protection of monuments and groups of buildings against the dangers arising from armed conflict,

Considering that some monuments and groups of buildings, and certain cultural or natural sites, including some national parks and ecological areas, are of exceptional interest and therefore need to be preserved as part of the world heritage of mankind as a whole,

Considering that, in view of the magnitude and gravity of the new dangers threatening them, it is incumbent on the international community as a whole to participate in the protection of these monuments, groups of buildings and sites, by the granting of collective aid which although not taking the place of action by the State on whose territory the threatened property is situated, will serve as an effective complement thereto,

Considering that it is essential for this purpose to adopt new provisions in the form of a convention establishing an effective system of collective protection for monuments, groups of buildings and sites of universal value, organized on a permanent basis in time of peace and according to scientific, modern methods of management,

Having decided, at its sixteenth session, that this question should be made the subject of an international convention,

Adopts this day of 1972 the present convention.

I. DEFINITIONS

Article 1

1. For the purposes of this convention, the following shall be considered as:

- (a) "Monuments" - architectural works or works of monumental sculpture, or combinations of natural features, that are of universal interest from the point of view of history or art, or of nature conservation;

- (b) "Groups of buildings" - groups of separate or connected buildings which, because of their architecture, their homogeneity or their place in the landscape are of universal interest from the point of view of history or art;
 - (c) "Sites" - topographical areas, whether the work of nature or the combined work of nature and of man, which it is in the interest of the world as a whole to protect, for historical, artistic, aesthetic, scientific, ecological, ethnographical, literary, legendary or other reasons.
2. More especially areas where traces of earlier civilizations survive shall constitute "archaeological sites on land or under water"; areas in which there are, or may be discovered, natural items of particular interest from the scientific standpoint, as regards geology, physiography, vegetation and fauna, for instance, shall constitute "scientific sites"; remote or extensive areas of country which are of special interest by reason of their beauty or from the point of view of education and recreation, such as national parks and nature reserves, in whole or in part, intended among other things for research concerning the creation, or the restoration of the landscape and the conservation of nature, shall constitute "natural sites".

Article 2

1. For the purposes of this convention, the international protection of monuments, groups of buildings and sites means the establishment of a permanent system of protection enabling States Parties to the convention to obtain, if necessary, help from the international community in their efforts to protect features of their immovable cultural or natural heritage which are of universal value.
2. Such protection can be accorded only to such examples of the property defined in Article 1 as merit designation, by virtue of their exceptional aesthetic or natural interest or their great importance, either from the point of view of one continent or one large region of the world, or as unique evidence of vanished civilizations or as masterpieces of nature or as irreplaceable architectural achievements typifying a particular period; an historical past or the genius of a people, as monuments, groups of buildings and sites of universal interest.

II. NATIONAL PROTECTION AND INTERNATIONAL PROTECTION

Article 3

The States Parties to this Convention recognize that the duty of ensuring the protection, effective presentation, and transmission to future generations of the property referred to in Article 2, situated on their territory, is primarily theirs. They will do all they can to this end, to the utmost of their own resources and with any international assistance and co-operation, in particular financial, artistic, scientific and technical, which they may be able to obtain.

Article 4

To ensure that the most efficient and active measures possible are taken for the protection and effective presentation of all monuments, groups of buildings and sites on their territory, as appropriate for each country and in conformity with the relevant provisions of existing international conventions and recommendations, they will make every effort in particular:

- (a) to adopt a general policy which aims to give monuments, groups of buildings and sites a function in the life of the community and to integrate the protection of such property into development programmes;
- (b) to set up within their territories, where such services do not already exist, one or more services for the protection and development of the immovable cultural heritage with a highly qualified and sufficiently numerous staff and possessing all the means of discharging their functions;
- (c) to develop scientific and technical studies and research and work out such operating methods as may be capable of counteracting the dangers that threaten their immovable cultural or natural heritage;

- (d) to take all legal, scientific, technical, administrative and financial measures necessary for the upkeep, restoration and rehabilitation of this heritage.

Article 5

1. The States Parties to this Convention further recognize that the property referred to in Article 2 constitutes a universal heritage, which it is the duty of the international community as a whole to protect.
2. Accordingly, they undertake, in conformity with the following provisions, to give their scientific, technical, artistic and financial help in the international protection of such property, whilst fully respecting the sovereignty of the States on whose territory such property is situated.

III. INTERGOVERNMENTAL COMMITTEE FOR THE PROTECTION OF MONUMENTS,
GROUPS OF BUILDINGS AND SITES OF UNIVERSAL VALUE

Article 6

An Intergovernmental Committee for the Protection of Monuments, Groups of Buildings and Sites of Universal Value, hereinafter called "the Committee", and composed of 15 States Parties to the Convention, elected by the States Party to the Convention meeting in General Assembly during the ordinary sessions of Unesco's General Conference is hereby established within the United Nations Educational, Scientific and Cultural Organization.

Article 7

1. The term of office of States members of the Committee shall extend from the end of the ordinary session of the General Conference during which they are elected until the end of its subsequent ordinary session.
2. The term of office of seven members designated at the time of the first election shall, however, cease at the end of the first ordinary session of the General Conference following that at which they were elected.
3. States members of the Committee shall choose as their representatives prominent persons qualified in the protection of monuments, groups of buildings and sites.

Article 8

1. The Committee shall adopt its Rules of Procedure which shall, in particular, permit observers from intergovernmental and non-governmental organizations designated by the Committee to participate in its work, and shall lay down the conditions under which particularly well-qualified private individuals or corporate bodies may participate in the Committee's activities.
2. The Committee may create such consultative bodies as it deems necessary for the performance of its functions.

Article 9

1. The Committee shall receive and consider requests for assistance for the protection of the monuments, groups of buildings and sites referred to in Article 2. It shall decide on the action to be taken on such requests; it shall determine, where necessary, the nature and scale of its assistance; and it shall make the necessary arrangements with the government concerned.
2. The Committee shall determine an order of priorities for its operation. It shall in so doing bear in mind the respective importance for the world's cultural heritage of the property requiring protection, the need to give international protection to the property most representative of a natural environment or of the genius and the history of the peoples of all continents, the urgency of the work to be done, and the resources available to the States on whose territory the threatened property is situated and the extent to which they are able to safeguard such property by their own means.

2. The Committee shall establish and bring up to date every two years a short list of the most important monuments, groups of buildings and sites whose conservation entails major operations and for which aid has been requested in accordance with paragraph 1 of this Article. This list, which shall contain indications as to the importance of the cultural or natural property and an estimate of the cost of rescue or restoration operations, shall be widely publicized.
4. The Committee shall draw up, keep up to date, and publicize a list of property saved as a result of its activity.
5. The Committee shall have at its disposal the resources of the International Fund the creation of which is provided for in Article 12. It shall adopt an annual budget for its expenditure.
6. The Committee shall seek ways of increasing the resources of the International Fund, and shall take all useful steps to this end.
7. The decisions referred to in paragraphs 1, 2, 3 and 5 of this Article shall be taken by the Committee by a two-thirds majority of its members present and voting.

Article 10

The Committee shall be assisted by a Secretariat appointed by the Director-General of Unesco. The Secretariat shall prepare the Committee's documentation and the agenda of its meetings. It shall see that its decisions are carried out.

IV. RESOURCES: INTERNATIONAL FUND FOR THE PROTECTION OF MONUMENTS, GROUPS OF BUILDINGS AND SITES OF UNIVERSAL VALUE

Article 11

1. An International Fund for the Protection of Monuments, Groups of Buildings and Sites of Universal Value, hereinafter called "the International Fund", to be administered by the Committee, is hereby established.
2. The International Fund shall constitute a trust fund, in conformity with the relevant provisions of the Financial Regulations of Unesco.

Article 12

The resources of the International Fund shall consist of:

- (a) compulsory and voluntary contributions made by States Parties to the present Convention;
- (b) contributions, gifts or bequests which may be made by:
 - (i) other States;
 - (ii) Unesco and other organizations of the United Nations system or other intergovernmental organizations;
 - (iii) industrial and commercial firms, in particular those which are concerned with tourism or transport and which are therefore interested in the conservation of the immovable cultural heritage;
 - (iv) public or private bodies or individuals;
- (c) the interest from sums lent by the Fund to States as financial participation in protection work carried out on monuments, groups of buildings and sites of universal value;

- (d) funds raised by collections and receipts from events organized for the benefit of the International Fund; and
- (e) all such other resources as shall be determined in the Rules [of Procedure] of the International Fund.

Article 13

Without prejudice to any supplementary voluntary contribution, the States Parties to this Convention undertake to pay regularly, every two years, to the International Fund, contributions the amount of which shall be determined, on the proposal of the Committee, by the General Assembly of States Parties to the Convention, meeting during the sessions of the General Conference of Unesco. The decision of the General Assembly shall be taken by a two-thirds majority of the States present and voting. In no case shall the compulsory contribution of a State Party to the Convention exceed 2% of its contribution to the budget of Unesco.

Article 14

The Secretariat shall regularly inform governments, competent national authorities, international governmental or non-governmental organizations, national institutions, associations and enterprises, individuals and corporate bodies concerned, of the programme of operations and the order of priorities established by the Intergovernmental Committee, and shall invite them to give their financial assistance to the work which is to be undertaken.

Article 15

The States Parties to this Convention shall endeavour, by appropriate fiscal measures, to encourage gifts and bequests made for monuments, groups of buildings and sites by private individuals or corporate bodies and in particular by commercial or industrial concerns.

Article 16

1. The States Parties to this Convention shall endeavour to promote by all means, and in particular by administrative, legal or fiscal measures, the establishment of national foundations or associations with the purpose of encouraging benefactions from collective or individual patrons who wish to make a financial contribution to the protection of monuments, groups of buildings and sites.
2. The rôle of these national associations or foundations will be to participate in the financing of protection work on monuments, groups of buildings and sites in the country in question and also, by means of contributions to the International Fund, in action undertaken for the protection of monuments, groups of buildings and sites of universal value.

Article 17

The States Parties to this Convention shall assist, by all means at their disposal, in periodic international fund-raising campaigns launched under the auspices of Unesco, and shall facilitate fund-raising by all appropriate national organizations.

Article 18

1. The periodic international campaigns will appeal to public generosity for those monuments, groups of buildings and sites of universal value which are in danger, a short list of which shall be established by the Committee in conformity with the provisions of Article 9, paragraph 3, of this Convention.
2. The periodic international campaigns may, at the same time, appeal to public generosity for monuments, groups of buildings and sites of the country in question which do not appear in the list mentioned in the previous paragraph. In this case, only a portion of the receipts from these campaigns shall be paid to the International Fund.

V. CONDITIONS AND ARRANGEMENTS FOR THE GRANTING
OF INTERNATIONAL PROTECTION

Article 19

1. Any State Party to this Convention may request international protection for immovable cultural or natural property situated on its territory which it considers to be particularly representative of its history or of the genius of its people and which it regards as being in grave danger. In such a case, it shall submit with its request, in addition to the indications and estimates provided for in Article 9, paragraph 3, of this Convention, all such information and documentation as will enable the Committee to come to a decision.
2. The Committee, or the Secretariat acting by virtue of the Committee's authorization and on its behalf, may offer its services to a State Party [or not Party] to the Convention, if grave danger should threaten to cause the disappearance of a monument, group of buildings or site of universal value on the territory of the State and for which the State has not yet requested international protection.

Article 20

The granting of international protection to immovable cultural or natural property shall be conditional upon the Committee's including such property on the short list referred to in Article 9, paragraph 3, of this Convention. The Committee may not include the immovable cultural or natural property in question on the list unless it is threatened with grave and specific dangers, such as the risk of disappearance due to increasingly rapid deterioration, major public or private works, serious damage due to unknown causes, abandonment for any reason, the outbreak or threat of armed conflict, disasters and cataclysms, serious fires, earthquakes, landslides, volcanic eruptions, change in water level, floods or tidal waves.

Article 21

1. The Committee shall define the procedure by which requests for international protection shall be considered and in particular the content of the request, which should mention the nature of the danger threatening the monument, group of buildings or site under consideration, the work which is necessary, supported by a report drawn up by one or more specialists, the cost of this work, its relative urgency, and proof that the resources of the requesting State do not allow it to meet the expenses unaided.
2. Requests invoking natural calamities and disasters should, by reason of the urgency of the work which they may involve, be given priority consideration among requests submitted by States Parties to this Convention.
3. Before coming to a decision, the Committee may carry out such studies and consult such expert opinion as it deems necessary.

Article 22

Assistance granted by the Committee may take the following forms:

- (a) studies concerning the artistic, scientific and technical problems raised by the protection of property in danger;
- (b) providing the State in question with experts capable of carrying out preparatory studies, skilled technicians and workmen to ensure that the approved work is correctly carried out, and the necessary equipment which cannot be acquired on the spot;
- (c) the granting of low-interest or interest-free loans;
- (d) the granting, in exceptional cases and for special reasons, of non-repayable subsidies.

Article 23

When the request for protection involves the preparation of large-scale projects which require the organization of extensive works, the granting of aid shall be preceded by detailed scientific and technical studies. These studies must draw upon the latest trends in research based on the most recent methods and techniques for the conservation and restoration of cultural property, and must have as their aim the active integration of this property into the life of the community. The studies must also aim to find ways of making rational use of available national resources for the protection of monuments, groups of buildings and sites of universal value situated on the territory of the country in question.

Article 24

As a general rule, only part of the cost of work necessary for the protection of monuments, groups of buildings and sites of universal value shall be borne by the international community. The financial contribution of the beneficiary State must, unless the circumstances are exceptional, be substantial.

Article 25

In return for the assistance granted by the Committee, the beneficiary States must undertake to act upon the adopted project within a definite time-limit and to continue to maintain the cultural or natural property involved in good condition, in conformity with the scientific and technical principles of conservation which have been established.

VI. EDUCATIONAL PROGRAMMES

Article 26

1. The States Parties to this Convention shall endeavour by all appropriate means, and in particular by educational and information programmes, to strengthen the attachment of their peoples to the immovable cultural treasures of all countries and all civilizations.
2. They shall take the necessary measures to keep their public fully informed of the grave dangers threatening some of this property and of the rescue operations which have been carried out with international co-operation.

Article 27

The States Parties to this Convention which, thanks to international protection, have carried out important conservation work on immovable cultural or natural property on their territory, shall take all appropriate measures, such for instance as the adoption of national and international programmes of cultural and educational tourism, to make known the importance of the property that has been saved and the effectiveness of international co-operation.

VII. REPORTS

Article 28

The States Parties to this Convention shall, in their periodic reports submitted to the General Conference of the United Nations Educational, Scientific and Cultural Organization on dates and in a manner to be determined by it, give information on the legislative and administrative provisions which they have adopted and other action which they have taken for the application of this Convention, together with details of the experience acquired in this field.

VIII. FINAL CLAUSES

Article 29

Reservations to this Convention shall not be permitted.

Article 30

This Convention is drawn up in English, French, Russian and Spanish, the four texts being equally authoritative.

Article 31

1. This Convention shall be subject to ratification or acceptance by States members of the United Nations Educational, Scientific and Cultural Organization in accordance with their respective constitutional procedures.
2. The instruments of ratification or acceptance shall be deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Article 32

1. This Convention shall be open to accession by all States not members of the United Nations Educational, Scientific and Cultural Organization which are invited by the Executive Board of the Organization to accede to it.
2. Accession shall be effected by the deposit of an instrument of accession with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Article 33

This Convention shall enter into force three months after the date of the deposit of the instrument of ratification, acceptance or accession, but only with respect to those States which have deposited their respective instruments of ratification, acceptance or accession on or before that date. It shall enter into force with respect to any other State three months after the deposit of its instrument of ratification, acceptance or accession.

Article 34

The States Parties to this Convention recognize that the Convention is applicable not only to their metropolitan territories but also to all territories for the international relations of which they are responsible; they undertake to consult, if necessary, the governments or other competent authorities of these territories on or before ratification, acceptance or accession, with a view to securing the application of the Convention to those territories, and to notify the Director-General of the United Nations Educational, Scientific and Cultural Organization of the territories to which it is applied, the notification to take effect three months after the date of its receipt.

Article 35

1. Each State Party to this Convention may denounce the Convention on its own behalf or on behalf of any territory for whose international relations it is responsible.
2. The denunciation shall be notified by an instrument in writing, deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.
3. The denunciation shall take effect twelve months after the receipt of the instrument of denunciation. It shall not affect the financial obligations of the denouncing State until the date on which the withdrawal takes effect.

Article 36

The Director-General of the United Nations Educational, Scientific and Cultural Organization shall inform the States members of the Organization, the States not members of the Organization which are referred to in Article 32, as well as the United Nations, of the deposit of all the instruments of ratification, acceptance, or accession provided for in Articles 31 and 32, and of the notifications and denunciations provided for in Articles 34 and 35 respectively.

Article 37

1. This Convention may be revised by the General Conference of the United Nations Educational, Scientific and Cultural Organization. Any such revision shall, however, bind only the States which shall become Parties to the revising convention.
2. If the General Conference should adopt a new convention revising this Convention in whole or in part, then, unless the new convention otherwise provides, this Convention shall cease to be open to ratification, acceptance or accession, as from the date on which the new revising convention enters into force.

Article 38

In conformity with Article 102 of the Charter of the United Nations, this Convention shall be registered with the Secretariat of the United Nations at the request of the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Done in Paris, this day of 1972, in two authentic copies bearing the signature of the President of the session of the General Conference and of the Director-General of the United Nations Educational, Scientific and Cultural Organization, which shall be deposited in the archives of the United Nations Educational, Scientific and Cultural Organization, and certified true copies of which shall be delivered to all the States referred to in Articles 31 and 32 as well as to the United Nations.

SHC/MD/18 Add.2
PARIS, 31 March 1972
Translated from the French

UNITED NATIONS EDUCATIONAL,
SCIENTIFIC AND CULTURAL ORGANIZATION

INTERNATIONAL REGULATIONS FOR THE PROTECTION
OF MONUMENTS, GROUPS OF BUILDINGS AND SITES

Final report drawn up in accordance with Article 10.3 of the Rules of the Procedure concerning Recommendations to Member States and International Conventions covered by the terms of Article IV, paragraph 4, of the Constitution.

ADDENDUM 2

In implementation of resolution 3.412 concerning international instruments for the protection of monuments, groups of buildings and sites, adopted by the General Conference of Unesco at its sixteenth session, the Director-General prepared a preliminary report containing a preliminary draft recommendation and a preliminary draft convention (document SHC/MD/17) which was forwarded on 20 July 1971 to Member States under cover of circular letter CL/2156 inviting them to submit comments and observations of these draft texts.

By 20 January 1972, the Unesco Secretariat had received 18 replies, which were reproduced in document SHC/MD/18, with an analysis of the replies, a revised draft recommendation and a revised draft convention.

Comments were received by the Secretariat from the Federal Republic of Germany, Canada, Iran, Italy and Luxembourg after document SHC/MD/18 and Addendum 1 had been prepared. These comments are reproduced in the present document which constitutes Addendum 2 to document SHC/MD/18.

FEDERAL REPUBLIC OF GERMANY

The position adopted by the various Federal Ministries and the Laender of the Federal Republic of Germany is one of approval in principle of the Preliminary Draft Recommendation concerning the protection, at national level, of monuments, groups of buildings and sites. Criticism of details of the Preliminary Draft will be put forward at the working groups conference of government experts in Paris. The following point in particular are considered a useful basis for further discussion:

the question whether movable cultural heritage should also be included in the Recommendation,

the question whether provisions relating to the protection of nature should be excluded,

an expansion of the definitions in paragraph 1,

a clearer distinction between the protection of monuments in the sense of the legal preservation of monuments and groups of buildings and the conservation of monuments in the sense of the practical carrying out of this function and of the technical and construction work required for the maintenance and restoration of monuments,

a more concrete elaboration of the economic function of the cultural property to be protected,

questions of the training and further education of scientific and technical staff for the conservation of monuments.

The Federation and Laender hold the view that those passages of the Preliminary Draft Recommendation containing reference to expropriation, near-expropriation or similar measures require detailed discussion.

CANADA

The initial proposal relating to the protection of sites of national significance is a model and one which it would be desirable in principle to have implemented in all countries. There has, in the past, been a marked lack of interest in Canada in the preservation of our historic heritage. This seems to be exemplified in the lack of enforcement of antiquities laws in those parts of the country where such laws exist; we are not aware of any prosecutions commensurate with the known destruction of archaeological sites. This attitude appears to be slowly changing in the light of increasing public interest in the nation's past and a Unesco convention might well give impetus to the better enforcement of existing laws and to the adoption of necessary new legislation. None the less, we wonder how acceptable would be the "heavy fines" (paragraph 52) or "imprisonment" (paragraph 51) proposed by Unesco, and, if accepted, how likely of enforcement.

While the Canadian concept of private property permits provincial governments to dictate certain forms of land use by means of zoning laws, we are not aware that in the past such laws have ever been applied in a fashion which would prevent an owner from altering or demolishing an historic structure. While the highly desirable public education programme proposed in paragraphs 66-9 may lead to a change of attitude in the long run, I suspect that some of the legal measures proposed (paragraphs 38-55) would be widely regarded as interference with the rights of property owners. For the immediate future at least, it will probably be necessary to rely on incentives (tax benefits, grants, etc.) to encourage owners to accept restrictions on their freedom to alter historic structures and environments. However, the Province of Quebec has recently taken significant steps towards limiting the freedom of action of owners of properties which have been designated as of historical significance and the practical application of this legislation will be studied with interest.

This, of course, raises the question of cost. Preservation in this country has almost always meant intervention by the appropriate level of government, usually to the point of acquiring ownership of the properties to be preserved. Obviously, no country can afford to have every interesting old structure turned into a national (or regional or local) historic site. The probably imminent

creation of "Heritage Canada" is a useful first step away from the "museum" concept of preservation and the Unesco document admirably supports the new point of view. Considering the increasing public interest in the past, and given increased public education, it is possible that additional funds for preservation may be forthcoming. None the less, it must be noted that effective implementation of the Unesco proposals will cost considerably more than Canada has hitherto spent on its history.

Implicit in the Unesco proposals is recognition that certain States will not have complete jurisdiction, at the national level, over some or all monuments. This situation applies to Canada, but since this Department clearly has a mandate to preserve sites of national importance (which is largely the object of the Unesco document), I see no reason why the federal government could not implement the proposals, at least in so far as they apply to nationally important sites. As for regional or local sites, the federal presence could be made manifest by the implementation of paragraph 13. It would be desirable to have a central agency to provide technical advice, but we would wish to study the cost implications further before categorically supporting the Unesco view. It may well be that in our case Heritage Canada could perform such a function.

It seems that paragraph 16 implies the establishment of a conservation ministry at the federal level. At the moment, historical conservation is one part of the conservation programme of this Department. Historic conservation would certainly benefit from a stronger voice, but there are obvious problems in the Canadian context. Perhaps legislation akin to that in the U.S.A. (which gives a committee chaired by the Secretary of the Interior certain veto powers over development) is required. In any case, adoption of the Unesco proposals by the federal government would seem to have as a consequence the need for a clear mandate to some agency to implement these proposals.

Paragraph 30 implies some form of National Register of Historic Sites, a matter which we are now considering. The "educational and cultural action" proposed is, we believe, essential since effective preservation will be possible only with the support of an informed and concerned public.

In summary, we consider the Unesco recommendations to be a reasonable and useful basis for a national programme of conservation, and it would be desirable in principle to have them adopted and, more important, implemented in this and other countries.

The second paper deals with international action to preserve sites of "universal value". Unfortunately, this term is inadequately defined and, while we certainly have our share of "natural sites" and "scientific sites", we wonder how many sites of an historical nature would qualify. Essentially, we see this proposal as an instrument to provide funds (and technical assistance) to permit nations, which could not otherwise afford to do so, to preserve sites of outstanding cultural significance. We do not think one can quarrel with the view that certain sites are indeed of importance to all mankind. In strictly monetary terms, however, Canada is likely to have to give more than it will receive. Basically, we think the proposal has much merit and it is simply a question of whether the government wants to commit itself to contributions.

In general terms, the above are our preliminary reactions to the Unesco proposals. We will of course, study the material in more detail and be ready with more positive comments by the time of the Paris meeting in April.

IRAN

In agreement with the Imperial Government of Iran, the Iranian National Commission for Unesco has organized several working meetings, attended by the Iranian experts who will be taking part in the meetings scheduled from 4 to 22 April 1972, as well as by representatives of the ministries and agencies concerned, for the purpose of making a thorough study of the text of the preliminary report SHC/MD/17 (Paris, 30 June 1971) drawn up by the Organization in accordance with Article 10.1 of the Rules of Procedure concerning Recommendations to Member States and International Conventions covered by the terms of Article IV, paragraph 4, of the Constitution. The entire report, which includes explanatory comments by the Unesco Secretariat, together with

the texts of the recommendation and the convention concerning the protection of monuments, groups of buildings and sites, was first translated into Persian and made available to the ministries and agencies concerned, after which it was examined in detail, particularly the texts of the recommendation and the convention.

The Iranian National Commission for Unesco has pleasure in observing that the work of the Secretariat concerning the protection of monuments, groups of buildings and sites is reaching a decisive stage; and the Imperial Government and the Commission take note of this progress with satisfaction.

At the same time, thanks to the work of the Secretariat, the resolution regarding the establishment of an international committee, which was submitted to the Unesco General Conference at its fifteenth session in connexion with the Future Programme, is in process of being implemented.

The names of the members of the Iranian Delegation will be communicated to you shortly, and the Delegation will express its views during the course of the meetings.

In view of the importance of protecting the cultural heritage of mankind, and also in view of the fact that Iran possesses extensive and varied cultural property, we shall for our part do everything within our power to enable Unesco to achieve its objectives and implement its programmes.

ITALY

Additional note

In connexion with the suggestion which has already been made that the functions of the Committee be divided into two parts, with the administrative and financial functions being exercised by a small board of management composed of government representatives, and the cultural functions by a committee of cultural specialists and experts, we consider that the functions of the latter committee could be entrusted to one of the many committees established and operated by ICOMOS.

This would seem a suitable way of ensuring liaison between Unesco, which raises the funds, and the cultural milieu concerned in this undertaking.

We note finally that in paragraph 5 of Article 9 of the Preliminary Draft Convention the following words could be inserted after the first sentence ending "in Article 12":

"taking into account any such particular uses as the contributors to the said fund may stipulate."

LUXEMBOURG

A. General comments on terminology

- I. "Universal value, importance, interest" of buildings, particularly buildings on which international action may be taken. It is correctly assumed that the heritage, both national and universal, forms in each case a homogeneous whole, which should be considered as a whole without classifying the constituent features in any relative order. Such homogeneity is only possible if all features are looked on as having equal cultural value: distinctions may be drawn in other respects, for example as regards size, or varying degree of universal interest.

Proposals. The wording "monuments ... of universal (exceptional, relative) interest" should be used throughout. The word "importance" is ambiguous, if it is not made clear that it refers solely to physical importance, or size.

II. "Protection, safeguarding, preservation"

In view of the "particularly serious dangers" which are "threatening" the survival of monuments as a whole, the term "safeguarding" seems the most appropriate to express the idea and the necessity of rescuing property in danger of disappearing. "Protection" existed already, and neither was, nor is, adequate to stave off the threat. Once a monument has been rescued, a system of protective measures will consolidate the result. Such measures will include physical "preservation", in the traditional sense of the word.

Proposals

1. Annex I: since the reference is to monuments threatened by immediate danger, the word "rescuing" should be substituted throughout for "protection".
2. The word "protection" should be used only for continuing action, taking place after the safeguarding, which should be considered as a specific measure limited in time.
3. Where necessary, the phrase "[concerning] the rescuing and protection" may be used.

B. Special comments on the text

1. Introduction

Paragraph 14. "immovable cultural heritage ... and the natural setting in which they are found".

1. Place the second dash after "found" instead of after "sites". "Natural" sites form part of the cultural heritage to the extent that they call forth a cultural reaction (admiration, well-being, inspiration, study, curiosity). One should avoid encroaching on the field of nature conservancy, where the approach to such sites may be different.
2. [In the French text, refer throughout to the "patrimoine culturel immobilier" (instead of "patrimoine immobilier culturel"), so as to distinguish it from the movable cultural heritage ("patrimoine culturel mobilier").]

Paragraph 28. The last sentence should read: "This heritage, whether national or universal, should be considered ... created by a nation or by all mankind in an effort to adapt, or adapt itself to the natural environment in which it lives."

1. It cannot be over-emphasized that every national cultural heritage should be considered as a whole, in the same way as the aggregate of these national heritages, which form the world's heritage. Here the context does not seem to conflict with such a clarification. The world's heritage can only be preserved intact if secure arrangements are made for preserving intact all national heritages.
2. An attempt by man to adapt the environment seems to be a more highly cultural activity than that of adapting himself, though admittedly the latter entails, for example, knowledge and the taking of decisions. Naturally the one does not exclude the other.

Paragraph 47. Amend the second sentence to read: "Damaged stones should be replaced only where the damage has reached such an advanced stage that it is manifestly prejudicial to the stability or the appearance and architectural quality of the monument."

Paragraph 48. In the third sentence, delete the word "important" before "features".

Since the threat of destruction is supposed to be the same for an "important" as for a "less important" feature, surely less important features should also be preserved.

Paragraph 60. Amend the second sentence to read: "No new building should be built on to an ancient monument, primarily because of the need to preserve its appearance intact, and secondarily because of the thrusts ..."

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Since the threat of destruction is supposed to be the same for an "important" as for a "less important" feature, surely less important features should also be preserved.

Paragraph 60. Amend the second sentence to read: "No new building should be built on to an ancient monument, primarily because of the need to preserve its appearance intact, and secondarily because of the thrusts ..."

Paragraph 71. Amend the last sentence to read: "... demolition ... repair or modification of any kind carried out to a protected monument, group of buildings or site".

Paragraph 106. Since it is agreed that the world's heritage should be considered as a whole, provision should be made for the possibility of safeguarding a feature situated in the territory of a State not party to the convention, under conditions to be determined.

2. Annex I

First preambular paragraph. "... and to have an overall policy for combining the remains left by past civilizations with the achievements of our own time".

1. Sites are not included in this wording. As they precede all civilizations, they are not the remains left by a civilization, but should be brought within the scope of an overall policy.
2. It is difficult to understand the distinction between "remains" and "achievements". Are all achievements to be brought within the scope of the overall policy, including even those against which environmental policy is directed?

Suggested amendment: "... and to have an overall policy covering the remains left by past and contemporary civilizations and sites".

Paragraph 25. Amend to read: "... to preserve their traditional appearance, where such is in conformity with their historical and artistic character, and protect them ...".

The traditional appearance may be constituted by "old buildings devoid of historic interest", which it is proposed should be removed in paragraph 41.

Paragraph 26. Amend to read: "Substitutions for missing parts of a monument should be distinguished from the original portions by an appropriate method (For example by some form of marking, the use of different materials or setting the new surface slightly back from the original surface), provided that the impression which should be conveyed by the building as a whole is preserved, or if necessary restored."

1. Greater emphasis should be placed on the primary need to preserve the characteristic impression conveyed by the monument.
2. The purpose of the proposed amendment is to prompt the use of other methods, less conspicuous but sufficiently reliable (unobtrusive notices, documents, plans available for consultation).

Paragraph 27. In the French text of the first part of the second sentence, replace the words "son voisinage" by "cet entourage", the term used in the first sentence; by "surroundings" is meant the "harmony" defined in the first sentence, not "old buildings" (paragraph 41) which it is desirable to demolish.]

Paragraph 70. Add a new sub-paragraph (f) as follows:

"(f) joint action by neighbouring States with a view to safeguarding and enhancing groups of buildings or sites located on both sides of the frontier between them."

3. Annex II

No comments, other than that made under B.1 above, in connexion with paragraph 106.



SHC/MD/18 Add.1
PARIS, 10 March 1972
Original: English

UNITED NATIONS EDUCATIONAL,
SCIENTIFIC AND CULTURAL ORGANIZATION

INTERNATIONAL REGULATIONS FOR THE PROTECTION
OF MONUMENTS, GROUPS OF BUILDINGS AND SITES

Final report drawn up in accordance with Article 10.3 of the Rules of Procedure concerning Recommendations to Member States and International Conventions covered by the terms of Article IV, paragraph 4, of the Constitution.

ADDENDUM

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By 20 January 1972, the Unesco Secretariat had received 18 replies, which were reproduced in document SHC/MD/18, with an analysis of the replies, a revised draft recommendation and a revised draft convention.

One of the two communications from the United States of America contained in document SHC/MD/18, announced that country's intention of submitting, as the United States comments to Unesco on its proposed Convention, a new "World Heritage Trust" draft.

This new draft was received by the Secretariat on 16 February 1972. It is reproduced in the present document, which constitutes a first addendum to document SHC/MD/18.

19 MARS

WORLD HERITAGE TRUST CONVENTION CONCERNING THE PRESERVATION AND
PROTECTION OF NATURAL AREAS AND CULTURAL SITES OF UNIVERSAL VALUE

The General Conference of the United Nations Educational, Scientific and Cultural Organization,
meeting in Paris from 1972, at its seventeenth session.

Noting that certain areas and sites throughout the world are of exceptional interest and of universal
natural or cultural significance,

Noting that such areas and sites are part of the heritage of all mankind and hence should be preserved
for the benefit of all mankind,

Recognizing that the natural and cultural heritage of the world is threatened with damage or des-
truction by changing social and economic conditions as well as by natural causes,

Considering that the deterioration or disappearance of any significant cultural site or natural area
constitutes an impoverishment of the heritage of all nations of the world,

Considering that it is for mankind as a whole to ensure the preservation and protection of natural
areas and cultural sites of universal value,

Recognizing, however, that national measures to preserve and protect this heritage are often ina-
dequate due to the costs of such preservation and to insufficient available economic, scientific
and technical resources,

Considering that international assistance to complement national measures to preserve and protect
this heritage may often be in the interest of all mankind,

Recalling Unesco's Constitution which stipulates in Article I, paragraph (c), that "the Organization
will maintain, increase and diffuse knowledge; by assuring the conservation and protection of the
world's inheritance of books, works of art and monuments of history and science, and recom-
mending to the nations concerned the necessary international conventions",

Considering that there is now urgent need for the adoption of an international convention establish-
ing an effective and permanent system of registering and preserving natural areas and cultural
sites of universal value,

Having decided, at its sixteenth session, that this question should be made the subject of an inter-
national convention,

Adopts this day of 1972 the present Convention.

I. DEFINITIONS

Article 1

For the purposes of this Convention, the following shall be considered as:

(a) "Natural areas" - land areas, including internal waters, of outstanding universal value,
including unique or otherwise significant geology, physiography, flora or fauna, important exam-
ples of natural ecosystems of special interest to science, natural landscapes or seascapes of great
beauty, and areas of importance to wildlife conservation, education and recreation;

(b) "Cultural sites" - sites which are of outstanding universal value because they reflect a
significant event or stage in the development of world civilization, including sites of major anthro-
pological, archaeological, architectural, or historic importance;

(c) "World Heritage Register" - a list of natural areas and cultural sites as defined above and considered by the Board of the World Heritage Trust to have outstanding significance for the heritage of all mankind and hence to merit international recognition and measures of preservation and protection;

(d) "Parties" - those States which are Parties to this Convention.

Article 2

For the purposes of this Convention, international preservation and protection of natural areas and cultural sites means the establishment of a permanent system of international co-operative efforts to identify, protect and preserve these areas and sites.

II. WORLD HERITAGE TRUST COMMITTEE FOR THE PRESERVATION AND PROTECTION OF NATURAL AREAS AND CULTURAL SITES OF UNIVERSAL VALUE

Article 3

(a) There is hereby established with the United Nations Educational, Scientific and Cultural Organization the World Heritage Committee for the Preservation and Protection of Natural Areas and Cultural Sites of Universal Value, hereinafter called "the Committee", which shall be composed of one representative of each State Party to this Convention.

(b) The first meeting of the Committee shall take place during the first ordinary session of the Unesco General Conference after this Convention enters into force. Thereafter the Committee shall meet regularly at least every two years during the ordinary session of the General Conference of Unesco, or with 90 days' notice upon call of the Director-General. Extraordinary sessions may be convened at any time with 90 days' notice upon request of at least one third of the Parties or upon request of the Board.

(c) The Committee shall establish its own rules of procedure and shall elect a president and such other officers as it deems advisable. Each officer shall serve for a length of time designated in the Rules of Procedure but no term of office shall extend for more than four years. Each term of office shall begin at the end of the session of the Committee during which the election for that officer was held, and shall end with the commencement of the next succeeding term. Incumbent officers may be reelected.

(d) Decisions of the Committee shall be made by affirmative vote of a simple majority of those present and voting, each representative having one vote. No decision shall be valid unless a quorum equal to a simple majority of the Parties to this Convention is present and voting.

(e) The Committee shall meet at the Headquarters of Unesco unless a majority of the members of the Committee decide to meet elsewhere.

(f) The Committee shall elect the World Heritage Board, hereinafter called "the Board", which shall be composed of 15 States Parties to the Convention. In electing the Board the Committee will be guided primarily by three criteria: (1) a balance of concern for both natural areas and cultural sites; (2) representation from those States having highly developed programmes of preservation of natural areas and cultural sites; and (3) an equitable geographical distribution.

(g) The Committee shall regularly report to the Unesco General Conference on activities of the Committee, of the Board and of States under this Convention.

(h) The expense of participation on the Committee shall be borne by the States represented.

III. WORLD HERITAGE TRUST BOARD

Article 4

(a) There is hereby established a World Heritage Trust Board, hereafter to be called "the Board", which shall be elected in accordance with Article 3 (f).

(b) The term of office of Board members shall extend from the end of the Committee session during which they were elected until the end of the second subsequent ordinary session of the Committee.

(c) The term of office of seven members designated at the time of the first election shall, however, cease at the end of the first ordinary session of the Committee following that at which they were elected. Those seven positions shall then be filled as described in Article 4 (b) above.

(d) States members of the Board shall choose as their representatives persons with expertise in the preservation and protection of natural areas or cultural sites and otherwise qualified to carry out the responsibilities of the Board.

(e) The expense of participation on the Board shall be borne by the States represented.

Article 5

The Board shall adopt its own Rules of Procedure which shall follow so far as appropriate the Unesco Rules of Procedure. The Rules of Procedure shall permit observers from intergovernmental and non-governmental organizations and private individuals invited by the Board to participate without vote in its work under conditions specified by the Board.

Article 6

In general, programmes primarily involving natural areas shall be carried out by IUCN and those primarily involving cultural sites by ICOMOS under appropriate contracts of work agreements calling for appropriate compensation. Where a particular area or site incorporates significant representation of both a natural area and a cultural site the expertise of both IUCN and ICOMOS shall be drawn on as appropriate. Representatives of IUCN and ICOMOS shall be invited to participate regularly as advisers in the deliberations of the Board.

Article 7

1. The World Heritage Board shall have the following powers and functions:

(a) To establish the World Heritage Register, hereafter called the Register, and to select, with the assent of the appropriate State or States, specific areas or sites representing natural and cultural resources to be inscribed therein, and to call attention to the selection of such areas and sites by appropriate designation and ceremony;

(b) to establish criteria for recognition of specific sites or areas of outstanding significance for the heritage of all mankind and for inscription in the Register;

(c) to compile an inventory, based upon inventories submitted by States Parties to the Convention and upon its own investigations, identifying areas and sites throughout the world which might qualify for inclusion in the Register;

(d) to administer the World Heritage Trust Fund, hereinafter called "the Trust Fund", which shall be used for the identification and preservation of natural areas and cultural sites inscribed in the Register;

(e) to consider and determine action to be taken on requests for the provision of technical and financial assistance to Parties to this Convention in compiling their national inventories and in the management and preservation of areas and sites inscribed in the Register;

(f) to establish standards for the management and preservation of areas and sites included in the Register, to conduct periodic surveys to ascertain the current status of such areas and sites and to ensure that standards are being met, and to notify the representatives of the States Parties to this Convention of the need for corrective action when warranted;

(g) to remove from the World Heritage Register, after consultation with the appropriate State, areas and sites receiving inadequate management, protection or preservation;

(h) to co-operate with other organizations, governmental and non-governmental, promoting objectives related to those of the World Heritage Trust, and to promote educational programmes to foster the objectives of the Trust;

(i) to submit to the Committee reports regarding the implementation of this Convention and the identification, management, protection and preservation of natural areas and cultural sites inscribed in the Register.

2. Before inscribing an area or site in the Register, the Board shall notify all States Parties to this Convention of the proposed inscription. If any such State objects to the inscription of all or any part of an area or site, it shall so advise the Board within ninety days of the transmittal of the notification, specifying whether it objects to the inscription of all or portion of the area or site; if a portion, which portion; and the grounds for the objection. If the Board shall have received any objections within ninety days, it shall refrain from inscribing the area or site or portion thereof objected to unless the objections made are withdrawn or unless all Parties making objections assent to the inscription.

3. Each Party shall submit to the Board as soon as possible an inventory of natural areas and cultural sites within its own territory which might qualify for inclusion in the Register. The State may add to such inventory at any time. All areas and sites on the inventory shall be described precisely and shall be delineated on a map with the area or site boundary identified by latitude and longitude. Each submission shall be supported by an exposition of the significance of the areas or sites included in the inventory.

4. Parties shall manage, protect and preserve in accordance with standards established by the Board each area or site inscribed in the Register in their own territory, and where appropriate shall enact and enforce appropriate legislation, and shall conclude international agreements in the case of sites on international boundaries.

IV. WORLD HERITAGE TRUST FUND FOR THE PRESERVATION AND PROTECTION OF NATURAL AREAS AND CULTURAL SITES OF UNIVERSAL VALUE

Article 8

1. The World Heritage Trust Fund for the Preservation and Protection of Natural Areas and Cultural Sites of Universal Value, hereafter called "the Trust Fund", is hereby established.

2. The Trust Fund shall be administered by the Board and shall constitute a trust fund in conformity with the relevant provisions of the Financial Regulations of Unesco.

Article 9

1. The Board may accept contributions, gifts, or bequests to the Trust Fund from any source, and shall actively solicit financial support for the Trust Fund from States, appropriate international organizations and non-governmental organizations, and from private groups and individuals with particular interests in the preservation of natural areas and cultural sites.

2. Interest earned from sums loaned from the Trust Fund to States shall become part of the capital of the Trust Fund.

3. The Board may accept any other voluntary contributions, whether or not in cash, provided that the purposes for which the contributions are made are consistent with the policies, aims and activities of the Board and the Committee and provided that acceptance of contributions which directly or indirectly involve additional financial liability for the Committee or the Board shall require the consent of a majority of the members of the Board.

V. SECRETARIAT

Article 10

The Committee and the Board shall be assisted by a Secretariat appointed by the Director-General of Unesco. The Secretariat shall prepare the documentation and provisional agendas required for the meetings of the Committee and of the Board. The expense of the Secretariat shall be borne by Unesco.

VI. NATIONAL MEASURES OF PROTECTION AND PRESERVATION

Article 11

The Parties to this Convention recognize the duty to preserve for future generations the natural areas and cultural sites of universal value situated within their respective territories. To fulfil that duty those States undertake to devote an appropriate measure of their own resources as well as international assistance which they may be able to obtain.

Article 12

1. The Parties further recognize that those areas and sites constitute a universal heritage, which the international community as a whole has a duty to preserve.

2. Accordingly, the Parties undertake, in conformity with this Convention, to contribute scientific, technical, artistic and financial assistance to international programmes for the preservation of natural areas and cultural sites, while fully respecting the sovereignty of the States within the jurisdiction of which such areas and sites are situated.

3. Each State Party to this Convention shall take positive action to mitigate the effects of disturbances to areas or sites inscribed in the Register caused by natural phenomena or human intervention, and shall notify the Board immediately of any such disturbance, of the mitigating action being taken, and of the need, if any, for assistance from the World Heritage Trust Board.

4. Each Party shall respect all areas and sites inscribed in the Register by refraining so far as possible from acts which might damage them.

Article 13

The Parties to this Convention shall encourage the establishment of public and private national foundations or associations with the purpose of encouraging financial contribution toward the preservation of natural areas and cultural sites inscribed in the Register.

Article 14

The Parties to this Convention shall assist periodic international fund-raising campaigns for the benefit of the World Heritage Trust Fund and shall facilitate fund-raising by appropriate organizations.

Article 15

Each Party to this Convention shall make periodic reports to the Board in a manner to be determined by the Board, giving information on the legislative and administrative provisions adopted and on other actions taken pursuant to this Convention, together with details of the experience acquired in this field.

VI. INTERNATIONAL ASSISTANCE

Article 16

1. Any Party to this Convention may request international assistance for preservation and protection of natural areas or cultural sites within its territory which have been inscribed in the Register. Each State shall submit with its request all information and documentation requested by the Board.

2. The Board, or IUCN or ICOMOS acting pursuant to the Board's authorization, may offer assistance to any State, whether or not a Party to this Convention, and whether or not such assistance was requested, if a natural area or cultural site within the territory of that State is threatened by serious damage and if the Board considers that area or site to be of universal value.

Article 17

1. The Board shall define the procedure by which requests for international assistance from the Fund shall be considered and shall specify in particular the content of the request, which should describe the nature of the problem, the work that is necessary, the cost thereof, the relative urgency of the request, and a statement why the resources of the requesting State do not allow it to meet the expenses unaided. Such requests should be supported by expert analysis whenever possible.

2. Requests involving natural calamities and disasters should, by reason of the urgency of the work which they may involve, be given priority consideration by the Board.

3. Before coming to a decision, the Board may carry out such studies and consultations as it deems necessary.

Article 18

Assistance granted by the Board may take the following forms:

(a) Studies concerning the artistic, scientific and technical problems raised by the preservation of natural areas or cultural sites in question;

(b) expert assistance in carrying out preparatory studies, technical assistance and skilled labour to ensure that the approved work is correctly carried out, and training and equipment which the State cannot provide;

(c) low-interest or interest-free loans;

(d) the granting, in exceptional cases and for special reasons of non-payable subsidies.

Article 19

Major grants of aid shall be preceded by detailed scientific and technical studies. These studies should draw upon the most advanced techniques for the restoration and preservation of natural areas or cultural sites, and must have as their aim the objectives of this Convention. The studies must also aim to find ways of making rational use of available resources from within the appropriate State.

Article 20

The financing of work necessary for the preservation of natural areas and cultural sites of universal value shall, in general, be borne only in part by the international community. The contribution of the beneficiary State must, with limited exceptions authorized by the Board, constitute a substantial portion of the resources devoted to each programme.

Article 21

In return for the assistance granted by the Board, the beneficiary States must undertake to act upon the approved project within a definite time-limit and to continue to manage and preserve the areas or sites according to standards established by the Board.

VII. EDUCATIONAL PROGRAMMES

Article 22

1. The Parties to this Convention shall endeavour by all appropriate means, and in particular by educational and informational programmes, to strengthen the attachment of their peoples to the areas and sites that become part of the natural and cultural heritage of mankind.

2. The Parties shall fully publicize both threats to these areas and sites and also the preservation and restoration activities which are undertaken with international co-operation.

Article 23

The Parties to this Convention which receive international assistance under this Convention and which undertake programmes for the preservation of natural areas or cultural sites within their respective territories shall take appropriate measures, including adoption of programmes to make such areas and sites available for public enlightenment and enjoyment, to publicize the importance of the area or site preserved and the effectiveness of international co-operation.

VIII. FINAL CLAUSES

Article 24

Reservations to this Convention shall not be permitted.

Article 25

This Convention is drawn up in English, French, Russian and Spanish, the four texts being equally authoritative.

Article 26

1. This Convention shall be subject to ratification or acceptance by States members of the United Nations Educational, Scientific and Cultural Organization in accordance with their respective constitutional procedures.

2. The instruments of ratification or acceptance shall be deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Article 27

1. This Convention shall be open to accession by all States not members of the United Nations Educational, Scientific and Cultural Organization which are invited to accede to it by the General Conference of Unesco.

2. Accession shall be effected by the deposit of an instrument of accession with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Article 28

This Convention shall enter into force three months after the date of the deposit of the instruments of ratification, acceptance or accession of at least 15 States. It shall enter into force with respect to any other State three months after the deposit of its instrument of ratification, acceptance or accession.

Article 29

This Convention shall apply to all territories for the international relations of which a State Party is responsible, unless that State notifies the Director-General of Unesco of a specific exception at the time that State deposits its instrument of ratification, acceptance or accession. Such exceptions may be withdrawn at any time by notice to the Director-General and shall be effective immediately upon such notice.

Article 30

1. Each State Party to this Convention may denounce the Convention on its own behalf or on behalf of any territory for whose international relations it is responsible.

2. The denunciation shall be made by an instrument in writing, deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

3. The denunciation shall take effect six months after the receipt of the instrument of denunciation.

Article 31

The Director-General of the United Nations Educational, Scientific and Cultural Organization shall inform the States members of the Organization, the States not members of the Organization which are referred to in Article 27, as well as the United Nations, of the deposit of all the instruments of ratification, acceptance and accession provided for in Articles 26 and 27 and of the notifications and denunciations provided for in Article 30 respectively.

Article 32

1. This Convention may be amended by the General Conference of the United Nations Educational, Scientific and Cultural Organization. Any such amendment shall, however, bind only the States which accept the proposed amendments.
2. If the General Conference should amend this Convention, the Convention shall be open to subsequent ratification, acceptance or accession only in its amended form.

Article 33

In conformity with Article 102 of the Charter of the United Nations, this Convention shall be registered with the Secretariat of the United Nations at the request of the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Article 34

Nothing in this Convention shall alter the rights or obligations of States under International Law as codified in the 1958 Geneva Convention on the Territorial Sea and Contiguous Zone, the 1958 Geneva Convention on the High Seas, and the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict.

Done in Paris, this day of 1972, in two authentic copies bearing the signature of the President of the session of the General Conference and of the Director-General of the United Nations Educational, Scientific and Cultural Organization, which shall be deposited in the archives of the United Nations Educational, Scientific and Cultural Organization, and certified true copies of which shall be delivered to all the States referred to in Articles 26 and 27 as well as to the United Nations.

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SHC/MD/18 Add.4
PARIS, 11 April 1972
Original: English

UNITED NATIONS EDUCATIONAL,
SCIENTIFIC AND CULTURAL ORGANIZATION

INTERNATIONAL REGULATIONS FOR THE PROTECTION
OF MONUMENTS, GROUPS OF BUILDINGS AND SITES

Final report drawn up in accordance with Article 10.3 of the Rules of Procedure concerning Recommendations to Member States and International Conventions covered by the terms of Article IV, paragraph 4, of the Constitution.

ADDENDUM 4

In implementation of resolution 3.412 concerning international instruments for the protection of monuments, groups of buildings and sites, adopted by the General Conference of Unesco at its sixteenth session, the Director-General prepared a preliminary report containing a preliminary draft recommendation and a preliminary draft convention (document SHC/MD/17) which was forwarded on 20 July 1971 to Member States under cover of circular letter CI/2156 inviting them to submit comments and observations on these draft texts.

By 20 January 1972, the Unesco Secretariat had received 18 replies, which were reproduced in document SHC/MD/18, with an analysis of the replies, a revised draft recommendation and a revised draft convention.

The reply from the Arab Republic of Egypt was received by the Secretariat on 31 March 1972. It is reproduced in the present document which constitutes Addendum 4 of document SHC/MD/18.

Arab Republic of Egypt

Preliminary observations on the Draft Recommendation concerning the protection, at national level, of monuments, groups of buildings and sites (SHC/MD/17, Annex 1)

Item 3

The term "collective wealth" used in item 3 may invite confusion, especially as the property mentioned is by no means collectively owned. It may better serve the purpose to use such general statements as "a wealth of universal interest" or "of universal value".

Item 45

This item assumes that expropriation by the public authorities of a protected building will be made "by mutual agreement". Such an assumption is not in line with the practice followed in many countries, including Egypt, where expropriation for public utility is effected by unilateral decision of the Authority concerned, subject to judicial review in case of dispute. The text should therefore avoid the requirement of concluding an agreement for this purpose, by omitting the words "by mutual agreement" in line 2, leaving the matter to be regulated by the proper instrument designated by the law of each State.

Item 47

The second sentence reading "Anyone alienating a protected building should inform the purchaser that it is under protection" may better read "Anyone disposing of his interest in a protected building should inform the purchaser that it is under protection".

Item 50

This item provides for the payment of compensation to the salvager of flotsam and jetsam if the authorities decide to deposit them in a public collection, in which case the compensation "may be determined by amicable settlement or by expert opinion". Here, again, it may suffice to provide for "offering the salvager an appropriate compensation" while leaving the mode of determining such compensation to the regulations prevailing in each State. The same applies to the compensation paid to the "finder", which is provided for in the same item.

General observation

Although Item 1 defines three specific terms covering the protected property, some other items use other words, not defined in the Recommendation, for the same purpose. Thus, Item 10 mentions "cultural or natural heritage", Item 13 (v) (cultural property), Item 28 (cultural or natural property), Item 67 (cultural heritage) and Item 69 (cultural or natural heritage). It would certainly make a better text if one terminology is used, particularly that defined in Item 1 of the Recommendation.

Arab Republic of Egypt

Preliminary observations on the Draft Convention concerning the protection of monuments, groups of buildings and sites of universal value (SHC/MD/17 Annex II)

1. Article 2.2

As a point of drafting, it may further clarify the meaning of the paragraph if the last phrase reading "as monuments, groups of buildings and sites of universal interest" is placed, instead, in the second line of the paragraph after the word "designation", where it would then suffice to use the phrase "as being of universal interest". The section would thus read:

"Such protection can be accorded only to such examples of the property defined in Article 1 as merit designation as being of universal interest, by virtue of their exceptional aesthetic or natural interest or their great importance as unique evidence of vanished civilizations or as irreplaceable architectural masterpieces typifying a particular period, an historical past or the genius of a people."

2. Article 5

It is of the utmost importance that the text of this article expresses the intention mentioned in the commentary, i.e. "that international protection should not imply the internationalization of such property or any form of extraterritorial status". We therefore suggest the following wording for Article 5:

- "1. Without prejudice to the title of the owner of the property referred to in Article 2 and to the sovereignty of the State on whose territory such property is situated, the States Parties to this Convention recognize that such property constitutes a universal heritage, which it is the duty of the international community as a whole to protect.
2. The States Parties to this Convention therefore undertake, in conformity with the following provisions, to give their scientific, technical, artistic and financial help in the international protection of such property."

Article 6

It is important to provide in this article for the participation in the "Committee" of States with the largest acquisitions of the properties involved, the States most technologically advanced in the field of conservation of such properties, and, possibly, the States which make the largest contributions to the International Fund provided for in Article 11. This could either be made as a compulsory requirement or, at least, as a guideline. Article 6 should therefore include a second paragraph which may take one of two alternative forms:

Alternative A

- "6.2 At least eight of the members of the Committee shall be States with the largest interest among the parties in monuments, groups of buildings and sites of universal value, because of the importance of their national acquisitions or because of their technological advancement in the field of preservation and restoration of such properties."

Alternative F

"6.2 Election of members of the Committee should ensure, as far as practicable, the participation of States with the largest interest in its work, because of the importance of their acquisitions of the property referred to in Article 2, or because of their technological advancement in the field of preservation and restoration of such property, as well as the participation of States which make the largest contributions to the International Fund provided for in Article 11."

As to the present Article 6, it may be more appropriate that the election of the members of the Committee be made by the General Conference of Unesco, rather than by the States Parties to the Conventions, since the task of the Committee is of a universal value which is not confined to the said parties.

Article 7

We suggest that the term of office of States members of the Committee be fixed at five years, renewable.

Article 9

We suggest the inclusion of a new paragraph in this article, preferably under number (3) to allow the Committee to take the initiative in suggesting action, thus bringing this article in conformity with Article 19.2 of the same Convention. The suggested paragraph 9.3 may read as follows:

"3. The Committee shall on its own initiative call the attention of any State Party to this Convention, whose monuments, group of buildings or sites reach a stage where action for their preservation and restoration becomes necessary, to this situation and to the suggested remedial action."

Article 10

As a minor point of drafting the last sentence reading:

"It will see that its decisions are carried out" should read: "It will see that the decisions of the Committee are carried out", as "It" here is the Secretariat, not the Committee which issues decisions. A better wording may simply read: "It will follow up the implementation of the decisions of the Committee".

Article 13

This article does not convey the content of Item 98 of the Commentary, i.e. that contributions of States will be fixed at 2 per cent of their financial contributions to Unesco's budget.

At any rate, if the principle of compulsory contributions is maintained, we would like the following addition to be made at the end of Article 13:

"In determining the amount and currency of such contributions special consideration shall be given to the financial ability of each State."

Article 18.2

The last sentence of Section 18.2 does not seem to give a definite meaning. It may better read:

"In this case, the Committee shall decide what portion of the proceeds of these campaigns shall be (or may be) paid to the International Fund."

In substance, however, the provision does not seem to be convincing. For, if, under Article 20, all the monies of the International Fund are exclusively earmarked for property which appears in the "short list", why should this Fund benefit from campaigns made for properties not appearing in that list?

Article 19

Reference is made in Article 19.1 to Article 9.5, whereas it should be made to Article 9.4.

Provision of Article 19.2 may better open the possibility of offering the Committee's services to Parties and non-Parties to the Convention, since such services are offered only in case of grave dangers threatening properties of great importance to mankind and not only to the States concerned. The Committee is at any rate under no obligation to offer such services and it will be up to it to decide in each case whether or not it should do so.

It is noticed that both Articles 19 and 20 use the terms "cultural or natural property" which are not defined in the Convention, instead of the terms "monuments, groups of buildings and sites" which are defined in Article 1. This duplication should be avoided by using the terminology of Article 1 which is employed in other articles and defined in the Convention.

Article 20

It is not clearly understood why the protection accorded by the Committee should be limited to the property included in the "short list", particularly as the Committee's protection is extended by Article 2 to all property of universal value, and as such protection may take, under Article 22, many forms including merely the preparation of studies.

Article 24

The term "with certain exceptions" may better read "as far as practicable", to imply some special treatment to poorer countries, which is only fair.

Article 35.3

Paragraph 3 of Article 35 assumes that the only financial obligations of the denouncing State are those related to the payment of contributions and implies, therefore, that they shall be affected as of the date on which withdrawal takes place. Yet, the denouncing State may be under other financial obligations towards the Committee (such as the repayment of a loan granted to it) which cannot be affected by withdrawal. The drafting of the text may be remedied to read:

"It shall not affect the financial obligations of the denouncing State related to the payment of its contributions until the date on which withdrawal takes effect."

Or else the paragraph may remain intact, with the following addition:

"The obligation of the State for the repayment of the principal and interest of loans granted to it by the Committee, shall not be effected by the fact of the withdrawal."

General observation

Nothing in the Draft Convention refers to the provision suggested in the Preliminary Study prepared by the Director-General of Unesco in 1970 (16 C/19, Annex, p.6, Item 51) and approved by the General Conference, which gives developing countries priority in benefiting from the international protection system. Such a provision should be introduced in the final version of the Convention.

SHC/MD/18, Add. 3
PARIS, 4 April 1972

UNITED NATIONS EDUCATIONAL,
SCIENTIFIC AND CULTURAL ORGANIZATION

INTERNATIONAL REGULATIONS FOR THE PROTECTION
OF MONUMENTS, GROUPS OF BUILDINGS AND SITES

Final report drawn up in accordance with Article 10.3 of
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ADDENDUM

In implementation of resolution 3.412 concerning international instruments
for the protection of monuments, groups of buildings and sites, adopted by the
General Conference of Unesco at its sixteenth session, the Director-General
prepared a preliminary report containing a preliminary draft recommendation and
a preliminary draft convention (document SHC/MD/17) which was forwarded on
20 July 1971 to Member States under cover of circular letter CL/2156 inviting
them to submit comments and observations of these draft texts.

By 20 January 1972, the Unesco Secretariat had received 18 replies, which
were reproduced in document SHC/MD/18, with an analysis of the replies, a
revised draft recommendation and a revised draft convention.

Two other replies have reached the Secretariat since that date. They are
reproduced in the present document, which constitutes a third addendum to
document SHC/MD/18.

Federal Republic of Germany

The position of the Federal Republic of Germany on the
Preliminary Draft Convention concerning the protection of
Monuments, Groups of Buildings and Sites of Universal Value
(UNESCO Document SHC/MD/17 Annex II)

The Federal Republic of Germany, considering that the conservation,
protection, and reanimation of monuments, groups of buildings, and sites of
universal value are of essential importance for mankind as a whole, and being
determined to give her utmost support to any effective instrument of
international assistance and co-operation on this purpose, adopts the position
of approving in principle the Preliminary Draft Convention Concerning the
Protection of Monuments, Groups of Buildings and Sites of Universal Value.

Details, however, should be discussed by the Special Committee of Government Experts, in particular:

the question whether provisions relating to the protection of nature should be excluded in order to become a part of a Unesco Convention on the Protection of Nature, later on,

the question whether an Intergovernmental Committee for the Protection of Monuments, Groups of Buildings and Sites of Universal Value can work successfully without getting in conflict with the sovereignty of the States on whose territory such monuments, groups of buildings and sites are situated,

the question whether it will be necessary that the State Parties to the Convention shall pay regularly every two years special contributions to the International Fund besides paying regularly contributions to Unesco.

Switzerland

Comments on preliminary draft recommendation concerning the protection, at national level, of monuments, groups of buildings and sites.

- I. Definitions. These seem to raise a number of problems, which need to be examined thoroughly.
- III. General principles. We are entirely in agreement with the principles set out in Articles 3 to 11.
- IV. Organization of services. The importance accorded to research, as supporting and complementing current activities (Article 12 et seq.), is in line with the policy followed by the Swiss authorities. We consider that reference should be made immediately after Article 19, preferably by way of a separate provision, to an obligation for States to provide training facilities for highly-qualified staff.
- V. Protective measures. The programme planning prescribed in Article 21 raises great difficulties for a federal State which, particularly in the cultural field, makes it a principle not to intervene in minor issues. In our view, the technical measures described in Articles 21 to 29 go beyond the scope of general recommendations, being too detailed, especially those in Articles 24 to 26. Articles 38 to 55, which contain legal measures, are in our opinion primarily suited to States having a tradition of Roman law. Existing legislation in Switzerland makes no provision for the public authorities, including cantonal authorities, to envisage such extensive action. The requirement laid down in Article 47 is met in Switzerland by notification of the personal servitude in the land register.
- VI. Educational and cultural action. We consider that the object should be to win over young people to the cause of our architectural heritage; this matter is but barely touched on in article 69 (e).

Comments on preliminary draft convention concerning
the protection of monuments, groups of buildings and
sites of universal value.

I. Definitions. See comment above, on the Recommendation.

III. Intergovernmental Committee.

Article 6. We have a distinct preference for the first form of election (i.e. by the General Assembly of the States which have signed and ratified the Convention). It is similar to that of the supervisory body of the Rome Centre, and has been shown to work in practice.

Article 7. The term of office should be at least 4 years, in order to ensure a certain degree of continuity.

Article 9. It is clear from this Article that the Committee is neither an advisory body nor a mere executive body; its fairly extensive terms of reference are in the very interests of the aim pursued.

IV. International Fund.

Article 15. At present, the Swiss fiscal system and fiscal legislation virtually rule out any possibility of according tax concessions to patrons of the International Fund. It would also be very difficult to invite private organizations to contribute to this Fund (Article 16, paragraph 2).