

Report
Third meeting of the Open-ended working group of States Parties established
with the mandate to develop a Code of Conduct, or a Statement of
Ethical Principles or equivalent text
(in conformity with Resolution 22 GA 10)

27 April 2021
12.00 p.m. – 3.00 p.m. (Paris time, UTC+2)
Online meeting

Chairperson: His Excellency Ghazi GHERAIRI, Ambassador, Permanent Delegate of
Tunisia to UNESCO

Opening of the meeting by the Chairperson

The **Chairperson** welcomed all participants to the meeting of the Open-ended working group of States Parties (hereinafter referred to as the Working Group) and announced the participation of the Vice-Chairperson, H.E. Mr. Christian TER STEPANIAN, Ambassador, Permanent Delegate of Armenia, and the Rapporteur, Mr. Ole Søre ERIKSEN (Norway), who was following the meeting online. He also extended his thanks to the States Parties for their numerous contributions made in advance of the meeting and commended their overall efforts in providing the World Heritage Convention with a text related to ethical principles. He then gave the floor to the **Director of the World Heritage Centre (DIR/WHC), Ms. Mechtild Rössler**, for technical information regarding the conduct of the meeting.

General discussion regarding the drafting of a draft Code of Conduct, or a Statement of Ethical Principles or equivalent text

The **Chairperson** briefly recapped the second meeting of the group, held on 30 March 2021, in which the group held extended debates on the substance of text related to ethical principles requested by the General Assembly. He recalled that the Working Group discussed the reasons that led to its creation as well as past work addressing ethical issues. In this regard, the Chairperson also recalled that many States Parties highlighted the quality of the Non-Paper document developed by the 2018-2019 Ad-Hoc Working Group and have therefore expressed the wish to use it as a starting point for the drafting process. Although the Non-Paper document would support the work of the Working Group, he clarified that at this stage no document nor article were adopted. He underlined that the Working Group meeting today was established by the General Assembly and its composition is larger than the one of the Ad-Hoc Working Group, which was established by the Committee with a distinct mandate. He considered that the exchanges held at the last meeting contributed effectively to the clarification of the purpose and structure of text related to ethical principles, which will make the drafting process more fluid. He explained that it was with this mandate in mind that an open reflection, gathering all opinions from States Parties, has been proposed in order to reinforce the legitimacy of a final text.

The Chairperson reminded that the Bureau of the Working Group invited States Parties to submit written contributions in advance of the third meeting of the group. He further recalled that the Non-Paper document had been translated and that all contributions received were made available on

the dedicated webpage to the work of the Working Group. The Chairperson mentioned that given that all contributions had referred or made amendments to the Non-Paper document developed by the Ad-Hoc Working Group, the Secretariat prepared a document presenting comments and/or proposed amendments received from States Parties in relation with the paragraph of the Non-Paper they were referring to. He clarified that this document was not intended to prejudge the outcomes of the Working Group but to facilitate its work. He mentioned that a contribution from the States Parties of Palestine and of the Russian Federation were received on the eve of the meeting and would be reflected during the meeting. The Chairperson then invited the States Parties that had submitted written contributions to briefly present them.

The Delegation of **Australia** supported the Non-Paper document and fully agreed with the principles and purpose in developing a Code of Conduct. Therefore, it explained that it did not seek to change the meaning of the principles developed, but rather clarify the language of the text.

The Delegation of **Austria** recalled that it was part of the 2018-2019 Ad-Hoc Working Group, and that a draft Code of Conduct had been discussed in this framework. It expressed full support for the Non-Paper document. The Delegation welcomed the next steps and expressed its commitment towards the development of a Code of Conduct.

The Delegation of **Belgium** was of the opinion that the success of the Code of Conduct would not only rely on its quality but also on the adherence it would generate among all concerned actors. The Delegation recalled that the primary objective of the Convention was to ensure conservation of World Heritage properties, and therefore believed that a Code of Conduct should focus on conservation. The Delegation also stressed that the credibility of the Convention and the role of the Advisory Bodies are key themes. The Delegation also called upon a reflection on financial and human resources allotted to conservation in view of defending the overall credibility of the World Heritage system.

The Delegation of the **Czech Republic** welcomed the comments made by all States Parties that contribute to the work of the Working Group. It looked forward to an inclusive discussion in order to reach consensus on a final text.

The Delegation of **Sweden** wished to retain the Non-Paper document and proceed with minor adjustments. It considered the name “Code of Conduct” appropriate as it both signals that the document includes ethical principles and expected behaviors based on rules set out in the existing texts. It further considered suitable to include provisions for all key actors. It proposed to add in the Purpose and scope section that the Code of Conduct makes more visible principles that are already enshrined in the documents concerned. To address underlying factors that may have contributed to deviations from the recommendations of the Advisory Bodies, such as issues of representation and differing perceptions of science, it suggested to refer to “representation” in a paragraph concerning the Advisory Bodies with appropriate cross-references. Nonetheless, the Delegation stressed that deviations were mainly due to political lobbying and anticipated that a Code of Conduct would help address this problem.

The Delegation of **Switzerland** reaffirmed the importance of recalling common principles in a future text. It supported the title “Code of Conduct” and stressed that the final aim of such a text would be to enhance the credibility and representativity of the World Heritage List, which are linked to scientific excellence and the respect of such principles. The Delegation recalled that these principles, stated in Resolution 22 GA 10, were detailed in the relevant working document and are similar to those developed in the Non-Paper document. It highlighted the continuity of the

work of the Working Group with the 2018-2019 Ad-Hoc Working Group. The Delegation underlined the need to discuss the respect of such principles and of the Advisory Bodies' recommendations. In the Delegation's opinion, a Code of Conduct should remain focused on the States Parties considering that other actors have existing codes of conduct and binding rules.

The Delegation of **Palestine** reiterated its satisfaction with the Non-Paper document and the inclusion of all concerned stakeholders. It considered that the States Parties and the World Heritage Committee were brought to the fore while the Secretariat and the Advisory Bodies could be included as the text of the Non-Paper document did not contradict their respective codes of conduct nor rules. It highlighted that the credibility of the World Heritage List, which was already jeopardized, was not the only issue at stake but also those of the Committee, other concerned actors, and the Convention itself. Thus, the Delegation believed that a Code of Conduct could limit negative impacts on the credibility of the World Heritage system. It explained that its written contribution aimed at recalling the necessity for all actors to abide by existing rules.

The Delegation of the **Russian Federation** recalled that as a State Party, a Committee member, and as the host of the session of the World Heritage Committee in 2022, it fully respected the highest standards of integrity and transparency of the working methods of the Committee. It considered that the strength of the Convention lied in the wide range of existing and efficient instruments for its implementation. It believed that the existing texts of the Convention were clear enough on the necessity for the States Parties to fulfil their international obligations. Thus, it considered that the existing texts should not need to be repeated or modified by a non-binding document of a different nature, such as a code of ethics. It also stressed that the text should avoid undermining the role of States Parties which are the principal actors of the Committee. It suggested that the text should build on experience within UNESCO and present a set of non-binding ethical principles which do not create additional obligations for States Parties. It underlined that the ongoing reform of the Nomination process may also resolve some of the issues. In parallel, the Delegation believed that a strong message to all stakeholders could be very useful and timely. It considered that such a message should be made on behalf of all States Parties, as main actors, rather than of the Committee. Thus, it wished for a statement on ethical principles based on consensus and based on the Non-Paper document. The Delegation recalled that their contribution aimed at sharing a draft Statement with the Working Group.

The **Chairperson** thanked again the Delegations for their contributions and invited the Rapporteur to express his opinion on the drafting process at this point.

The **Rapporteur** explained that most of the contributions suggested amendments to the Non-Paper document developed by the Ad-Hoc Working Group, while the Russian Federation proposed a different kind of text. He believed possible to merge the various proposals and work constructively towards bridging them. However, he pointed out that it would require preparation and suggested the Working Group to discuss a way forward to work in the most effective manner. Furthermore, taking into account the many comments and contributions made so far, he considered that the discussion on the general reflection and introductory remarks may have been exhausted. In order to take into account opinions that might not have been expressed yet, he proposed to briefly continue the general reflection before moving on to a discussion on specific points.

The **Chairperson** suggested to compile general considerations and integrate them into the introductory remarks of the text related to ethical principles. He proposed to draft the introduction at the end of the drafting when the nature of the text will be better defined.

The Delegation of **Palestine** raised the question of the legal status, which in its view lies in the title of the future text. The Delegation added that defining a title may shape the text as it will clarify its nature, whether legally binding or based on a moral commitment.

The Delegation of **France** commented that States Parties were committed to defending the credibility of the World Heritage List and found it necessary to strengthen the representativity of the World Heritage List. The States Parties should agree on the best possible way to proceed with this. It acknowledged that rules could be defined, as for example the limitation of the mandate at the Committee to 4 years. Another example concerns rules regarding the submission of nominations by States Parties members of the Committee. It emphasized that a Code of Conduct should be of a moral nature. Moreover, it highlighted that the rigidity of the Nomination process may pose a risk of drawing valuable sites away from potential inscription on the List, and see them turn to other safeguarding labels, such as the Cultural Routes of the Council of Europe. It also highlighted the risk that, if the rules prevent certain States Parties from sitting in the Committee, it would reduce the competence and expertise of the Committee. In this regard, the Delegation emphasized that, while it is indeed necessary to avoid political and financial lobbying, this should not be at the cost of penalizing Committee members or discouraging States Parties from applying for a seat at the Committee.

The Delegation of **Egypt** echoed comments made by the Russian Federation and France on the need to be careful on the final aim of a text related to ethical principles. It indicated that the Convention determines roles for each stakeholder, and stressed that these should not be undermined by a Code of Conduct. It further stressed that the future text should be addressed to all stakeholders and not focus on one category. It recognized the importance of preserving expertise and respecting experts' advice, and highlighted the importance of participation of experts from each region at the panels of the Advisory Bodies.

The Delegation of **Italy** believed this process to be very important for the future of the Convention, and expressed that a future text should be focused on the overarching principle of protection of heritage of Outstanding Universal Value. Therefore, it added that the first commitment of the Committee should be to assess the need for protection and the Outstanding Universal Value of sites, wherever they are located. In this regard, it stressed that Committee members should not discuss sites located in their territory, which has been the case for many years. The Delegation also emphasized the importance of ensuring a more representative and balanced World Heritage List. It believed that efforts should be made in priority for less represented countries. This could be supported by a positive approach and different tools, such as thematic studies.

The **Chairperson** commented that these interventions highlighted the need to proceed carefully in view of drafting a text approved by all that will reaffirm and foster existing rules. He stressed that the future text would not replace or amend the existing rules, but on the contrary would complement them by a moral commitment, as requested by the General Assembly of States Parties. He indicated that the title of the text will not change anything in terms of these principles, and that it will be determined after the text itself was written. He recognized that a moral engagement is a subtle concept, which implies a commitment to be respected without the means of legal sanctions. He explained that in his view, recipients of a Code of Conduct are primarily the States Parties which are the signatories of the Convention. He added that such a Code of Conduct would impact all stakeholders created by the World Heritage system.

The Delegation of **Palestine** concurred with the methodology proposed by the Chairperson. It requested to clarify which Governing Body of the Convention would adopt the final text. The

drafting will depend on whether the Committee or the General Assembly approves the text. It further supported that such a text should concern all States Parties to the Convention.

The Delegation of **Sweden** also concurred with the methodology proposed. It further noted that deciding of the title at the end was in conformity with the working methods within UNESCO.

The Delegation of **Colombia** expressed its agreement with the conduct of the work of the Working Group. It concurred that all stakeholders, including all States Parties, should be concerned by a Code of Conduct, although particular provisions could be addressed to States Parties members of the Committee. While recognizing that such a text related to ethical principles would not be legally binding, the Delegation insisted that it should nonetheless encourage a strong commitment by States Parties. In this regard, it wished for finding a balance between both concepts.

The Delegation of **Slovenia** reminded that a diversity of views existed within a State Party and were sometimes difficult to reconcile. Such a Code of Conduct can thus be important also within a State Party. It pointed out that many substantive discussions, not only concerning nominations or conservation, are connected to a moral aspect, and thus the moral code should go further. As an example, the discussion on memory sites, was mentioned. It concurred that a Code of Conduct should be understood as a moral engagement and that a final text could define a conduct based on ethical principles. The Delegation expressed its commitment to this work and stressed the need for the Working Group to reflect on what type of practical document was needed for the States Parties. It insisted that the States Parties should be brought to the fore as they will be responsible for discussing and adopting such a document. It drew attention to the Ethical Principles adopted by the 2003 Convention which stresses the essential role of communities, groups, and individuals. The Delegation suggested that a similar work could be done in the framework of the 1972 Convention, with emphasis placed on sites, but also on persons who are in charge of preserving them.

The **Chairperson** recalled that the Working Group was conducting its work under a clear mandate stemming from Resolution 22 GA 10. He further recalled that paragraph 7 which states that “*a Code of Conduct or a Statement of Ethical Principles or equivalent text is not legally binding*”. He also quoted paragraph 10.d) that states that the Working Group shall “*determine how best to engage the World Heritage Centre and the Advisory Bodies in the process at the appropriate time.*” He reiterated that in his view, the States Parties remained the direct recipients of the text, while the World Heritage Centre and the Advisory Bodies shall also be concerned.

The Delegation of **Norway** praised the discussions on a Code of Conduct and agreed that the title should be discussed at a later stage of the drafting. It supported the proposal made by Sweden in its written contribution to make further reference to “representation” with appropriate cross-references. It believed that the future text should be addressed to all States Parties and include specific provisions for those of them who are members of the Committee.

Discussion on specific points of a draft Code of Conduct, or a Statement of Ethical Principles or equivalent text

Before opening the floor for discussion on specific points, the **Chairperson** presented the document prepared the Secretariat. He clarified that it was only a working document compiling contributions received from States Parties and that there was no existing draft “ready for use”. He insisted that the Working Group will build on past reflections of the Ad-Hoc Working Group but will also amend/delete as often as necessary. The document was then displayed on the screen and numerous amendments were proposed by the Delegations.

As agreed during the meeting, the Working Group left aside the introductory remarks, to be elaborated later, and mainly focused on the section “Code of Conduct” of the document. Amendments were suggested to reflect that the future text would be primarily drafted by States Parties and ultimately be adopted by the General Assembly of States Parties. Further editing and modifications with the purpose of harmonizing the text were proposed.

Among the many topics discussed, the degree of responsibility among Governing Bodies and stakeholders was pointed out. In this regard, Delegations agreed that the States Parties were responsible for the implementation of the Convention in their respective countries and that therefore this responsibility did not only belong to the Committee. The degree of involvement of other stakeholders was also discussed. Delegations stressed that all stakeholders should be concerned by a Code of Conduct, and the involvement of the Secretariat and the Advisory Bodies could be addressed with specific provisions further down in the text.

The discussion also concerned the non-binding nature of the future text. Some Delegations raised concerns over a language that might contradict the non-binding approach as set out in Resolution 22 GA 10, and further recalled that the future text should not impose new obligations. Other Delegations stressed that the idea of a moral commitment by States Parties should nonetheless be preserved, and that a Code of Conduct is necessary to set out ethical principles and good behaviour. The Working Group worked towards a formulation suitable to all that bridged both approaches. It was also suggested to recall relevant paragraphs and wording from Resolution 22 GA 10. The Working Group also agreed that a Code of Conduct should be intended to recall existing obligations and to set good behaviours while not being legally binding.

The **Rapporteur** extended its gratitude to all Delegations for their high level of commitment and engagement in the drafting process as showcased by their numerous contributions. He considered that the Working Group had come far towards consensus on the principles and on the contents of the section of the text discussed during the meeting. He proposed that the Rapporteur, assisted by the Secretariat, would consolidate the agreed amendments/proposals to be presented at the next meeting.

Closing of the meeting

The **Chairperson** thanked all the Delegates for their constructive exchanges. He remarked that the numerous comments made on the amended section of the text would also greatly contribute to the future work of the group. He underscored that the Working Group had reached consensus on the main equilibrium of a text related to ethical principles and converged on its coherence, structure, and options. Finally, he expressed his conviction that one day, the World Heritage system shall be grateful to the delegates, and to all those who contributed to the work, for their undertakings. The Chairperson informed that the Secretariat shall circulate an announcement concerning the date and time of the next meeting.

The meeting ended at 2.55 pm.