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WHC-99/CONF.205/4

Paris, 27 May 1999

Original : English

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

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

WORLD HERITAGE COMMITTEE

**Third extraordinary session
Paris, UNESCO Headquarters, Room XI
12 July 1999**

State of conservation of Kakadu National Park, Australia

Summary

This document presents a summary of previous deliberations by the World Heritage Committee and its Bureau concerning the state of conservation of Kakadu National Park, Australia. The document includes the full text of the decisions of the twenty-second session of the Committee (Kyoto, 1998) concerning the property. A summary of new information received at the time of preparation of the document is also presented.

The four reports specifically requested by the twenty-second session of the Committee are made available to the Committee in Information Documents **WHC-99/CONF.205/INF.3B to 3E**.

Information Document **WHC-99/CONF.205/INF.4** provides extracts from the Draft Report of the Rapporteur of the twenty-third session of the Bureau of the World Heritage Committee (UNESCO Headquarters, 5-10 July 1999) of relevance to the discussions of the third extraordinary session of the World Heritage Committee.

Decision required: The Third Extraordinary session of the World Heritage Committee may wish to examine this document along with Information Documents **WHC-99/CONF.205/INF.3B to 3E** and **WHC-99/CONF.205/INF.4** and other information made available at the time of its session. The Committee may wish to decide whether or not to immediately inscribe Kakadu National Park on the List of World Heritage in Danger. The Committee may also wish to decide on other actions relating to the conservation of Kakadu National Park.

**Kakadu National Park (Australia) (Inscribed on the World Heritage List:
Stage I – 1981; Stage II – 1987; Stage III – 1992)**

International assistance: N/A

Summary of previous deliberations: At its twentieth extraordinary session (Merida, 1996), the Bureau of the World Heritage Committee took note of information provided by IUCN on potential threats from a uranium mine in the Jabiluka Mineral Lease, one of three enclaves within the boundaries of Kakadu National Park. IUCN tabled Resolution 1.104 on “Conservation of Kakadu World Heritage Site, Australia”, adopted by the World Conservation Congress in Montreal, Canada in October 1996. The Resolution urged the Government of Australia to prevent the development of Jabiluka and Koongarra uranium mines should it be shown that such mining would threaten the Park’s World Heritage values. At the time, the Australian Delegation referred to a strengthening in the protection of Australian World Heritage properties that would result from restructuring of federal agencies. At the twentieth session of the Committee (Merida, 1996), IUCN stated that - due to lack of sufficient resources - it was not possible to prepare detailed reports on Kakadu National Park or other Australian World Heritage properties. The Australian Delegation informed the Committee that Australia had no essential problems with the World Conservation Congress resolution and that a number of steps and actions had been taken to mitigate described threats to Australian World Heritage properties, including Kakadu National Park.

At its twenty-first session (Paris, 1997), the Bureau of the World Heritage Committee received a written and oral report from IUCN on the state of conservation of several Australian World Heritage properties including Kakadu National Park. The Bureau was informed by the Australian Delegation that the Government would continue to maintain its commitment to respect the integrity of its World Heritage sites. The Chairperson ruled that issues raised in the IUCN report should not be further considered, because in many cases the States Parties had not been given the opportunity to examine the issues raised, to verify their accuracy and to respond. The twenty-first extraordinary session of the Bureau (November 1997) received a report from IUCN that 77 concerns had been identified over the uranium mine proposal and the Australian Supervising Scientist had also suggested that a new EIA would be needed should the location of the mill be changed. IUCN reported that they had received reports from Australian environmental groups concerned about the potential impacts and that some of them had proposed the site should be considered for the List of World Heritage in Danger. ICOMOS noted that care needed to be taken in handling the mining operation if and when it proceeds, to protect the important sacred sites and spiritual values of the area. It also expressed concern that the traditional owners had not participated in the environmental impact statement. ICOMOS emphasized the need for continuous monitoring of the condition of the cultural sites in the close vicinity of the proposed mine.

Australia advised that the 77 "concerns" referred to by IUCN were in fact conditions that had been placed on the mining company by the Government to ensure protection of the World Heritage values. Australia stated that mining would not proceed until these conditions were met. Australia recognized the issue of Aboriginal involvement as important and stated that the Australian Government and the mining company have

committed themselves to ongoing consultation with the Aboriginal people. The Bureau was informed that the Australian Government had commissioned an independent social impact study, at the request of the traditional owners, and was responding to the outcome. Australia added that there has been uranium mining in the area but outside the World Heritage site for 20 years with no significant environmental effects, with independent supervision and monitoring by an independent scientific statutory body.

The Bureau invited the Australian authorities to provide the World Heritage Centre with any new information concerning the proposed uranium mine at Jabiluka in Kakadu National Park. The Australian authorities were requested to provide information pertaining to their efforts to ensure that the proponents of mining in the enclave, within but outside of the boundaries of the Park, address the seventy-seven environmental conditions imposed by the Government.

The twenty-first session of the Committee (Naples, 1997) noted the deliberations of the extraordinary Bureau session.

The twenty-second session of the Bureau (Paris, June 1998) noted that additional information concerning the state of conservation of Kakadu National Park had been provided by the Australian Government. The Secretariat referred to a letter received from the lawyer for the Mirrar Aboriginal people (the traditional owners of the area covered by the Jabiluka Mineral Lease) who commented that the responses by the Bureau and Committee on the state of conservation of Kakadu at its twenty-first session were "entirely unsatisfactory". The Secretariat also informed the Bureau that a submission from four scientists in Australia had been received in which they criticize the quality and process of the Environmental Impact Assessment (EIA) for the proposed Jabiluka uranium mine. The scientists stated that the Environmental Impact Statement (EIS) largely ignored cultural heritage and called for a new EIS to include proper assessment of the ecological and cultural impacts of the proposed mine. Furthermore, the Secretariat and the Chairperson referred to the many letters they had received which expressed concern about the state of conservation of Kakadu National Park and that called for the inclusion of Kakadu on the List of World Heritage in Danger.

IUCN presented a detailed statement concerning the state of conservation of Kakadu. In summary, IUCN suggested that Resolution 1.104 on "Conservation of Kakadu World Heritage Site, Australia", adopted at the World Conservation Congress in 1996 and the precautionary principle be used to guide IUCN's advice to the Committee. IUCN recommended that mining activity should be deferred until the Committee was satisfied with the implementation of the seventy-seven environmental conditions and requested the necessary information and resources for IUCN to participate in a multidisciplinary mission to the site and report to the twenty-second session of the Bureau and Committee if requested by the Bureau.

The Australian Government provided information concerning the assessment and approvals process that had been required prior to the commencement of the development of the mine. ICOMOS expressed the need to better assess the full diversity of cultural values, including spiritual values and living cultural traditions, at Kakadu and in the Jabiluka Mineral Lease. ICOMOS also commented that at the time

of inclusion in the List (in three stages, 1981, 1987 and 1992), nomination as a cultural landscape had not been possible. ICOMOS raised the possibility of Kakadu being considered in the future as a cultural landscape of potential World Heritage value.

The Bureau reached consensus on the need to proceed on the basis of the precautionary principle even in the absence of complete data. The Bureau agreed that the information about the state of conservation of Kakadu presented to the Committee and Bureau required greater clarity. The Bureau therefore concluded that the multifaceted environmental, cultural and legal issues relating to the conservation of the site highlighted the need for a fact-finding mission. The Australian Observer reiterated that the record of conservation at Kakadu was very good and that the Australian Government did not consider that the World Heritage values were threatened. She stated that, for these reasons, a mission would be welcomed.

The Bureau also noted the extent and level of representation to it concerning uranium mining in the area of Kakadu National Park. The Bureau considered that uranium mining in an area of high natural and cultural values is of sensitivity and potential concern. The Bureau noted that the Australian Observers had reported in detail on the progress to date in imposing conditions on mining such that it does not affect the World Heritage or other natural or cultural values in this area. Because of the importance, complexity and sensitivity of the issue, however, the Bureau proposed that a mission to Kakadu be undertaken by a team headed by the Chairperson of the World Heritage Committee with the participation of the Director of the World Heritage Centre, IUCN and ICOMOS. This mission would examine the situation further, have discussions with relevant Aboriginal groups, officials, non-governmental organisations and the mining company, and report to the Bureau and Committee sessions in November-December 1998.

An expert mission was fielded to Kakadu National Park, Australia from 26 October to 1 November 1998. The mission report (see Information Document **WHC-99/CONF.205/INF.3A**) was subsequently presented to the twenty-second extraordinary session of the Bureau (27-28 November 1998) and the twenty-second session of the World Heritage Committee (30 November –5 December 1998) in Kyoto, Japan.

The mission report focused primarily on threats from the Jabiluka mining proposal posing ascertained and potential dangers to the World Heritage values of Kakadu National Park. The report presents sixteen recommendations concerning mitigating measures and recommended that the proposal to mine and mill uranium at Jabiluka should not proceed. IUCN presented a position statement in which they expressed their belief that the conditions existed for inscribing Kakadu National Park on the List of World Heritage in Danger. ICOMOS gave general support to the mission report. The Observer of Australia stated that Australia was committed to meeting its obligations under the Convention. He referred to the mission report as containing errors of law, fact and analysis, and recommendations that are flawed and unacceptable to the Australian Government. He requested that Australia be given time to respond to the mission report. The Bureau formulated a number of recommendations basing its work on the need to respect the rights and interests of the State Party and the obligations of the Committee and its Bureau to protect the

outstanding cultural and natural values of Kakadu National Park. IUCN and ICOMOS presented a joint statement that recognised the urgency of the issues being considered in light of the on-going construction of the Jabiluka mine. IUCN and ICOMOS again called for the mining and milling of uranium at Jabiluka to not proceed stating that failure to do so would diminish the standards, and risk the credibility of the World Heritage Convention.

Following the recommendations of the twenty-second extraordinary session of the Bureau, the twenty-second session, of the World Heritage Committee adopted the following decision:

The Committee recognised the report of the mission to Kakadu National Park as being both thorough and credible.

- (i) *The Committee expressed grave concern at the ascertained and potential dangers to the World Heritage cultural and natural values of Kakadu National Park which, as noted in the mission report, are posed primarily by the proposal for uranium mining and milling at Jabiluka;*
- (ii) *noted with concern that in spite of the dangers to the World Heritage values, construction of the mine at Jabiluka began in June 1998 and is currently progressing;*
- (iii) *has been informed by the Australian authorities that construction of the mine decline and site will proceed; however in the next six months no mining of uranium will take place, the construction of the mill will not commence and an export permit for the Jabiluka uranium will not be issued. The Committee has also been informed that the Australian authorities will act to complete the cultural heritage management plan with independent public review and they will accelerate the implementation of the Kakadu Region Social Impact Study;*
- (iv) *noted that there is significant difference of opinion concerning the degree of certainty of the science used to assess the impact of the mine on the World Heritage values of Kakadu (notably hydrological modeling, prediction and impact of severe weather events, storage of uranium ore on the surface and the long-term storage of the mine tailings);*
- (v) *noted that the associative cultural values, and the archaeological and rock art sites, on the basis of which Kakadu National Park was inscribed on the World Heritage List, and the ability of affected Aboriginal communities to continue their traditional relationships to the land, are threatened by the Jabiluka mine proposal; and,*
- (vi) *emphasized the fundamental importance of ensuring thorough and continuing participation, negotiation and communication with Aboriginal traditional owners, custodians and managers in the conservation of the outstanding heritage values of Kakadu for future generations.*

In view of the ascertained and potential dangers posed by the Jabiluka uranium mine that are noted in the report of the World Heritage mission to Kakadu, and have again been noted with concern by the Committee, IUCN, ICCROM and ICOMOS, the Committee decided the following:

- 1. In light of the concerns expressed by the Delegate of Australia, the Australian authorities be requested to provide, by 15 April 1999, a detailed report on their efforts to prevent further damage and to mitigate all the threats identified in the World Heritage mission report, to the World Heritage cultural and natural values of Kakadu National Park, Australia. The report should address these threats posed by the construction of the Jabiluka mine, by the mining of uranium ore at Jabiluka, and the alternatives for milling the ore at Jabiluka and Ranger. The report should be prepared in accordance with the intent of (vi) above. The report submitted by the Australian authorities should include a detailed update on the implementation of the cultural heritage management plan referred to in (iii) above and in the mission report.*
- 2. Immediately upon its receipt by the Secretariat, the report referred to in paragraph 1 above, be provided to ICOMOS, ICCROM and IUCN, who will ensure that the twenty-third session of the Bureau of the World Heritage Committee, be provided with a written independent expert review concerning the mitigation of threats posing ascertained and potential dangers to Kakadu National Park by the Jabiluka mine. The expert opinion of ICOMOS, ICCROM and IUCN will be provided to the Secretariat by 15 May 1999 for immediate distribution to members of the Bureau and the Australian authorities.*
- 3. The Australian authorities be requested to direct the Australian Supervising Scientist Group to conduct a full review of the scientific issues referred to in Paragraph (iv) above, to be provided to the Secretariat by 15 April 1999. The review will be submitted to peer review by an independent scientific panel composed of scientists selected by UNESCO in consultation with the International Council of Scientific Unions and the Chairperson of the World Heritage Committee. The report of the peer review will be provided to the Secretariat by 15 May 1999 for immediate distribution to members of the Bureau, IUCN and the Australian authorities.*
- 4. The reports referred to in Recommendations 1, 2 and 3 will be examined by the twenty-third session of the Bureau.*
- 5. The twenty-second session of the Committee has decided that an extraordinary session of the Committee, to immediately follow the twenty third session of the Bureau in July 1999, will be convened at UNESCO Headquarters to decide whether to immediately inscribe Kakadu National Park on the List of World Heritage in Danger.*

A joint statement by IUCN and ICOMOS was presented to the Committee. It stated that the conditions exist for inscribing Kakadu National Park on the List of World Heritage in Danger. The statement also cautioned that a failure to recognise the dangers to the property would diminish the standards of, and risk prejudicing the prestige of the Convention. ICCROM called on the Committee to give proper weight to the opinion of the advisory bodies and to inscribe the site on the List of World Heritage in Danger if scientific research indicated, without any doubt, that the values of Kakadu National Park are threatened.

The Delegate of Australia read a statement in which he reiterated that Australia stands by the Convention and does not intend to allow any damage to the natural and cultural values of the World Heritage area. He stated that his Government did not consider that the values are in any form of ascertained or potential danger.

The Committee adopted an additional decision by consensus:

The Committee urged the Australian authorities and Energy Resources Australia Inc. to immediately undertake, in the context of their examination of the mission report, the voluntary suspension of construction of the mine decline until the twenty-third session of the Bureau in July 1999.

The Delegate of Australia disassociated his Government from the decision.

New information: The decisions of the Committee were transmitted to the Australian Government by the World Heritage Centre. In accordance with the reporting process outlined in the decisions of the twenty-second session of the Committee, a detailed report was provided to the World Heritage Centre by the Australian Government on 15 April 1999. The report is entitled “Australia’s Kakadu – Protecting World Heritage. Response by the Government of Australia to the UNESCO World Heritage Committee regarding Kakadu National Park (April 1999)” (see Information Document **WHC-99/CONF.205/INF.3B**). The report responded to the concerns and recommendations identified in the World Heritage mission report (see Information Document **WHC-99/CONF.205/INF.3A**).

A review of the scientific issues was performed by the Australian Supervising Scientist and a report entitled “Assessment of the Jabiluka Project: Report of the Supervising Scientist to the World Heritage Committee (April 1999)” was provided to the UNESCO World Heritage Centre on 15 April 1999 (see Information Document **WHC-99/CONF.205/INF.3C**).

A presentation on both of the reports mentioned above took place at the Australian Embassy in Paris on 15 April 1999. Many Committee members, a representative of ICOMOS and IUCN and several staff members of the World Heritage Centre attended.

The World Heritage Centre provided copies of the report included in Information Document WHC-99/CONF.205/INF.3B to ICOMOS, IUCN and ICCROM for their expert review. The written independent expert review of IUCN and ICOMOS was provided to the World Heritage Centre on 15 May 1999 and transmitted to the

Permanent Delegation of Australia to UNESCO (see Information Document **WHC-99/CONF.205/INF.3D**).

The World Heritage Centre provided copies of the report included in Information Document WHC-99/CONF.205/INF.3C to ICSU for review by an independent scientific panel. The panel's written review was provided to the World Heritage Centre on 14 May 1999 and was transmitted to the Permanent Delegation of Australia to UNESCO on 17 May 1999 (see Information Document **WHC-99/CONF.205/INF.3E**).

At the time of preparation of this working document a number of additional responses to the Australian Government's response to the mission report and the Australian Supervising Scientist Report were received by the World Heritage Centre. Each submission was transmitted to the Permanent Delegation of Australia to UNESCO for comment and to the Chairperson of the Committee and advisory bodies for information.

In addition, many letters calling on the Committee to inscribe Kakadu National Park on the List of World Heritage in Danger have been received from individuals and organisations from around the world. A Resolution was presented to the Plenary Session of the Fourth World Archaeological Congress (South Africa January 1999) and then adopted by the World Archaeological Congress. The Resolution called on the immediate halt to preparatory work on the mine and for inclusion of the site on the List of World Heritage in Danger. A Resolution proposed by the Australian Greens and the European Federation of Green Parties was adopted by the European Parliament on the subject of the Jabiluka Uranium Mine, Australia. The Resolution included a call on the Australian Government to abide by the decision of the World Heritage Committee to halt work on the mine immediately.

The Chairperson of the Committee wrote to the Minister for the Environment in Australia on a number of occasions, each time urging the voluntary suspension of the construction of the mine decline. The Minister replied stating that Australia did not consider that the World Heritage values of Kakadu are under any form of ascertained or potential danger. A number of his replies questioned the independence of the advice provided by IUCN and ICOMOS. His replies included assurances to the Chairperson that the Government was committed to the protection of Kakadu and would ensure that the rigorous environmental requirements and conditions imposed on the mine operator were met.

Several letters addressed to the Chairperson were received from the Gundjehmi Aboriginal Corporation. The letters requested that Kakadu National Park be inscribed on the List of World Heritage in Danger and called for the cessation of construction of the Jabiluka underground mine shaft as they claimed the Boyweg-Almudj sacred site complex would be desecrated. The Permanent Delegation of Australia to UNESCO, the Chairperson and the advisory bodies were informed of all of the above.

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