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SPEECH OF MR COLIN POWERS

ON THE OCCASION OF THE SIGNING OF
THE SECOND PROTOCOL TO THE HAGUE
CONVENTION FOR THE PROTECTION OF
CULTURAL PROPERTY IN THE EVENT OF ARMED
CONFLICT

(THE HAGUE, 26 MARCH 1999)

THE HAGUE 16 MAY 1999
Your Excellencies, Ladies and Gentlemen,

It is an honour and a pleasure to address you at this signing ceremony for the Second Protocol to the Convention on the Protection of Cultural Property in the Event of Armed Conflict (‘The Hague Convention’), which was itself signed here in The Hague in 1954 on the 14th of May 55 years ago - almost to the day.

As the Director-General has recently stated, acts of violence such as we have seen and are now seeing in Yugoslavia are deplorable and attacks on human life and dignity must never be tolerated. But UNESCO is also concerned about the fate of the cultural heritage which is an integral part of peoples’ identity and a true testament of civilisation.

Customary rules of warfare protecting places of worship and cultural monuments go back to Classical times in the West and perhaps even before and are found in many cultures. In modern international law, they appear in treaty form in the Hague Convention of 1907 which regulated the rules of warfare on land. In 1954 these rules, which had been worked on in detail in the 1930s but were not, alas, adopted before the Second World War, became the substance of the Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict. Some of its protective rules were picked up again in the First Protocol to the Geneva Conventions which was adopted in 1977.
However, there was a period when the mechanisms of the Hague Convention of 1954 were thought to have been superseded by technology: how could painting a sign on the roof of a museum to indicate a protected site be and adequate warning when the menace was an intercontinental ballistic missile? Thus little attention has been paid to the Convention in the 1970s and 1980s.

When conflict took place in Kuwait and Iraq and later on the territory of Yugoslavia, in which first Slovenia, then Croatia, then Bosnia-herzegovia and now Kosovo became embroiled, many searched to find rules to restrain the savagery of conflicts seen as ‘cultural’. Once again it was seen that the Hague Convention was an apposite, detailed and important restraint on violence.

But it was also clear that some States had done little to implement it and that some of its provisions needed updating. At the initiative, and with the full and continuous support, of the Netherlands government, UNESCO started on this work in 1991. Eight years later we meet to sign the Second Protocol to the Convention which is the result of this work.

Many people have contributed to it. Professor Boylan, representing the many experts from the non-governmental organisations who have helped UNESCO in many conflicts, providing advice on the physical protection of cultural property, emergency services where needed and post-conflict restoration, furnished an initial report which pointed out some of the difficulties of the Convention. Two meetings of experts held in the Netherlands, one at UNESCO, and one by invitation of the Austrian government, in Vienna, refined the original proposals. Meetings of all the States Parties kept them informed of progress. And finally a
Diplomatic Conference held here in The Hague from 15 to 26 March this year, settled the text which is now open for signature.

I will not conceal from you that this process was quite a difficult one, as all of you who took part in it will agree.

Firstly, there was a complex provision for the amendment of the Convention which some States felt had to be followed. Others felt that a more appropriate way to add to the provisions of the Convention would be to have a Second Protocol.

Then there was the question as to what the new provisions should deal with. An important proposal of Professor Boylan was to deal with the difficult notion of 'military necessity' which is used in the Convention. Another was to try to improve on the listing procedure for certain cultural property of the greatest importance which would give it a higher level of protection than that generally given by the Convention to cultural property. A third was to find a new mechanism of implementation which would involve States much more closely in its application.

There were many proposals and many drafts on these and other questions. Finally, at the Diplomatic Conference, States Parties and other interested States worked together on terms of absolute equality to find compromise solutions on all these issues. It is in the nature of compromise that no one is completely satisfied and I want to pay tribute here to all those delegates, representing their States, who accepted texts which did not meet their preference but which they understood their country could adopt so that a final text could be agreed on.
Such is the delicacy of the issues, which affect important political, military and cultural strategies of States, that this approach was the only one which would have enabled a text to have been settled which would have the assent of the widest range of countries, including those not yet party to the Convention itself and those actively working towards its acceptance by their countries.

Your Excellencies, Ladies and Gentlemen

Tomorrow will especially commemorate the long tradition of the Netherlands in the development and support of international law and the occasion of the first great Peace Conference held at The Hague in 1899. What more fitting commemoration could there be than the signing of this new instrument to improve the protection of the visible witness of civilisation; to ensure respect at all times for museums, archives, libraries, religious and educational institutions as well as monuments and sites. In signing this agreement each signatory shows the willingness of his or her State to contribute, not merely in words, but by solemn obligations, freely undertaken, to stand on the side of peace, of culture, of civilisation and of humanity.

This is the year of the Culture of Peace. In promoting tolerance and diversity that leads to conflict resolution by peaceful means, we must not lose sight of the need to minimise the impact of conflict on human life when it has proved impossible to resolve it without violence. Where we cannot abolish violence, we must reduce it. Attacks on non-competence, attempts to erase manifestations of a people’s culture, targeting monuments and sites of
cultural significance or religious, educational and cultural institutions are all forbidden both by customary international law and by the rules of the Hague Convention.

The Year of the Culture of Peace is an appropriate time for those States which are not parties to the Hague Convention to join the 95 States which are. It is an appropriate year for those States who are party to the Convention, but not to its first Protocol, to reconsider it and to join the 73 States which are party to both. And in the study of the means to minimise violence in armed conflict and to punish those who flagrantly break those rules, it is appropriate to all States to consider thoroughly this Second Protocol and to join their voices to those of other civilised peoples for the survival of human behaviour, preservation of human lives and the maintenance of a rich heritage to be handed on to future generations.