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Speech by the Minister of Foreign Affairs of the Netherlands at the opening of the Diplomatic Conference on the adoption of a Second Protocol to the Hague Convention for the Protection of Cultural Property in the event of Armed Conflict, 15 March 1999.

Let me begin by saying what a pleasure it is to welcome you to The Hague, on the occasion of this meeting, which brings so many distinguished representatives of states to discuss ways of improving the 1954 Hague Convention for the Protection of Cultural Property in the event of Armed Conflict.

The aim of this conference, the adoption of a Second Protocol to the Hague Convention, justifies a short excursion into the history of the protection of cultural property in armed conflict.

The first intergovernmental conference took place in 1954 in the Hague. Its purpose was - as pointed out, Mr Director-General, by your predecessor at the time - to establish the principle that property of cultural value is entitled to the same respect that civilized peoples accord to civilians, prisoners of war, medical personnel and hospitals.

In that year, 1954, the destruction caused by the Second World War was still fresh in the memory of the participants. In 1949 the international community adopted the four Geneva Conventions, providing new rules for the protection of the human victims of armed conflicts. These conventions served as models for numerous articles of the 1954 Convention.

The 1954 Convention dealt with the protection of many works of art. The conference believed it to be crystal clear - and I quote the preamble to the Convention - that "damage to cultural property belonging to any people whatsoever means damage to the cultural heritage of all mankind, since each people makes its contribution to the culture of the world." This Convention articulated for the first time the existence and importance of the notion of common heritage. The Convention was also the first to be devoted exclusively to the protection of cultural property. It set the trend in many other respects. While the older instruments in this area are applicable only to international armed conflicts, the Hague Convention contains provisions for both international and internal armed conflicts.

Many of you will know of the heated debate at the Conference in 1954 about whether to include the military necessity clause. Some of the commentaries on the text refer to inclusion of this clause as one of the Convention's principal weaknesses. Whether this assessment is right or wrong is a question which merits further attention even today. Military necessity should never become a convenience that makes it possible to escape individual responsibility, or to violate international humanitarian rules. It is my sincere hope that you will be able to find a satisfactory answer to the question of how to translate this notion into contemporary rules. To that end a combined effort by experts in the military and cultural field is essential.

As of March 1999 95 States have ratified or acceded to the Convention. Its provisions reflect international customary rules. Other states are currently reconsidering ratification. We welcome this development and it is still important to appeal to states to become parties to the Convention.

It should be emphasized that the Convention will continue to exist independently of the Protocol.

The Second Protocol is not meant to amend the Convention. It is an effort to supplement it, by providing new rules for certain matters which need improvement and updating in the light of recent developments.

The Convention's existing regime divides cultural property into two separate categories, granting each a different level of protection. All cultural property enjoys "general protection" in the event of armed conflict. This protection comprises the safeguarding of and respect for such property. If certain conditions are met, cultural property is entitled to special protection under the Convention. This protection regards centres containing monuments, other immovable cultural property of "very great importance" and a limited number of locations sheltering movable cultural property provided that they are located at an adequate distance from larger industrial centres and are not being used for military purposes. To date, only four states have decided to place their cultural property under the special protection provided for in the Convention. Since July 1978 no other cultural property has been entered in the International Register of Cultural Property under Special Protection.

This is one of the most important reasons for reconsidering the conditions for obtaining special protection. The question is: do the conditions governing special protection, present an obstacle to making use of this special protection?

Another important objective of this meeting is to provide an appropriate mechanism for enforcement in the event of violations of the provisions of the Protocol. Important developments have been place, particular with respect to the enforcement rules. I should mention the adoption in Rome, last summer, of the Statute of the International Criminal Court. This is an appropriate time to assess these developments and to decide how they should be reflected in the text of this supplementary protocol.

In conclusion I would like to recall the two International Peace Conferences held in The Hague in 1899 and 1907. These two conferences played a pioneering role in the development of the protection of cultural property in times of war. In Conventions IV and IX we find the first internationally agreed articles dealing with the protection of cultural property. In May of this year we shall be celebrating the hundredth anniversary of the First Peace Conference, held in The Hague in 1899. I am confident that the results of your work will constitute a meaningful contribution to this celebration.