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UNESCO Summary of comments on the Preliminary Draft Second Protocol to the 1954 Hague Convention

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UNESCO
Summary of comments on
the Preliminary Draft Second Protocol to the 1954 Hague Convention
received from High Contracting Parties to the
Hague Convention for the Protection of Cultural Property
in the Event of Armed Conflict 1954,
other UNESCO Member States and international organizations

Introduction

1. Following the May 1998 Vienna meeting on the revision of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict 1954 ("the Convention"), the authorities of the Netherlands, with the assistance of the UNESCO Secretariat, elaborated a Preliminary Draft Second Protocol to the 1954 Hague Convention ("Draft Protocol"). This draft was submitted for consideration to the High Contracting Parties to the Convention and for information to other Member States of UNESCO, other Member States of the United Nations and selected international organizations.

2. By 15 January 1999, the Secretariat had received substantive replies from **fifteen** High Contracting Parties to the Convention (**Australia, Austria, Finland, France, Germany, Israel, Italy, Norway, Qatar, Slovenia, Spain, Sweden, Switzerland, the Syrian Arab Republic and Turkey**) of the total number of **ninety-five** as well as from **China, the Federated States of Micronesia, the United Kingdom and the United States of America**. In addition, the **International Committee of the Red Cross (ICRC)** has provided the Secretariat with a new partial draft. All but the Spanish comments, which could not be translated in time for inclusion, are summarized in this document.

3. The comments and suggested modifications may be summarized as follows:

Preamble

Turkey proposes to incorporate a Preamble acknowledging the damage to cultural property inflicted by States Parties in past wars, mentioning illicit traffic in cultural property and failure to return as well as reiterating the desire not to repeat such events.

Article 1 - Definition

Australia would interpret "cultural property" to cover indigenous cultural property. **Germany** supports the definition of cultural property set forth in Article 1 of the Convention and advises against the incorporation of definitions of cultural property from other instruments into a new instrument of international humanitarian law. **Austria** proposes to add a definition of "International Register", **Turkey** a definition of "Committee".

Article 2 - Relation to the Convention

Finland and **Norway** would consider further the relations between the new Protocol and the Convention because some provisions of the new Protocol relate only partly to the Convention and differences in interpretation might arise. **Germany, Italy** and the **United Kingdom** shared this concern. **France, Israel** and the **United States of America** consider the Draft Protocol as an amendment to the Convention and, therefore, Article 39(5) of the Convention applicable. **Israel** also considers that Article 2 contradicts the provisions of Article 39(5) of the Convention and recommends that the Draft Protocol be explicitly made subject to the same conditions and provisions of the Convention including those relating to its entry into force. The **United States** feels that the adoption of the Draft Protocol by a non-consensus procedure would undermine the consensus process, particularly important when elaborating new rules of armed conflict. **Turkey** would incorporate a clause clarifying unequivocally the relation between the Convention and the Protocol. **Austria** and **Italy** are in favour of applying Article 41 of the Vienna Convention on the Law of Treaties 1969 to avoid obligations under the new Protocol modifying obligations of States Parties to the Convention.

Paragraph 1: **Sweden** proposes to replace the word "supplement" by the word "modify".

Paragraph 2: **China** would move this paragraph to Chapter 8. **Germany** and **Norway** propose to follow the language of Article 96(2) of Protocol I when finalizing paragraph 2. The **Syrian Arab Republic** wishes to replace the words "... has declared that it accepts the provisions of the present protocol and so long as it applies them" by the words "... expressly accepts in writing the provisions of the present Protocol".

Article 3 - Respect for cultural property

Norway and the **United Kingdom** wish to clarify the relation between this Article and Article 4 of the Convention. **Norway** wishes to know whether provisions of Article 3 also apply to cultural property built for military purposes. **ICRC** proposes to redraft this Article differently and to include a new Article - *Loss of general protection*.

Paragraphs 1(b) and 1(c): **Austria** proposes to replace the words "in support of the military effort" in sub-paragraph 1c by the words "in direct support of military action".

Israel proposes to exchange numbering of those sub-paragraphs. **Qatar** prefers to replace the words "in support of the military effort" by the words "as a springboard for military operations".

Paragraph 3: **Australia** requests clarification of relation between this paragraph and paragraph 4. **Israel** questions the inclusion of the prohibition of any archaeological excavations and terminology such as "breach of integrity", "breach of authenticity" or "transformation" which might be unclear to military lawyers. **Turkey** concurs and would delete the reference to "authenticity" and **Switzerland** proposes to delete "transformation". The **Syrian Arab Republic** would add the word "prospecting" after the words "any archaeological excavation or" and replace square brackets in the same paragraph by the words "or authenticity". To reinforce the protection of cultural property in occupied territories, **ICRC** proposes to put paragraphs 3, 4 and 5 of this Article into a separate Article entitled "Additional protection of cultural property in occupied territories"

and **Austria** concurs.

Paragraph 4: **Austria** would insert the word "illicit" before "export" and **Sweden** the words "of a State Party" by the words "a Party to the conflict". **China** requires further clarification. **Australia** and **Israel** wish to clarify the notions of "occupied territory" and, with **Slovenia**, "a part of a territory of a State Party". The **Syrian Arab Republic** would insert the words "in whatever manner" after the word "remove".

Paragraph 5: The **Syrian Arab Republic** would insert the word "permit" after the word "not". The **Syrian Arab Republic**, **Switzerland** and **Turkey** would delete the square brackets.

Paragraph 6: **Austria** would rearrange sub-paragraphs (a)-(f) in the following order: (e), (b), (c), (d) and then (a) or (f). **France** considers that the definition of military necessity in this paragraph goes beyond existing international agreements. **Australia** and **Germany** question the realism of the conditions of military necessity and **Germany** prefers Article 4 of the Convention as being more practical. **Norway** wants several parts further clarified such as the alternative or cumulative character of conditions contained in sub-paragraphs (a)-(f). **Slovenia** and **Switzerland** prefer to delete reference to paragraph 2. **Sweden** understands that the conditions laid out in sub-paragraphs (a)-(f) do not constitute a definition of "imperative military necessity". It also notes that all these conditions are only relevant to attacks but not to the use of cultural property. It regards conditions (b), (c) and (d), as not necessarily applicable in all situations. The **Syrian Arab Republic** would substitute the words "shall not be waived under any circumstances" after the number "2" in paragraph 6. The **United Kingdom** thinks some conditions of military necessity ill-defined or unworkable such as the requirement to provide a warning in all circumstances and the calculation of what constitutes "minimum expenditure of time, life and physical resources"; that such requirements may promote improper use of cultural property as a shield against legitimate military operations and prefers the 1977 Additional Protocol provisions. **Australia** would delete the word "imperative" before "military necessity". **China** and **Finland** would delete "para. 2" in the introductory sentence because reference to military necessity cannot justify reprisals.

Paragraph 6(a): **China** and **Switzerland** would delete the phrase "and that is required for partial or complete submission of the enemy with a minimum expenditure of time, life and physical resources".

Paragraph 6(b): **Israel** and **Norway** question the obligatory warning to opposing forces; **Israel** doubts its feasibility.

Paragraph 6(c): **Israel** questions the obligation to provide a minimum time to redress the situation and thinks it stricter than the protection granted to civilians under Protocol I. It prefers the language of Article 57(2c) of Protocol I.

Paragraph 6(d): **Austria** and **Slovenia** propose to insert the words "at least" after the word "taken". **China** and **Israel** propose to add the words "or higher" at the end. **Finland** would delete the words "to attack" and replace them by the words "to take military action" if needed. **Norway** questions the battalion level and the reasoning behind this choice.

Paragraph 6(f): **Switzerland** would delete the words "to counter the threat posed".

Paragraph 6(g): Switzerland would include the principle of proportionality between damages and a concrete military advantage.

Article 4 - Safeguarding of cultural property

Austria wants more precise wording for "areas likely to be damaged", "specially prescribed duties" and "grave threats". **Australia** points out possible difficulties in creating inventories where there are different levels of governmental and possible interference with private property rights e.g. removal of cultural property. It thinks States should have more flexibility when implementing measures under this Article. The **Federated States of Micronesia** would redraft to include "within territories for whose international relations they are responsible". Does it apply to occupying powers?. **Sweden** would add the words "incidental to military events during armed conflict" after the word "collapse" and the words "in time of armed conflict" after the word "removal". **Switzerland** would include the reference to natural, social and technical risks such as fire, water damage and collapse of structures; **Turkey** a second paragraph providing that the wardens be appointed by the States Parties on whose territory the cultural property is located. **ICRC** also proposes a redraft.

Article 5 - Precautionary measures

Australia believes that the decision taken by military commanders and planners is to be based on their assessment of the information from all sources available to them at the relevant time. **Finland** supports the Article. The **Federated States of Indonesia** stresses the need to cover archaeological sites and centres containing monuments by precautionary measures. **Norway** wishes to clarify the relation between the obligations under this Article and the military necessity waiver and asks who is to verify the elements mentioned and evaluate "all feasible measures". **Sweden** would follow very closely language of Articles 57 and 58 of Protocol I. **ICRC** proposes to split this Article into two Articles: "Precautions in attack" and "Precautions against the effects of attacks".

Paragraph 5(a): Israel proposes to add the words "and locations" after the word "objects". The **Federated States of Micronesia** would add "and areas" at the same place.

Paragraph 5(b): Switzerland would follow more closely the terminology of Article 57(2) of Protocol I.

Article 6 - Special protection

Australia makes observations concerning the relation between this Article and Article 8 of the Convention, the lack of reference to proximity to military targets and the need for reassessment of Articles 8(1) and 8(5) of the Convention with a view to their possible inclusion. **ICRC** proposes to redraft this Article.

Paragraph 6(a): Norway and **Sweden** wish to know the reasoning behind "great importance for humankind". **Australia** thinks the phrase may give less protection than the Convention.

Paragraph 6(b): Norway wishes to clarify the implications of "adequate legislation". **Sweden** proposes to replace the words "adequate legislation at the national level exists" by the words "adequate legislative and administrative measures exist".

Paragraph 6(c): Norway requests clarification of the term "effectively implemented" and the Syrian Arab Republic proposes to replace the words "effectively implemented" by the words "actually in effect".

Paragraph 6(d): Austria would include a new paragraph stating that the criteria of Article 3(1)(c) has to apply as a prerequisite for the granting of special protection. Israel proposes to include a new paragraph as follows: "d. is not used for military purposes."

Article 7 - The granting of special protection

China would place Article 22 after this Article. Italy notes the need for a more cooperative attitude of States Parties when raising objections to inclusion in the Register.

Paragraph 1: Austria proposes to split this paragraph into two paragraphs, one concerning the grant of special protection, the other on the date of its coming into effect.

Paragraph 3: Austria would include a time limitation of 6 months for objections after the decision of the Committee under 21(1)(a) and move this provision to Article 22. China would redraft so that objections must be submitted to the Committee and can be made only on the basis that the property is not cultural property. Israel would limit objections to "relevant specific facts", thus providing the Committee with the possibility of deciding on the relevance of the facts. Sweden and Switzerland prefer to delete square brackets. Turkey wishes to delete this paragraph.

Paragraph 4: Sweden thinks application should be limited to special situations which would also justify the failure of the government to include the object in the list before the outbreak of hostilities. Switzerland and Turkey wish to delete the square brackets.

Article 8 - Immunity of cultural property under special protection

Finland would include the principle of proportionality of use of force in this Article. ICRC proposes to divide this Article into three separate Articles.

Paragraph 1: Austria would replace the words "in support of the military effort" by the words "in direct support of military action" and to move the expression "except for the cases provided for in para. 2" to the first part of this paragraph. Austria also considers the expression "from the time of entry . . . Special Protection" redundant. China would add in the third line the words "or of that being placed under provisional special protection" after the word "Protection" and to insert the words "or under provisional special protection" in the first line after the word "protection". Israel would modify by requiring States Parties to ensure the immunity of cultural property specially protected under this Protocol by totally refraining from using the property in support of the military effort, and from any act of hostility directed against the property except for the cases provided for in para. 2. Norway wishes to clarify the relation between this paragraph and Article 3(1) as well as Article 9 of the Convention. Sweden recommends that the prohibition of use apply also to the immediate surroundings of the object. The Syrian Arab Republic proposes to insert the words "aimed directly or indirectly" after the word "hostility".

Paragraph 2: Israel suggests additional circumstances be added to the list (e.g. use as staging ground for attack, or as troop quarters). Sweden wishes to cover troops.

Germany considers the conditions in paragraphs 2 and 3 militarily less realistic than paragraphs 1 and 2 of Article 11 of the Convention. **Qatar** proposes to delete the rest of the paragraph after the word "circumstances". **Sweden** considers the level prescribed in Article 11(2) of the Convention sufficient. **Switzerland** prefers to replace the word "protected" by the word "respected". The **Syrian Arab Republic** proposes to put the phrase "The opposing Party shall in no way emplace, . . ." after the word "circumstances".

Paragraph 3: **Australia** expresses concern as to the conditions included. **China** wishes to clarify the word "using", **Israel** questions why the limitations set forth in paragraphs 3(6)(a) - 3(6)(e) are not repeated here and whether those conditions weaken the protection in some way. **Qatar** and the **Syrian Arab Republic** favour deletion of this paragraph.

Paragraphs 3(a) and (b): **Israel** refers to its comments concerning Articles 3(6)(b) and 3(6)(c), respectively.

Paragraph 3(c): **Israel** prefers some identifiable military level such as division level. **Turkey** would insert the words "highest possible" before the words "national command level" and add the words "in theatre" at the end.

Paragraph 3(d): **Switzerland** would delete the words "to counter the threat posed". **Paragraph 3(e):** **Switzerland** would add a new sub-paragraph including the principle of proportionality between damages and concrete military advantage.

Paragraph 4: **Italy** would add a paragraph 4 which would refer to the necessity of self-defence and the protection of human life.

Article 9 - Suspension of immunity of cultural property under special protection

Australia asks whether a State could seek cancellation of special protection against its own designated cultural property, how a matter is to be brought before the Committee, how the Committee should decide on the cancellation of special protection and whether a State adversely affected by violation could bring the matter before the Committee. **Israel** would differentiate between suspension of immunity on the ground (favouring a provision similar to Article 11 of the Convention) and suspension or even cancellation of inclusion of a specific property in the Register(which it prefers). **Norway** considers that the suspension of the immunity of cultural property under special protection may contradict the provisions of Article 3(2) regarding the prohibition of reprisals. **Sweden** recommends adding at the end of paragraph 1 the following phrase: ". . . on condition that such suspension does not unjustifiably benefit a Party which has violated the immunity of that property. "

Article 10 - Grave breaches

Austria proposes to redraft Articles 10 - 12 along the lines of international criminal law and, in general, to structure Chapter 4 in the following way: Clear definition of grave breaches; criminal liability for grave breaches, establishment of jurisdiction and stating of the principle "aut dedere aut judicare"; clear definition of other offences; consequences of the commission of other offences mentioned. **Australia** would remove the notion of grave breaches from the Draft Protocol and, for non-international armed conflict, would introduce an appropriate alternative called "serious violations". In general, **Germany** thinks that

Articles 10-15 should be in line with existing instruments of international humanitarian law, including the Rome Statute of the International Criminal Court. **Sweden** would agree to amend the list of grave breaches. The **Syrian Arab Republic** would combine Articles 10 and 11. **Switzerland** wishes to delete the word "wantonly" and to include intent in paragraph 2. **United Kingdom** would reconsider the extensive treatment of criminal liability in Articles 10 to 13 having regard, *inter alia*, to the existing grave breach provision in Article 85(4)(d) of Protocol I. **ICRC** proposes a redraft.

Article 11 - Other violations

Austria would avoid the application of this Draft Protocol to "normal" crimes against cultural property and thinks the expression "but not limited to" contradicts the universally recognized principle "nullum crimen sine lege". **Norway** would rephrase this Article and with **Sweden** questions the need for it; if retained, Sweden would rephrase as follows "In addition to Article 10, individual violations of this Protocol include all violations of Articles 3, [3bis] and 8". **ICRC** suggests redrafting.

Paragraph 11(b): Slovenia questions the meaning of the expression "or from a part of the territory of a State Party".

Paragraph 11(d): China recommends that the words "article 3" be replaced by the word "para. 6 of Article 3". **Israel** proposes to incorporate the reference to reprisals in paragraph (d) instead of paragraph (e).

Paragraph 11(e): Austria proposes replacing the words "in support of the military effort" by the words "in direct support of military action". **Qatar** would replace the words "in support of the military effort" by the words "as a springboard for military operations".

Paragraphs 11(f) and 11(g): China proposes to add a new paragraphs(f) on the commission of acts of planning, instigating, ordering, aiding or abetting in the planning, preparation or execution of acts referred to in Article 10 or in other paragraphs of this Article and (e) on any attempt at acts referred to in Articles 10 and 11(a) to (f).

Article 12 - Individual criminal responsibility

China wishes to replace the three first paragraphs of this Article by a provision that the commission of any acts referred to in Articles 10 and 11 by a person entails individual criminal responsibility and to renumber the rest of the paragraphs. **France, Germany, Israel** and **Norway** wish to harmonize this Article with the Rome Statute of the International Criminal Court. **Slovenia** questions the inclusion of the Nuremberg principles in this Article. **Turkey** wishes either to delete or redraft this Article. **Sweden** points out the difficulty in accepting criminal responsibility for attempts to instigate or attempts to plan and proposes to include a provision on voluntary abandonment. **Qatar** would include an introductory clause "When taking into account the contents of paragraphs 5, 6 and 7 of this Article, the following shall be observed: . . ." . **ICRC** would redraft this Article.

Paragraph 1: The **Federated States of Micronesia** would incorporate intent. **Switzerland** would refer to disciplinary responsibility (also in paragraphs 3, 5, 6 and 7) and to omissions.

Paragraph 2: **Australia** questions the use of the word "any" in paragraph 2 and

would link individual criminal responsibility to the violation of specified Articles of the Protocol. It believes that the application of "attempt" to the acts listed must be carefully considered. **Norway** thinks that this paragraph indicates some uncertainty as to whether accomplices must act with intent to facilitate the crime, or merely with knowledge that their conduct will have that effect. **Switzerland** would delete the word "committed". The **Syrian Arab Republic** recommends the inclusion of the word "conspired" after the word "instigated" and the incorporation of the words "and criminally responsible" at the end of this paragraph.

Paragraph 4: The **Syrian Arab Republic** also recommends including the words "in whatever capacity" after the words "government official".

Paragraph 6: **Switzerland** proposes to replace this paragraph by Article 33(1) of the Statute of the International Criminal Court.

Paragraph 7: **Switzerland** proposes to move this paragraph to Article 14 as its third paragraph.

Article 13 - Jurisdiction

Germany suggests this Article not broaden the scope of the jurisdiction of the International Criminal Court. **Norway** calls for the redrafting of this Article. **Sweden** proposes to harmonize this Article with the relevant provisions of the Geneva Conventions and Protocol I. **ICRC** proposes a redraft.

Paragraph 1: **Australia** would clarify the relation between paragraphs 1 and 4 by combining them in a single provision imposing an obligation to "prosecute or extradite" on a State Party where an alleged offender is found on its territory. It would make use of precedents of the terrorism conventions such as Article 8(1) of the Convention for the Suppression of Terrorist Bombings and would substitute "alleged to have committed" for "accused of". The **Syrian Arab Republic** would delete the reference to Article 11.

Paragraph 3: **Austria, Australia, China, Israel and Sweden** prefer not to make reference to the International Criminal Court. **Israel** wishes to clarify the criteria of jurisdiction. **Norway** calls for clarification of the reference to international courts/tribunals. **Sweden** questions universal jurisdiction. The **Syrian Arab Republic** proposes to delete the words "or by any international tribunal which may have jurisdiction" in the first phrase and to add the word "other" after the word "any" in the second phrase of this paragraph. **Turkey** wishes to redraft this paragraph.

Paragraph 4: **Israel** wishes to exclude the possibility of extradition. The **Syrian Arab Republic** proposes to add the phrase "in accordance with the relative provisions of the Rome Statute of the International Criminal Court" at the end of this paragraph.

Article 14 - Responsibility of States

Australia would like discussion of the responsibility of States towards rebel groups. It also questions who will make an order for compensation and whether the violations take into account the military necessity exception. **France** wishes to harmonize this Article with the Rome Statute of the International Criminal Court. **Germany** suggests deleting this Article in view of the current work of the International Law Commission on this subject. **Italy**

supports this Article. **Norway** questions the clarity of this Article and proposes a no-prejudice clause such as "Nothing in this Protocol affects state responsibility in accordance with international law . . .". **Slovenia** wishes to define in detail the responsibility of States Parties. **Switzerland** proposes to include the notion of omission in paragraph 1. **ICRC** proposes to redraft this Article.

Article 15 - Mutual assistance in criminal matters

Australia and **Norway** note that this Article deals both with mutual assistance in criminal matters and extradition and needs further reflection. **Australia** proposes to examine the relevant provisions of the terrorist conventions. **Italy** supports this Article. **Norway** would refer to part 9 of the International Criminal Court=s Statute. **Sweden** recommends the harmonization with Article 88 of Protocol I. **Switzerland** recommends placing this Article in Chapter 7 as Article 27bis and modifying the title of Chapter 7. **ICRC** proposes a redraft.

Paragraph 1: **Australia** would replace the word "accused of having" by the words "alleged to have" and clarify the relation between paragraphs 1 and 3. **China** would rephrase by providing that States Parties afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect to the acts enumerated in Articles 10 and 11. **Switzerland** would replace the words "to detect, arrest and bring to trial" by the notion of granting the greatest possible measure of assistance and delete the word "grave".

Paragraph 2: **China** would replace the words "any grave breaches" by the words "by the alleged offence". **Switzerland** would delete the words after "extradition" and insert a reference to the obligation to detect, to arrest and to bring to trial.

Paragraph 3: **China** favours deletion. **Sweden** would put this paragraph first and delete the word "other". **Switzerland** wishes to refer to Articles 10 and 11.

Paragraph 5: **Australia** would refer to extradition, as well as to mutual assistance in criminal matters.

Article 16 - Non-international armed conflicts

Australia points out that care must be taken to exclude domestic situations where, for example, the defence force is deployed in support of the civil power. **Finland** and **Germany** support the inclusion of this Article in the Draft Protocol while **Norway** fears that the bracketed paragraphs would weaken Article 19 of the Convention and **Turkey** question the need for its inclusion. **Slovenia** questions whether all the provisions of the Convention or the draft Protocol are applicable to non-international armed conflicts.

Paragraph 1: **Austria** would include reference to Articles 5 and 8 and replace the words "one of the States Parties" by the words "a State Party". **Switzerland** wishes to introduce reference to penal and disciplinary responsibility.

Paragraphs 2, 3 and 4: **Finland** would retain paragraph 2 while **China** and the **Syrian Arab Republic** wish to delete square brackets from 2, 3 and 4. **Slovenia** and **Switzerland** favour deletion of these paragraphs.

Paragraph 5: **Norway** would locate it in Article 28. The **Syrian Arab Republic** would replace the word "services" in this paragraph by the words "good offices".

Chapter VI - Institutional issues

Finland, France, Israel and Italy favour explicitly the creation of an Intergovernmental Committee. In addition, **Italy** proposes to combine the Secretariat of the 1954 and 1972 Conventions in order to facilitate the maximum co-operation for the use of financial, technical and human resources. **Germany** prefers a Bureau of States Parties.

Article 17 - General Assembly of States Parties

China would add three paragraphs covering the adoption of rules of procedure by the General Assembly both for the Assembly and the Committee; that decisions and quorum are based on a majority; and that the General Assembly study problems concerning the application of the Protocol and formulate recommendations in respect thereof, also providing that it may further undertake a revision of the protocol if it so decides. **Israel** considers that the General Assembly of States Parties is an unnecessary duplication of Article 27 of the Convention and contradicts the basic aim of the Convention - to establish a uniform regime to the protect cultural property in the event of armed conflict.

Article 18 - The Committee

China wishes to delete the words "within UNESCO" in paragraph 1, to substitute "12" by a number between 18 and 24 in the same paragraph and to delete paragraph 5. **Turkey** concurs partially with this view in proposing the figure 18. **Israel** suggests the Committee assist in the implementation of the Convention as amended and not only of the amendments to it (which it considers this draft to be). **Switzerland** favours the creation of the Committee.

Article 20 - Rules of procedure

China wishes to delete paragraph 1 and to transfer paragraph 2 to Article 18 as paragraph 3.

Article 21 - Functions

Finland and **Norway** wish to clarify further the functions of the Committee. **Norway** stresses the need to consider the advantages of alternative institutional linkages, in particular to bodies with proven competence in legal issues pertaining to armed conflict. **Sweden** would elaborate the role of the Committee along the lines of some human rights conventions such as the International Covenant on Civil and Political Rights. **Turkey** would insert a clause allowing change or dismissal of the members of the Secretariat working with the Committee.

Paragraph (1)(b): **China** would modify this paragraph thus: "To make recommendations, if necessary, to the General Assembly for the refinement of the criteria . . ."

Paragraph (1)(c): **Austria** proposes to use in this and other paragraphs the expression "International Register".

Paragraph (1)(d): **Israel** calls for further clarifications.

Paragraph (1)(e) and (h): **Sweden** proposes to strengthen these provisions.

Paragraph (1)(i): **China** would replace the words "General Conference of UNESCO" by the words "General Assembly for consideration" and to add a sub-paragraph

allowing the Committee to convene meetings of representatives of the States Parties and requiring it to do so if at least one-fifth of the States Parties so requests.

Article 22 - Procedure for application of requests for the granting of special protection

Israel proposes to move this Article to the Chapter on special protection.

Paragraph 2: **Austria** proposes to use the expression "A State Party that wishes" instead of "States Parties that wish" at the beginning of this paragraph.

Paragraph (2)(a): **China** wishes to replace the words "rules of procedure" by the word "procedures". The **Syrian Arab Republic** wishes to remove brackets. **Turkey** proposes to delete this paragraph in conformity with its proposal to delete Article 7(3).

Paragraph 3: **China** favours deletion.

Paragraph 4: The **Syrian Arab Republic** wishes to delete the text in square brackets.

Paragraph 6: **Israel** holds that this paragraph should not apply to the additional requirement that the location not be used for military purposes.

Article 23 - Secretariat

Turkey would include a clause allowing the Committee to change or dismiss the members of the Secretariat appointed by the Director-General. **China** wishes to include the words "The General Assembly and" before the word "Committee" in paragraph 1 and to delete the square brackets. The **Syrian Arab Republic** would replace the text in square brackets in paragraph 1 by the words "appointed by the General Assembly of States Parties".

Article 24 - The Fund

Austria and **Finland** would reconsider this provision. **Italy** is in favour of creating the Fund.

Paragraph 2: **Finland** is hesitant to establish new separate funds within the existing framework of UN bodies and would deal with assistance within the scope of Article 23 when discussing the overall role of UNESCO and the Director-General in the implementation of the Protocol.

Paragraph 3: **Finland**, **Germany** and **Turkey** express reservations as to compulsory contributions but **China** favours them. The **Syrian Arab Republic** proposes to put the word "unconditional" in paragraph 3(b) before the word "contributions".

Paragraph 4: **Turkey** desires to clarify the criteria for the establishment of the percentage.

Article 25 - Dissemination

Paragraph 3: **Israel** would not make UNESCO a mandatory partner in all implementation efforts. **Sweden** would say "military regulations" rather than "military manuals". Paragraph 3(b) should be more specific and paragraphs 3(c) and 3(d) could be combined into one paragraph and contain a specific time-limit.

Article 26 - International co-operation

Israel is in favour of consulting with the Party involved in the situations of serious

violations and obtaining its approval for any proposed action to be taken against it. **Norway** questions the appropriateness of the present wording "undertake . . . to act", proposes a less strict wording such as "should act" or "should consider acting", and refers to Article 14 concerning the duty to provide reparation.

Article 27 - International Assistance

China proposes to delete the words "rules of" in paragraph 2.

Article 28 - Assistance of UNESCO

Austria would reconsider this paragraph. **Turkey** wishes to delete paragraph 2.

Article 29 - Protection of international and national members of the Blue Shield

Organization and other persons

Austria would oblige all parties to non-international armed conflicts to provide protections to persons covered by this Article. **Germany** supports the inclusion of such a provision but would redraft it along the lines of similar provisions such as Article 10 of the Fourth Geneva Convention 1949. **Israel** requests an explanation of the word "protection" and asks why the Blue Shield is singled out from all other international and national organizations. **Qatar** favours the extension of the protection under this Article to members of the International Committees of the Red Crescent and the Red Cross. **Turkey** proposes a new title "Protection of international and national duty-officers who are in charge of international assistance" and wishes to replace the words "International Committee of the Blue Shield" in paragraph a by the words "Committee and its experts and advisers appointed by the Committee", to replace the words "national Blue Shield Committees" by the words "the national committees" in paragraph (b) and to replace the words "their work" by the words "the work of the Committee as well as of its experts and advisers. "

Article 30 - Protecting powers

Turkey wishes to replace the word "Parties" by the words "States Parties" with a view to harmonizing the terminology of the Protocol and to refer to Geneva Protocol I (Art. 2(c)) for the meaning of "Protecting Powers".

Article 31 - Conciliation procedure

Paragraph 2: **Turkey** wishes to delete the words "or the Director-General of UNESCO".

Article 32 - Conciliation in absence of Protecting Powers

China proposes deletion of paragraph 2.

Article 33 - Translations and Reports

The **Syrian Arab Republic** proposes to delete paragraph 1.

Article 34 - Meetings

China wishes to delete this Article. **Turkey** wishes to provide a new title of this Article ("Meetings of States Parties"). **Norway** questions the relation between the meetings

under this Article and the General Assembly of States Parties.

Paragraph 1: Turkey wishes to insert the word "UNESCO" before the word "Executive".

Paragraph 3: Norway proposes to amend this paragraph in line with Article 27(3) of the Convention. Switzerland and Turkey wish to delete the square brackets.

Article 35 - Languages

The Syrian Arab Republic proposes to include Arabic, Chinese, Russian and Spanish among the languages of the authoritative texts. Turkey wishes to replace the word "authoritative" in paragraph 1 by the word "authentic".

Article 36 - Reservations

The Syrian Arab Republic, Turkey and the United Kingdom question whether prohibition on reservations is necessary or appropriate.

Article 39 - Accession

China proposes to delete the words "From the date of its entry into force" in paragraph 1.

Article 40 - Entry into force

Germany and the Syrian Arab Republic would include an additional Article 40bis providing for registration with the United Nations.

Paragraph 1: China wishes to add the words "or accession" after the words "instruments of ratification". The Syrian Arab Republic proposes to put the number "3" in brackets before the word "months" in this and the following paragraph and the number "30" in brackets before the word "instruments".

Paragraph 3: Turkey wishes to delete this paragraph.

Article 41 - Denunciation

The Syrian Arab Republic would replace the words "denounce" and "denunciation" by the words "withdraw" and "withdrawal".

Paragraph 3: Turkey proposes to replace the words "on the expiry of this period" in by the words "before the expiry".

Article 43 - Revision of the Protocol

Norway proposes to include a text based on Article 39 of the Convention. Turkey proposes to put this Article after Article 34(3).