



United Nations Educational,
Scientific and Cultural Organization

United Kingdom National Commission for UNESCO

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Please reply to: Sue Davies, Chair, UKNCU Culture Committee, c/o Wessex Archaeology, Portway House, Old Sarum Park, Salisbury, Wiltshire SP4 6EB

Mr Owain Lloyd-James
CPU
Department for Culture, Media and Sport
2-4 Cockspur Street
London SW1Y 5DH

Our ref: CCWG1/12.05

1 December 2005

Dear Mr Lloyd-James

Consultation on UK ratification of the 1954 Hague Convention and accession to its two Protocols

Thank you for inviting the UK National Commission for UNESCO Culture Committee to the September seminar and for asking us to comment on the above consultation document.

As you will be aware, the UK National Commission (UKNC) was re-established by Hilary Benn in March 2004. It is an independent body working in partnership with Her Majesty's Government and in close collaboration with the Department for International Development's Permanent Delegation to UNESCO in Paris. The Commission comprises an overarching National Steering Committee and five Sector Committees. The principal objectives of the Commission are appended to the end of this document for your information.

The UKNC Culture Committee was re-established in summer 2005. Its twenty members were nominated by organisations representing the whole culture sector, including the arts, museums and cultural heritage. I have appended the Culture Committee's formal terms of reference to the end of this letter, but key aims of the Culture Committee include:

- To be the formal link between civil society, relevant departments in Her Majesty's Government (primarily the Department for Culture, Media & Sport) including the Devolved Administrations and UNESCO on matters relating to all aspects of culture.
- To advise and work with HMG on UNESCO's cultural activities which have specific relevance to the UK including UNESCO requests and initiatives, Conventions, World Heritage Sites' matters, and cultural education.
- To provide independent and expert analysis, comment and advice to HMG on cultural matters relating to UNESCO, including as input to UK policy-making on key UNESCO programmes and cultural issues.

Our priority areas for action include detailed consideration of UNESCO cultural conventions. We are looking at a large number of issues, *inter alia* the impacts of UK ratification of conventions, whether the UK might ratify existing conventions, monitoring and enforcement of existing conventions. Consultation with the cultural heritage sector is critical and we are therefore very pleased to have this opportunity to comment. We are confident that the cultural heritage sector will wish to support the future implementation of the Convention.

We therefore warmly welcome the significant progress being made by HMG to ratify the 1954 Hague Convention and its two Protocols. We strongly agree that accession to the Convention and the Protocols will help to improve protection for the UK's cultural heritage, both movable and immovable. Moreover, we also recognise that HMG does not take its international duties lightly, and we feel that accession would send a strong and positive signal to the international community about HMG's commitment to respecting and protecting the cultural property of other nations and upholding international humanitarian law.

The implementation of this Convention, or any other, must be robust, practicable and realistic. But it must also be reasonably comprehensive. The UK has a very rich terrestrial and maritime cultural heritage - a significant amount of cultural property, monuments, institutions and sites which need safeguarding. Much of that heritage is of international significance. The implementation policy must balance the need to protect as much of our cultural heritage as is possible (given its importance), with the need to be confident that the regime established is sustainable. To set out to protect too much would be counterproductive and weaken the principles of the Convention and its protocols.

It is appropriate to start any review of what categories of cultural property should be afforded protection by looking at the existing designations. However, there are significant inconsistencies in the present designations and various management systems around the nations of the UK, which are unhelpful in drafting implementation policy for this Convention. We would hope that the current Heritage Protection Review in England will help to resolve many of the grading inconsistencies of the listing and scheduling systems for historic buildings and archaeological sites, which would be of benefit in the ratification process. The HPR should be taken into account in formulating HMG's policy on implementation, but the process of ratification should not be delayed. The UKNC would anticipate that it should be possible to draft an inclusive and evolving policy to cover future refinements to designation.

Convention, Article 1

Q.1 On the basis of existing designation systems in place in the UK, do you agree that the general protection afforded by the Convention should be extended only to:

- **Listed buildings of Grade 1 status (cat. A in Scotland and NI)**
- **In England, listed historic parks and gardens of Grade 2 status**
- **All UK World Heritage sites**
- **Collections of those Museums and Galleries sponsored directly by HMG**
- **Museums, galleries and universities with designated collections (Eng) and important collections (Scot)**
- **National Record Offices and the 5 legal deposit libraries**

Clearly and logically there is a need to restrict the number of institutions and sites afforded general protection under the Hague Convention. The inclusion of too many sites would potentially render ratification meaningless, through opening up the scope for legitimate claims of 'imperative military necessity'.

The UKNC sees the above list of categories as a good starting point, but not sufficiently inclusive to identify and safeguard all the cultural property 'of great importance to the cultural heritage of every people.' We therefore cannot fully agree with the statement. We have particular concerns about the following:

- The paucity of archaeological sites and monuments afforded protection under the proposal above – under this all scheduled ancient monuments (except those inscribed on the World Heritage Sites list) would be excluded. This is not only inconsistent with the proposed policy for buildings and movable heritage, but also detrimental to the principles of the Convention. We accept that there are difficulties with the present scheduling system (lack of grading etc) but would suggest that it should be possible to overcome these by judicious use of existing management regimes, such as Guardianship sites, and evaluation systems, such as the Monuments Protection Programme (England).
- The omission of protection for historic urban centres (other than those few with WHS status), which contain many and various elements of cultural property significant to our cultural heritage. It is perhaps ironic that under the proposals Bath would be afforded protection, but that Oxford, Cambridge, York and many other major historic centres would not. It is appropriate to consider the development of some sort of selective list of historic centres based on reasonable criteria.
- The exclusion of all Grade II* Listed Buildings from protection under the Hague Convention. Whilst we acknowledge the need for selection based on sound criteria, we feel that it is not at present desirable to completely exclude this category completely.
- The use of the 'Designation' system for non-national museums & galleries. We feel that the system, now closed, is not sufficiently robust (relying for example on self-nomination, with a very variable number of institutions) nor inclusive. With regard to the last point there are many repositories containing significant collections of national importance outside this system, including those, for example, which contain collections from WHS sites within the proposed protection.

Consideration should be given to rectifying this inconsistency and producing a selective list of key repositories.

The UKNC would therefore recommend that DCMS should give consideration to commissioning the following:

- A snapshot grading review of scheduled ancient monuments to ensure the inclusion of an adequate but selective number of key monuments and sites.
- A consultation on compiling a selective list of significant historic urban centres, which contain important concentrations of cultural property, movable and immovable.
- A rapid review of the Grade II* Listed Category with the intention of developing a clearer criteria-based grading of these buildings with regard to the need for general protection under the Hague Convention.
- A rapid review of the whole category of non-national museums & galleries with the intention of developing a sustainable index of significant collections with regard to the recognised need for general protection under the Hague Convention.
- The establishment of one sector- and stakeholder-inclusive steering group (or more as appropriate) to oversee these reviews and consultation, with well-defined terms of reference and timescales.
- The integration into this review and policy of the methodology and findings of the current Heritage Protection Review.

Q.2 Should coverage of the Convention be mandatory or voluntary?

Mandatory. This would provide clarity, ensure consistency, and enhance public and sector confidence and support. A voluntary system would be potentially unreliable, changeable and costly to oversee.

We recommend that there must be appropriate levels of advice, guidance, support and training available through the national heritage and curatorial agencies to owners, managers and trustees in order for the system to work effectively in line with best practice and the concomitant responsibilities of the Convention.

Convention, Article 3

Q.3 Do you agree that the most appropriate body to undertake the peace-time safeguarding measures set out in Article 5 of the 2nd Protocol is the existing owner, guardian or trustees of a cultural property?

Yes; the most appropriate body to undertake safeguarding measures is the body that has direct responsibility day-to-day for that cultural property or the cultural objects.

But there would be a need to provide adequate support, advice and training for owners, guardians or trustees, which may have funding requirements. There is much existing guidance on disaster-planning, focussing on accidental or natural damage, but there is a need to consider planning for conflict situations more comprehensively. The UKNC would recommend that DCMS and the national heritage agencies should consider developing such guidance.

Convention, Article 6

Q4. Should the UK leave the decision to affix the special emblem to a particular cultural property to the owner, guardian or trustees of the property or objects in question?

The UNKC has no particular objection to the decision to affix a special emblem to a particular cultural property resting with the owner, guardian or trustee. But we consider that there should be adequate guidance in place to achieve the desired effect of protecting cultural property in the event of armed conflict. It may be more appropriate to implement a mandatory system of emblems in certain circumstances, such as heightened international tension, certainly for cultural properties with special or enhanced protection under the Convention. Any emblem needs to be easily internationally-recognisable, consistently applied and also protected from misuse by agreed regulation or law.

The UKNC recommends that DCMS consider:

- The definition of circumstances in which the display of a special emblem is mandatory

- The use of an already-recognised international symbol, the Blue Shield, rather than a new one
- The legal protection of the emblem to regulate use and prevent misuse, in line with systems established under international humanitarian law.

Convention, Article 8

Q.5 Do you agree that the UK should not nominate any of its cultural property for special protection but instead we should make use of the provisions for enhanced protection contained in the Second Protocol?

It is our understanding that special protection still exists, and has not been formally replaced by enhanced protection. The UKNC is sympathetic to the arguments put forward in the consultation document that special protection is not of benefit to the protection of cultural property (not greatly practical, open to political manipulation etc). But we consider that it is critical to invest time at the outset to ensure that the UK Government makes the best use of the provisions for enhanced protection contained in the 2nd Protocol.

Second Protocol, Article 10

Q.6 Do you agree that the UK should request enhanced protection only for those World Heritage Sites designated as cultural sites; for the collections of the museums and galleries that are NDPBs or ASPBs; for the National Archive bodies; and the five legal deposit libraries.

Any sites, institutions or property designated for enhanced protection must be restricted in number in order for the protection system to work effectively. Blanket coverage detracts from the basic concepts and would be impracticable. The DCMS proposals seem reasonable and to be in accord with the intentions of the enhanced protection regime.

However, the UKNC would suggest that any definitions and criteria used to designate sites or institutions for enhanced protection rather than general protection are made explicit. Any list of property for enhanced protection should be kept under review. We would recommend that DCMS consider establishing a steering group to refine and clarify the list afforded enhanced protection, and a mechanism for review.

Further observations

The UNKC is mindful that effective implementation of the Hague Convention and its two Protocols in the UK can not be achieved without a cost. It strongly believes that the funding should be proportionate and reasonable. The issue of adequate training, advice and support is critical to successful implementation. Full account should be taken of the potential costs involved in supporting the appropriate level of delivery of such support and training to the owners, guardians and trustees of all cultural property protected under the Convention's regimes, by the relevant national agencies and heritage sector. The requirements for immediate and longer-term training in the implementation of the Convention for military personnel should also be considered. Furthermore there should be provision for public education, outreach and recognition of the Government's commitment to international humanitarian and cultural duties for the Hague Convention and other cultural property conventions.

The UK National Commission, Culture Committee is much encouraged by the good progress on the Hague Convention ratification process especially such consultation. It is keen that momentum should not be lost. Given our terms of reference and priorities, the UKNC Culture Committee would be pleased to assist in the process. Please do not hesitate to contact me if you require further information or clarification.

Yours sincerely

Sue Davies
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UK National Commission for UNESCO

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CULTURE COMMITTEE

Terms of Reference

1. To be the formal link between civil society, relevant departments in Her Majesty's Government (primarily the Department for Culture, Media & Sport) including the Devolved Administrations and UNESCO on matters relating to all aspects of culture. Specifically, to co-ordinate civil society's culture-sector contribution to the biennial UNESCO general conferences, UNESCO conventions, and to UK policy on UNESCO's programme in the culture sector.
2. To promote recognition and awareness of and participation in UNESCO's cultural work, and to promote the work of UNESCO as an organization where all countries can learn from each other.
3. To participate, as appropriate, in UNESCO's early development of initiatives for cultural activities.
4. To advise and work with HMG, particularly the Department for Culture, Media & Sport, on UNESCO's cultural activities which have specific relevance to the UK (including the Devolved Administrations), including UNESCO requests and initiatives, Conventions, World Heritage Sites' matters, and cultural education.
5. To provide independent and expert analysis, comment and advice to HMG on cultural matters relating to UNESCO, including as input to UK (including the Devolved Administrations) policy-making on key UNESCO programmes and cultural issues.
6. To advise HMG on ways of raising awareness of UNESCO's cultural work in the UK across the whole of civil society, but in particular in the UK culture sector.
7. To encourage and facilitate the use of UK cultural expertise around the world, especially within developing countries.
8. To establish links with other National Commission Culture Committees of UNESCO Member States, to share and receive appropriate knowledge and research.
9. To undertake such actions as would enhance culture internationally.

26 August 2005



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UNITED KINGDOM NATIONAL COMMISSION FOR UNESCO

PRINCIPAL OBJECTIVES

The UK National Commission for UNESCO was re-established by Hilary Benn in March 2004. It is an independent body working in partnership with Her Majesty's Government and in close collaboration with the Department for International Development's Permanent Delegation to UNESCO in Paris. The Commission comprises an overarching National Steering Committee and five Sector Committees. The UKNC has an important role to play in improving UK input into all aspects of UNESCO's policy-making and programmes.

The UKNC's main objectives are:

1. to provide expert analysis, comment and advice as input to UK policy-making on key UNESCO programmes and issues;
2. to bring to the attention of Government aspects of UK policy towards UNESCO or matters in which UNESCO has legitimate interest;
3. to participate as far as practical in UNESCO's programmes, their preparation and evaluation, in debates and in decision-making activities;
4. to develop a capacity to reach out as broadly as possible to UK civil society, through a wide variety of channels, so as to enable as many people and organisations as possible to understand more about UNESCO, and to participate as widely as possible in its programmes and debates;
5. to facilitate the management of UNESCO activities in the UK; and
6. to develop constructive working relationships both with the UNESCO Secretariat and with other National Commissions.

Further information may be obtained from the UKNC's web site at www.unesco.org.uk.