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Preliminary study on the technical and legal aspects relating to the desirability off an international standard-setting instrument on landscape

I. INTRODUCTION

1. During the last decades of the 20th century new dynamics and large-scale processes of economic, social and cultural change have generated new challenges in landscape management and development. Appropriate instruments at a global level are needed to address many of the challenges that address our landscape environments which is the source of life and enrichment of cultural identities. The continuing destruction of landscapes and the lack of adequate policies and guidance create irreversible damages.

2. While some aspects of landscape have been integrated in Charters and Declarations adopted by non-governmental organizations or in Conventions adopted under the auspices of regional organizations, there is not a single global instrument dealing with landscape. There appears to be a compelling need for a universal standard-setting instrument, indicating principles and norms on the management and enhancement of landscape in a consistent and coherent manner. A new normative instrument would both complement and reinforce the existing Conventions, Recommendations and Charters and strengthen UNESCO's role as the UN lead agency in the field of culture and dealing with landscape issues at a global scale.

3. Following the Resolution by the International Federation of Landscape Architects in 2010 (Annex I), the secretariat was requested by the Director-General to organize a small international expert meeting held at UNESCO Headquarters from 25-26 October 2010. On the basis of the deliberations of the expert meeting, this present preliminary study was prepared. It comprises the technical and legal aspects of the advisability of an international standard-setting instrument on landscape in the form of a framework Convention, so as to enable the Executive Board, at its 186th session, to provide its observations and decisions thereon and to decide whether this matter should be included in the provisional agenda for the 36th session of the General Conference.

II. THE EXISTING UNESCO LEGAL FRAMEWORK AND ANTECEDENT ACTIVITIES IN THE FIELD OF LANDSCAPE

4. UNESCO has adopted a number of instruments, including Conventions, Declarations and Recommendations, which provide the principles and norms making up the existing UNESCO legal framework covering landscape. These are in particular:

- Recommendation concerning the Safeguarding of the Beauty and Character of Landscapes and Sites (1962);
- Convention concerning the Protection of World Cultural and Natural Heritage (1972);

- Recommendation concerning the protection, at national level, of the Cultural and Natural Heritage (1972)

5. The *Recommendation concerning the Safeguarding of the Beauty and Character of Landscapes and Sites*, adopted by the General Conference of UNESCO in December 1962, emphasized the scientific and aesthetic importance of cultural and natural landscapes and sites. It also underlined the principle that landscape forms a heritage which has a key influence on the life of the communities. It proposed a full set of protective measures aimed at safeguarding “aesthetic importance”. The Recommendation considered landscape conservation a matter of public policy. At the time, landscape was often seen as static and, thus, expected to be conserved and restored as if it were a monument, to which a “special protection should be accorded” (article 5).

6. Other bodies have adopted the following instruments, Conventions, Declarations and Charters which cover parts of landscapes or specific areas including:

- 1982 ICOMOS-IFLA International Charter for Historic Gardens (Florence Charter),
- 1987 ICOMOS Charter for the Conservation of Historic Towns and Urban Areas (Washington Charter),
- 2000 European Landscape Convention
- 2005 Xi'an Declaration on the conservation of the setting of heritage structures, sites and areas (ICOMOS)
- 2005 Vienna Declaration on Historic Urban Landscapes and Declaration on the Conservation of Historic Urban Landscapes (2005 General Assembly of States Parties to the World Heritage Convention)

7. Other UN agencies and bodies have adopted the following instruments in the environmental and biodiversity fields which may be relevant for landscape issues, but do not deal with landscapes as such including:

- 1971 Ramsar Convention
- 1992 Convention on Biological Diversity
- 2001 Treaty on Plant Genetic Resources

8. The 1992 Convention on Biological Diversity does not mention the term “landscape” as such. It deals however with biological diversity which is relevant to both urban and rural landscapes and to the daily survival of people through agrobiodiversity. Similarly the International Treaty on Plant Genetic Resources for Food and Agriculture highlights the dependence on genetic diversity in crops to combat hunger and encourages international cooperation and open exchange of genetic resources for food security. The sharing of benefits from the use of these resources is being implemented through this international instrument based at FAO. It refers to plant genetic material, which is also enhanced through landscape protection. The Ramsar Convention on wetlands of international importance, as one of the biodiversity related conventions covers only wetlands and not the broader landscape.

None of the Conventions are global and the declarations and charters focus only on specific areas relating to cities, or heritage structures.

III. NEW CHALLENGES

9. There are new challenges that are international in scope, frequently crossing national and regional boundaries, and requiring a global response to enable societies to be more sustainable, resilient and adaptive, including:

10. **Growing global change** that results in environmental and social degradation, threatening sustainability, biological and cultural diversity, ecological services and the socio economic wellbeing of local populations and the landscapes on which they depend. Climate change, the depletion of natural resources, deforestation and tensions between globalization and local development are already creating problems in food production and the purchase of land and water. The economic viability of many forms of agriculture result in threats to food and water supplies, security and health. The lack of protection of water supplies and community lands leads to demographic shifts. Migration and changing patterns of mobility and habitation are transforming many territories, leading to a long-term loss of critical traditional and local knowledge that underpins the relationship between landscape, health, social patterns, economy and the quality of life. This has serious implications for the future generations.

11. **Unsustainable economic development:** A fragmented and piecemeal approach to spatial planning and land use change can lead to unsustainable and unsafe development, including urban sprawl, transportation infrastructure, large-scale energy and mining, development for tourism, agriculture, forestation, city extensions or regeneration. Ill advised industrialization, urbanization, water management and infrastructure development, in conjunction with a lack of planning and assessment of their potential impacts and effects can be life threatening as the increasingly frequent disasters have shown, incurring substantial ecological, social and economic costs. A more integrated and strategic approach to the physical, cultural and social environment can enhance communities and their use of land and resources. Establishing the landscape as the tool for planning sustainable development will help unlock greater value for people and the economy, for now and in the future, creating memorable and equitable places for people to live and work.

12. **Valuing the quality of life:** There is a tangible recognition that the physical, cultural and social condition of our environment has a profound effect on the quality of life and is a key component of robust economic growth. Good-looking quality environments lift the spirit and have a dramatic effect on people's morale, confidence and self-worth, whereas dreary, unkempt, dysfunctional places make people feel unvalued and resentful. A new approach will help capture and support an extraordinary but fragile renaissance that is taking place, as society, governments and investors are beginning to appreciate the true value and complexity of the landscape.

13. **Governance:** There are substantive institutional and financial challenges, in particular though the global economic crises and the increasing complexity of governance. There is a lack of capacity for area-orientated collaboration at a scale appropriate to address major, regional or local spatial issues that may have significant economic and social costs and benefits. Responsibility for the landscape is often disaggregated into constituent parts and across several departments (such as economics, planning, transport, recreation, agriculture, heritage and conservation). An integrated approach would require new ways of working between institutions, sectors and across government departments. By considering the landscape as the base layer against which future decisions about development processes are made, community and civil societies, landowners, land managers and developers are increasingly recognizing the considerable financial benefit to be gained through enduring, resilient interventions and healthy communities. This framework would provide a mechanism to facilitate government and community participation across and between local, regional and national levels to engage and deliver robust socio-economic spatial development.

IV. THE NEED FOR A NEW STANDARD-SETTING INSTRUMENT

Background activities

14. UNESCO was the first of all UN agencies to deal with landscape at a global scale through its 1962 Recommendation concerning the Safeguarding of the Beauty and Character of Landscapes and Sites, which supplemented measures for the protection of nature. The 1972 Convention concerning the Protection of World Cultural and Natural Heritage and the 1972 Recommendation concerning the protection, at national level, of the Cultural and Natural Heritage covered both natural and cultural heritage, but not landscape its texts. However, in 1992 the World Heritage Committee adopted “cultural landscape categories” which were integrated in the Operational Guidelines for the Implementation of the World Heritage Convention. Therefore, UNESCO gained experiences with the identification, protection and management of cultural landscapes of outstanding universal value.

15. UNESCO has also a comprehensive system of legal instruments in the field of culture, which in some cases relate to landscape issues, such as the 2003 Convention on the Safeguarding of the Intangible Cultural Heritage, which includes as one of its domains “knowledge and practices concerning nature and the universe”. A few of the World Heritage cultural landscapes protected under the 1972 Convention are also included in the urgent safeguarding list of the 2003 Convention such as the “Traditions and practices associated to the Kayas in the sacred forests of the Mijikenda” (Kenya). Cooperation between UNESCO’s culture conventions and the Convention on Biological Diversity (1992) has been enhanced, including through recent Declaration on bio-cultural diversity” (2010)

16. In the field of nature protection ecological research and sustainable development, in addition to the 1972 World Heritage Convention, which covers outstanding natural properties, the UNESCO Man and the Biosphere Programme (MAB) created in 1971, gained experience with large scale designated Biosphere Reserves, at the ecosystem and landscape level. Biosphere Reserves include local community involvement and sustainable development. UNESCO is also represented in the working group of the six international conventions related to biodiversity: the Convention on Biological Diversity (1992), the Convention on Conservation of Migratory Species (1975), the Convention on International Trade in Endangered Species of Wild Fauna and Flora (1975), the International Treaty on Plant Genetic Resources for Food and Agriculture (2004), the Ramsar Convention on Wetlands (1971) and the World Heritage Convention (1972). It also has close working links with the UN Convention to Combat Desertification (UNCCD). Some of these relate to specific aspects of landscape, such as the sustainable use of plant genetic resources for food and agriculture, the sustainable management of drylands, and wetland landscapes.

17. Further experiences were gained only at the regional level through the adoption of Charters as well as the European Landscape Convention. UNESCO cooperated with the Council of Europe and participated in workshops including those for the 10th anniversary of the European Landscape Convention (Florence, Italy 2010).

Rationale, objectives, and basic principles of a new instrument

18. The expert meeting (UNESCO Headquarters, October 2010) reviewed all existing documents relating to standard setting instruments and concluded: There is no global convention dealing with a holistic approach to landscape, rather there are many different separate declarations, recommendations and treaties that address specific elements of landscape; There is an urgent need for international collaboration and joint effort to spatial and territorial development due to the increasing intensity and frequency of global threats which threaten not only landscapes but human life across national boundaries.

19. An international instrument could act as a catalyst for an approach based on guiding principles for sustainable development; it could encourage intergovernmental, transnational, public-private cooperation through specific tools which could be developed and shared in its practical implementation; it would raise

aspirations; It would also provide an important focus and example for support and care that is emerging across the world from communities and organizations concerned with the health and sustainability of their landscapes.

20. The objective of the new instrument aims at developing and strengthening common networks for research, sharing good practices through international exchanges of knowledge, and understanding and documenting landscape diversity at a global level. It would offer an integrated approach and a comprehensive and holistic system of tools that enable societies to be more sustainable, resilient, and adaptive. Tools can be international, regional, national and local; measures to protect, enhance and manage must be flexible and be adapted to each situation. This convention would recognize new integrated, interdisciplinary and cross sectoral approaches as well as traditional customary management systems. It also reinforces other conventions and existing instruments that relate to landscapes. Especially it could encourage integration responding to the connectivity between cultural and biological diversity and promotes sustainable development and quality of life for people.

21. The basic principles and considerations of the proposed instrument would be:

- Landscapes reflect the diversity of cultures, are fragile ecosystems that are the basis of human life, and inspire the people that inherit and inhabit them.
- Landscapes are a determining factor for cultural identity, formation and consolidation; and they are a shared resource for all human beings including past, present and future generations who deserve a right to landscape and have a shared responsibility for its care.
- Landscapes have a fragile and changing nature and, in particular, landscapes are dynamic, have evolved and continue to evolve over time.
- Interconnectivity across territories and regions makes it important to encourage collective regional and transboundary approaches and cooperation among nations in joint programming and intergovernmental and cross-sector collaboration.
- to recognize and support the relationship between the quality of life and the quality of the environment in which people live and work by raising aspirations, practice and engagement.

Nature and scope of the proposed new standard-setting instrument

22. The proposed new instrument would be global in nature and open to all member states of UNESCO; A framework convention would be envisaged which would allow for flexibility and recognition with regard to regional agreements and national adaptation.

23. For purpose of this convention, landscape is defined as an area on the earth's surface which is the result of natural and human factors and their interaction over time, both tangible and intangible. Perceived by people, landscape therefore reflects the diversity of cultures. This convention considers the fragile and changing nature of terrestrial and marine landscapes and, in particular, that landscapes are dynamic, have evolved and continue to evolve over time. Landscape is a shared resource across communities including past, present and future generations; all people deserve a right to landscape and have a shared responsibility for its care.

24. It was further underlined that such a framework convention would allow for flexibility in the local, national and regional approaches and Annexes could be prepared to reflect the specific situation in different regions, such as for the acknowledgement of the existing European Landscape Convention.

V. DRAFT STRUCTURE OF THE PROPOSED NEW CONVENTION

Preamble
Purposes of the Convention
Definitions
Relationship to other international instruments
Organs of the Convention: General Assembly of States Parties, Intergovernmental Landscape Committee
Advisory organizations
Secretariat
Role of States Parties
Measures for landscape protection, enhancement and development
Identification and assessment of landscapes
Register for good landscape practices
Education, awareness-raising and capacity-building
Participation of communities, groups and individuals
Protection and management of landscape at the international level
Programmes, projects and activities for landscape
International cooperation and assistance
Voluntary Landscape Fund
Reporting
Ratification and Entry into force

VI. PROPOSED WORKING METHOD AND TIMETABLE

25. In accordance with the *Rules of Procedure concerning Recommendations to Member States and International Conventions covered by the terms of Article IV, paragraph 4, of the Constitution*, the Executive Board is invited to provide its comments to the General Conference at its 36th session (2011). The Executive Board is thus called upon to decide whether or not to recommend to the General Conference at its 36th session that a new standard setting instrument in the form of an International Landscape Convention should be prepared and that the General Conference should instruct the Director-General to prepare a report setting forth the position with regard to the problem to be regulated and to the scope of the regulation action proposed, accompanied by a draft text of the proposed Convention, for possible adoption at its 37th session (2013), in accordance with the aforementioned Rules of Procedure”

26. Should the Executive Board decide to include the question in the provisional agenda of the General Conference, the Director-General, in accordance with the Rules of Procedure, will communicate to Member States a copy of the preliminary study and the text of the Executive Board’s observations and decisions thereon [redacted] days before the opening of the 36th session of the General Conference, that is by [redacted] 2011.

27. Pursuant to Article [redacted] of the above-mentioned Rules of Procedure, the General Conference will be invited, after examining this study and the Executive Board’s observations thereon, to decide whether the question should be regulated internationally and, if so, in what form. Should the General Conference at its 36th session decide that the question the management and enhancement of landscapes must be regulated by a Convention, a preliminary report, possibly accompanied by a preliminary draft text, could be submitted to the General Conference at its 37th session in the autumn of 2013” and an intergovernmental meeting of experts could be organized in Spring 2013 to prepare for such a text.

VII. CONCLUSIONS

28. As recommended by the preliminary study commissioned by the Secretariat and by the international expert meeting held at UNESCO Headquarters from 25-26 October 2010, the Director-General considers that the best way of protecting and enhancing landscapes globally would be to continue the activities already carried out by the Organization through the 1962 Recommendation on the Beauty and Character of Landscapes and Sites and the 1972 World Heritage Convention concerning cultural landscapes of outstanding universal value, while proceeding with the preparation of a new standard-setting instrument on landscape . Bearing the above considerations in mind, the Executive Board may wish to adopt a decision as follows:

The Executive Board,

1. Considering the resolution by the International Federation of Landscape Architects (IFLA) at its 47th World Congress (Suzhou, China, 2010) to review the feasibility of a new standard setting instrument, a “world landscape convention”,
2. Having examined the preliminary study on the advisability of regulating internationally, through a new standard-setting instrument, the protection, enhancement and creation of landscape (186 EX/xxx),
3. Decides to include the examination of this matter on the provisional agenda of the 36th session of the General Conference under the heading “International regulation, by a new standard-setting instrument, on the protection and enhancement of landscape”;
4. Invites the Director-General to submit to the General Conference the above-mentioned preliminary study together with the relevant observations of the Executive Board;
5. Recommends the General Conference to take a decision to continue action aimed at advancing the international regulation, through a new standard-setting instrument, on the protection and enhancement of landscape.

Annex I: IFLA request

Annex II List of Instruments (?)