

1983

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

Presented and read a first time, 21 April 1983

(*Minister for Home Affairs and Environment*)

A BILL

FOR

An Act relating to the protection and conservation of certain property, and for related purposes

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

Short title

5 **1.** This Act may be cited as the *World Heritage Properties Conservation Act 1983*.

Commencement

2. This Act shall come into operation on the day on which it receives the Royal Assent.

Interpretation

10 **3. (1)** In this Act, unless the contrary intention appears—

“Convention” means the Convention for the Protection of the World Cultural and Natural Heritage that has been adopted by the General Conference of the United Nations Educational, Scientific and Cultural

Organization, being the convention a copy of the English text of which is set out in the Schedule;

“cultural heritage” has the same meaning as in the Convention;

“Federal Court” means the Federal Court of Australia;

“minerals” includes sand, gravel, rock, clay, oil and natural gas;

“natural heritage” has the same meaning as in the Convention.

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(2) A reference in this Act to identified property shall be read as a reference to—

(a) property forming part of the cultural heritage or natural heritage, being property that—

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(i) the Commonwealth has, under Article 11 of the Convention, submitted to the World Heritage Committee, whether before or after the commencement of this Act, as suitable for inclusion in the World Heritage List provided for in paragraph 2 of that Article; or

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(ii) has been declared by the regulations to form part of the cultural heritage or natural heritage; or

(b) any part of property referred to in paragraph (a).

(3) A Proclamation made under this Act comes into force on the day on which it is published in the *Gazette*.

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(4) A reference in this Act to damage to, or the destruction of, property or a site shall be read as including a reference to damage to, or the destruction of, any part or feature of that property or site.

Application

4. This Act extends to all the external Territories and has extra-territorial operation according to its tenor.

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Act to bind Crown

5. This Act binds the Crown in right of the Commonwealth, of each State, of the Northern Territory and of Norfolk Island, but nothing in this Act renders the Crown in right of the Commonwealth, of a State, of the Northern Territory or of Norfolk Island liable to be prosecuted for an offence.

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Property to which section 9 applies

6. (1) A Proclamation may be made under sub-section (3) in relation to identified property that is not in any State.

(2) A Proclamation may also be made under sub-section (3) in relation to identified property that is in a State and is property to which one or more of the following paragraphs applies or apply:

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(a) the Commonwealth has, pursuant to a request by the State, submitted to the World Heritage Committee under Article 11 of the Convention that the property is suitable for inclusion in the World Heritage List provided for in paragraph 2 of that Article, whether the request by the

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State was made before or after the commencement of this Act and whether or not the property was identified property at the time when the request was made;

5 (b) the protection or conservation of the property by Australia is a matter of international obligation, whether by reason of the Convention or otherwise;

10 (c) the protection or conservation of the property by Australia is necessary or desirable for the purpose of giving effect to a treaty (including the Convention) or for the purpose of obtaining for Australia any advantage or benefit under a treaty (including the Convention);

15 (d) the protection or conservation of the property by Australia is a matter of international concern (whether or not it is also a matter of domestic concern), whether by reason that a failure by Australia to take proper measures for the protection or conservation of the property would, or would be likely to, prejudice Australia's relations with other countries or for any other reason;

(e) the property is part of the heritage distinctive of the Australian nation—

20 (i) by reason of its aesthetic, historic, scientific or social significance; or

(ii) by reason of its international or national renown,

25 and, by reason of the lack or inadequacy of any other available means for its protection or conservation, it is peculiarly appropriate that measures for the protection or conservation of the property be taken by the Parliament and Government of the Commonwealth as the national parliament and government of Australia.

30 (3) Where the Governor-General is satisfied that any property in respect of which a Proclamation may be made under this sub-section is being or is likely to be damaged or destroyed, he may, by Proclamation, declare that property to be property to which section 9 applies.

35 (4) Where the Governor-General is satisfied that there is no longer any threat of damage to, or of the destruction of, property in respect of which a Proclamation under sub-section (3) is in force, he may, by Proclamation, revoke that first-mentioned Proclamation.

Property to which section 10 applies

7. (1) Where the Governor-General is satisfied that any identified property is being or is likely to be damaged or destroyed, he may, by Proclamation, declare that property to be property to which section 10 applies.

40 (2) Where the Governor-General is satisfied that there is no longer any threat of damage to, or of the destruction of, property in respect of which a Proclamation under sub-section (1) is in force, he may, by Proclamation, revoke that first-mentioned Proclamation.

Sites to which section 11 applies

8. (1) It is hereby declared that it is necessary to enact this section and section 11 as special laws for the people of the Aboriginal race.

(2) A reference in this section to an Aboriginal site is a reference to a site—

- (a) that is, or is situated within, identified property; and 5
- (b) the protection or conservation of which is, whether by reason of the presence on the site of artefacts or relics or otherwise, of particular significance to the people of the Aboriginal race.

(3) Where the Governor-General is satisfied that an Aboriginal site is being or is likely to be damaged or destroyed or that any artefacts or relics situated on an Aboriginal site are being or are likely to be damaged or destroyed, he may, by Proclamation, declare that site to be a site to which section 11 applies. 10

(4) Where the Governor-General is satisfied that there is no longer—

- (a) any threat of damage to, or of the destruction of; or
- (b) any threat of damage to, or of the destruction of, artefacts or relics situated on, 15

a site in respect of which a Proclamation under sub-section (3) is in force, he may, by Proclamation, revoke that first-mentioned Proclamation.

Unlawful acts

9. (1) Except with the consent in writing of the Minister, it is unlawful for a person, whether himself or by his servant or agent— 20

- (a) to carry out any excavation works on any property to which this section applies;
- (b) to carry out operations for, or exploratory drilling in connection with, the recovery of minerals on any property to which this section applies; 25
- (c) to erect a building or other substantial structure on any property to which this section applies or to do any act in the course of, or for the purpose of, the erection of a building or other substantial structure on any property to which this section applies;
- (d) to damage or destroy a building or other substantial structure on any property to which this section applies; 30
- (e) to kill, cut down or damage any tree on any property to which this section applies;
- (f) to construct or establish any road or vehicular track on any property to which this section applies; 35
- (g) to use explosives on any property to which this section applies; or
- (h) if an act is prescribed for the purposes of this paragraph in relation to particular property to which this section applies, to do that act in relation to that property.

(2) Except with the consent in writing of the Minister, it is unlawful for a person, whether himself or by his servant or agent, to do any act, not being an 40

act the doing of which is unlawful by virtue of sub-section (1), that damages or destroys any property to which this section applies.

5 (3) If an application of sub-sections (1) and (2) of this section in relation to particular property, being property that is relevant property by virtue of a particular paragraph or particular paragraphs of sub-section 6 (2), would be within the powers of the Parliament if the property were relevant property by virtue only of that paragraph or those paragraphs, it is intended that sub-sections (1) and (2) of this section should have that application in relation to the property whether or not the property is also relevant property by virtue of another paragraph or other paragraphs of sub-section 6 (2).

10 (4) In sub-section (3), "relevant property" means property in respect of which a Proclamation may, by virtue of sub-section 6 (2), be made under sub-section 6 (3).

Unlawful acts by certain corporations

15 10. (1) In this section—

"foreign corporation" means a foreign corporation within the meaning of paragraph 51 (xx) of the Constitution;

"trading corporation" means a trading corporation within the meaning of paragraph 51 (xx) of the Constitution.

20 (2) Except with the consent in writing of the Minister, it is unlawful for a body corporate that—

(a) is a foreign corporation;

(b) is incorporated in a Territory; or

25 (c) not being incorporated in a Territory, is a trading corporation formed within the limits of the Commonwealth,

whether itself or by its servant or agent—

(d) to carry out any excavation works on any property to which this section applies;

30 (e) to carry out operations for, or exploratory drilling in connection with, the recovery of minerals on any property to which this section applies;

(f) to erect a building or other substantial structure on any property to which this section applies or to do any act in the course of, or for the purpose of, the erection of a building or other substantial structure on any property to which this section applies;

35 (g) to damage or destroy a building or other substantial structure on any property to which this section applies;

(h) to kill, cut down or damage any tree on any property to which this section applies;

40 (j) to construct or establish any road or vehicular track on any property to which this section applies;

(k) to use explosives on any property to which this section applies; or

- (m) if an act is prescribed for the purposes of this paragraph in relation to particular property to which this section applies, to do that act in relation to that property.

(3) Except with the consent in writing of the Minister, it is unlawful for a body corporate of a kind referred to in sub-section (2), whether itself or by its servant or agent, to do any act, not being an act the doing of which is unlawful by virtue of that sub-section, that damages or destroys any property to which this section applies. 5

(4) Without prejudice to the effect of sub-sections (2) and (3), except with the consent in writing of the Minister, it is unlawful for a body corporate of the kind referred to in paragraph (2) (c), whether itself or by its servant or agent, to do, for the purposes of its trading activities, an act referred to in any of paragraphs (2) (d) to (m) (inclusive) or an act referred to in sub-section (3). 10

Unlawful acts in relation to Aboriginal sites

11. (1) Except with the consent in writing of the Minister, it is unlawful for a person, whether himself or by his servant or agent— 15

(a) to carry out any excavation works on any site to which this section applies;

(b) to carry out operations for, or exploratory drilling in connection with, the recovery of minerals on any site to which this section applies; 20

(c) to erect a building or other substantial structure on any site to which this section applies or to do any act in the course of, or for the purpose of, the erection of a building or other substantial structure on any site to which this section applies;

(d) to damage or destroy any artefacts or relics situated on any site to which this section applies; 25

(e) to remove any artefacts or relics from any site to which this section applies;

(f) to kill, cut down or damage any tree on any site to which this section applies; 30

(g) to construct or establish any road or vehicular track on any site to which this section applies;

(h) to use explosives on any site to which this section applies; or

(j) if an act is prescribed for the purposes of this paragraph in relation to a particular site to which this section applies, to do that act in relation to that site. 35

(2) Except with the consent in writing of the Minister, it is unlawful for a person, whether himself or by his servant or agent, to do any act, not being an act the doing of which is unlawful by virtue of sub-section (1)— 40

(a) that damages or destroys; or

(b) that is likely to result in damage to or the destruction of, any site to which this section applies or any artefacts or relics on any site to which this section applies.

(3) Except with the consent in writing of the Minister, it is unlawful for a person, whether himself or by his servant or agent, to do any act preparatory to the doing of an act that is unlawful by virtue of sub-section (2).

Certain acts not unlawful

5 **12. (1)** Nothing in section 9, 10 or 11 renders it unlawful for a person to do an act that is authorized to be done pursuant to a zoning plan in operation under the *Great Barrier Reef Marine Park Act 1975* or pursuant to a plan of management in force under the *National Parks and Wildlife Conservation Act 1975*.

10 **(2)** Where the Governor-General is satisfied that no act that is or may be authorized to be done by or pursuant to a provision of a law of a State or Territory or by or pursuant to a plan or scheme formulated in accordance with a law of a State or Territory—

- 15 (a) would damage or destroy property to which section 9 or 10 applies; or
- (b) would damage or destroy, or would be likely to result in damage to or the destruction of, a site to which section 11 applies or any artefacts or relics on such a site,

20 the regulations may declare that provision, plan or scheme to be a provision, plan or scheme to which sub-section (3) applies in relation to that property or site.

(3) Nothing in section 9, 10 or 11 renders it unlawful for a person to do an act that is authorized to be done by or pursuant to a provision, plan or scheme to which this sub-section applies.

Consents given pursuant to sections 9, 10 and 11

25 **13. (1)** In determining whether or not to give a consent pursuant to section 9 in relation to any property to which that section applies, the Minister shall have regard only to the protection and conservation, within the meaning of the Convention, of the property.

30 **(2)** A consent given by the Minister pursuant to section 9, 10 or 11 may relate to a particular act or particular acts or a particular class or particular classes of acts.

35 **(3)** Before giving a consent pursuant to section 9, 10 or 11 in relation to property or a site that is in a State, in the Northern Territory or in Norfolk Island, the Minister shall inform the appropriate Minister of that State or Territory or the Administrator of Norfolk Island, as the case may be, of the proposed giving of the consent and shall give that person a reasonable opportunity to make representations in relation to the proposed giving of the consent.

Enforcement

40 **14. (1)** The High Court or the Federal Court may, on the application of the Attorney-General made on behalf of the Commonwealth, grant an

injunction restraining a person from doing an act that is unlawful by virtue of section 9, 10 or 11.

(2) Where, pursuant to sub-section (1), an application is made to the High Court or the Federal Court for an injunction restraining a person from doing an act, the High Court or the Federal Court, as the case may be, may, if in the opinion of the Court it is desirable to do so, before determining the application, grant an interim injunction restraining the person from doing that act pending the determination of the application.

Copies of Proclamations to be laid before Parliament

15. (1) The Minister shall cause a copy of a Proclamation made under section 6, 7 or 8 to be laid before each House of the Parliament within 5 sitting days of that House after the making of the Proclamation.

(2) If a copy of a Proclamation made under section 6, 7 or 8 is not laid before a House of the Parliament in accordance with sub-section (1), the Proclamation ceases to be in force upon the expiration of the last day on which a copy of that Proclamation could have been laid before that House in accordance with sub-section (1).

(3) If either House of the Parliament, pursuant to a motion of which notice has been given within 5 sitting days of that House after a copy of a Proclamation under section 6, 7 or 8 has been laid before that House, passes a resolution disapproving of the declaration in the Proclamation, the Proclamation ceases to be in force.

(4) If, at the expiration of 5 sitting days after notice of a motion disapproving of a declaration in a Proclamation under section 6, 7 or 8 has been given in a House of the Parliament, being notice given within 5 sitting days of that House after a copy of the Proclamation has been laid before that House—

- (a) the notice has not been withdrawn and the motion has not been called on; or
- (b) the motion has been called on, moved and seconded and has not been withdrawn or otherwise disposed of,

the Proclamation ceases to be in force.

(5) If, before the expiration of 5 sitting days after notice of a motion disapproving of a declaration in a Proclamation under section 6, 7 or 8 has been given in a House of the Parliament—

- (a) the House of Representatives is dissolved or expires, or the Parliament is prorogued; and
- (b) at the time of the dissolution, expiry or prorogation, as the case may be—
 - (i) the notice has not been withdrawn and the motion has not been called on; or

- (ii) the motion has been called on, moved and seconded and has not been withdrawn or otherwise disposed of,

the copy of the Proclamation shall, for the purposes of sub-sections (3) and (4), be deemed to have been laid before that first-mentioned House on the first sitting day of that first-mentioned House after the dissolution, expiry or prorogation.

(6) This section does not apply in relation to a Proclamation that revokes another Proclamation.

Compensation

16. (1) In this section—

“acquisition of property” has the same meaning as in paragraph 51 (xxxi) of the Constitution;

“Regulations” means the World Heritage (Western Tasmania Wilderness) Regulations, as amended and in force from time to time under the *National Parks and Wildlife Conservation Act 1975*.

(2) The compensation that may be agreed upon, recommended or determined pursuant to this section in respect of an acquisition of property from a person may consist of or include all or any of the following:

- (a) the payment of an amount to the person by instalments;
- (b) the payment of an amount or part of an amount to the person subject to compliance by the person with specified conditions;
- (c) the making of a payment or payments to the person the amount or amounts of which is or are subject to variation in the event of specified circumstances prevailing at a particular time or times.

(3) Where a person considers that the operation of this Act or of the Regulations has resulted in an acquisition of property from the person, the person may, by notice in writing sent by post to the Minister at his office at Parliament House, Canberra (being a notice that specifies an address to which a notice may be sent to the person by the Minister pursuant to sub-section (4)), request the Commonwealth to pay an amount of compensation specified in the notice (in this section referred to as the “claimed amount”) in respect of the acquisition.

(4) If, before the expiration of 3 weeks after the receipt by the Minister of a notice given by a person pursuant to sub-section (3), the Minister sends by post to the person at the address of the person specified in that notice a notice in writing stating that he does not consider that the operation of this Act or of the Regulations has resulted in an acquisition of property from the person, the person may make an application to the High Court requesting the Court to make a declaration that the operation of this Act or of the Regulations has resulted in an acquisition of property from the person.

(5) The High Court has jurisdiction with respect to matters arising under sub-section (4).

(6) Where the Minister does not, before the expiration of 3 weeks after the receipt by him of a notice given by a person pursuant to sub-section (3), send a notice to the person pursuant to sub-section (4), the operation of this Act or of the Regulations, as the case requires, shall be taken to have resulted in an acquisition of property from the person. 5

(7) Where—

(a) by virtue of sub-section (6), the operation of this Act or of the Regulations is taken to have resulted in an acquisition of property from a person; or

(b) the High Court makes a declaration that the operation of this Act or of the Regulations has resulted in an acquisition of property from a person, 10

the Commonwealth is liable to pay to the person such compensation in respect of the acquisition as is agreed upon between the person and the Commonwealth or, failing agreement, as is determined in accordance with the succeeding provisions of this section. 15

(8) Where—

(a) the Commonwealth is liable, by virtue of sub-section (7), to pay compensation to a person in respect of an acquisition of property from the person, being an acquisition in respect of which the claimed amount is equal to or exceeds \$5,000,000; and 20

(b) the person and the Commonwealth do not, before the expiration of 6 months after—

(i) in a case to which paragraph (7) (a) applies—the expiration of the period of 3 weeks referred to in sub-section (6); or 25

(ii) in a case to which paragraph (7) (b) applies—the day on which the declaration referred to in that paragraph was made, reach agreement as to the compensation payable in respect of the acquisition,

the Governor-General shall, by notice in writing published in the *Gazette*, state that he intends, after the expiration of 14 days after the publication of the notice, to establish a Commission of Inquiry to inquire into and report to him on the compensation payable in respect of the acquisition. 30

(9) Where—

(a) the Governor-General has, pursuant to sub-section (8), given notice of his intention to establish a Commission of Inquiry to inquire into the compensation payable in respect of an acquisition of property from a person; and 35

(b) the person and the Commonwealth have not reached agreement as to the compensation payable, 40

the Governor-General shall, by instrument in writing published in the *Gazette*, establish the Commission immediately after the expiration of the period of 14 days referred to in that sub-section and shall, by that instrument, appoint 3 persons to be the members of the Commission.

(10) Where—

(a) a Commission of Inquiry is to be established to inquire into the compensation payable in respect of an acquisition of property that is in a State; and

5 (b) before the expiration of the day before the day on which the Commission is to be established, the Premier of the State, by notice in writing furnished to the Governor-General, nominates a person for appointment as a member of the Commission,

10 one of the persons appointed pursuant to sub-section (9) shall be the person so nominated.

(11) Where a Commission of Inquiry has been established to inquire into and report on the compensation payable in respect of an acquisition of property from a person, the Commission shall, as soon as practicable, commence to conduct an inquiry into that matter and, unless the person and the Commonwealth reach agreement as to the compensation payable, shall, before the expiration of 12 months after the establishment of the Commission, give a report in writing to the Governor-General setting out its recommendation as to the compensation that is fair and just in respect of the acquisition and setting out the reasons for its recommendation.

20 (12) If, after the establishment of a Commission of Inquiry to inquire into and report on the compensation payable in respect of an acquisition of property from a person and before the Commission has given a report in writing to the Governor-General under sub-section (11), the person and the Commonwealth reach agreement as to the compensation payable, the Governor-General shall, by instrument in writing, abolish the Commission and terminate the appointments of the members of the Commission.

30 (13) Before the expiration of 3 months after the day on which he receives a report of a Commission of Inquiry in relation to the payment of compensation in respect of an acquisition of property from a person, the Governor-General shall, if the person and the Commonwealth have not reached agreement as to the compensation payable, having regard to the report of the Commission and to such other matters as the Governor-General considers relevant, determine the compensation that the Governor-General considers to be fair and just in respect of the acquisition.

35 (14) Where the Governor-General makes a determination pursuant to sub-section (13) in relation to an acquisition of property from a person, the Minister shall, before the expiration of 14 days after that determination is made, give notice in writing to the person setting out the terms of the determination.

40 (15) Where the operation of this Act or of the Regulations has resulted in or is taken to have resulted in an acquisition of property from a person and—

(a) the acquisition is an acquisition in respect of which the claimed amount is less than \$5,000,000;

(b) a Commission of Inquiry does not give a report in writing to the Governor-General in accordance with sub-section (11) before the expiration of the period of 12 months referred to in that sub-section otherwise than by reason of the person and the Commonwealth having reached agreement as to the compensation payable; or 5

(c) the person considers that the compensation determined by the Governor-General pursuant to sub-section (13) in respect of the acquisition is not fair and just,

the Federal Court may, on the application of the person, determine the compensation that is fair and just in respect of the acquisition. 10

(16) The *Royal Commissions Act 1902* applies to, and in relation to, an inquiry by a Commission of Inquiry established under this section as if the Commission of Inquiry were a Commission of inquiry issued by the Governor-General by Letters Patent pursuant to that Act.

(17) A reference in this section to the operation of this Act shall be read as including a reference to the operation of an act done pursuant to this Act. 15

Delegation by Minister

17. (1) The Minister may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate to a person all or any of his powers under section 9, 10 or 11. 20

(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Minister.

(3) A delegation under this section does not prevent the exercise of a power by the Minister.

Effect of World Heritage (Western Tasmania Wilderness) Regulations

18. (1) Subject to sub-section (2), nothing in this Act shall be taken to affect the operation of the World Heritage (Western Tasmania Wilderness) Regulations, as amended and in force from time to time under the *National Parks and Wildlife Conservation Act 1975*. 25

(2) Upon the commencement of this Act, regulation 7 of the regulations referred to in sub-section (1) ceases to have any operation. 30

(3) Nothing in this section is intended to prevent the making of a Proclamation under section 6, 7 or 8 in relation to any property to which the regulations referred to in sub-section (1) apply.

Federal Court to have jurisdiction

19. The Federal Court has jurisdiction with respect to matters arising under section 14 and sub-section 16 (15). 35

Regulations

20. (1) The Governor-General may make regulations, not inconsistent with this Act—

- (a) prescribing matters required or permitted by this Act to be prescribed; or
- (b) prescribing matters necessary or convenient to be prescribed for carrying out or giving effect to this Act,

and, in particular—

- (c) declaring that specified property forms part of the cultural heritage or natural heritage; and
- (d) prescribing methods of providing assistance to the States and to the Territories in the identification, protection, conservation, presentation and rehabilitation of property forming part of the cultural heritage or natural heritage.

(2) Regulations declaring that specified property forms part of the cultural heritage or natural heritage may be made notwithstanding that the property has, for the purposes of Article 3 of the Convention, already been identified and delineated as forming part of the cultural heritage or natural heritage.

SCHEDULE

Section 3

CONVENTION FOR THE PROTECTION OF THE WORLD CULTURAL AND NATURAL HERITAGE

The General Conference of the United Nations Educational, Scientific and Cultural Organization meeting in Paris from 17 October to 21 November 1972, at its seventeenth session,

Noting that the cultural heritage and the natural heritage are increasingly threatened with destruction not only by the traditional causes of decay, but also by changing social and economic conditions which aggravate the situation with even more formidable phenomena of damage or destruction,

Considering that deterioration or disappearance of any item of the cultural or natural heritage constitutes a harmful impoverishment of the heritage of all the nations of the world,

Considering that protection of this heritage at the national level often remains incomplete because of the scale of the resources which it requires and of the insufficient economic, scientific and technical resources of the country where the property to be protected is situated,

Recalling that the Constitution of the Organization provides that it will maintain, increase and diffuse knowledge, by assuring the conservation and protection of the world's heritage, and recommending to the nations concerned the necessary international conventions,

Considering that the existing international conventions, recommendations and resolutions concerning cultural and natural property demonstrate the importance, for all the peoples of the world, of safeguarding this unique and irreplaceable property, to whatever people it may belong,

Considering that parts of the cultural or natural heritage are of outstanding interest and therefore need to be preserved as part of the world heritage of mankind as a whole,

Considering that, in view of the magnitude and gravity of the new dangers threatening them, it is incumbent on the international community as a whole to participate in the protection of the cultural and natural heritage of outstanding universal value, by the granting of collective assistance which, although not taking the place of action by the State concerned, will serve as an effective complement thereto,

Considering that it is essential for this purpose to adopt new provisions in the form of a convention establishing an effective system of collective protection of the cultural and natural heritage of outstanding universal value, organized on a permanent basis and in accordance with modern scientific methods,

Having decided, at its sixteenth session, that this question should be made the subject of an international convention,

Adopts this sixteenth day of November 1972 this Convention.

1. DEFINITIONS OF THE CULTURAL AND THE NATURAL HERITAGE**Article 1**

For the purposes of this Convention, the following shall be considered as "cultural heritage":

monuments: architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature, inscriptions, cave dwellings and combinations of features, which are of outstanding universal value from the point of view of history, art or science;

groups of buildings: groups of separate or connected buildings which, because of their architecture, their homogeneity or their place in the landscape, are of outstanding universal value from the point of view of history, art or science;

sites: works of man or the combined works of nature and of man, and areas including archaeological sites which are of outstanding universal value from the historical, aesthetic, ethnological or anthropological points of view.

Article 2

For the purposes of this Convention, the following shall be considered as "natural heritage";

natural features consisting of physical and biological formations or groups of such formations, which are of outstanding universal value from the aesthetic or scientific point of view;

geological and physiographical formations and precisely delineated areas which constitute the habitat of threatened species of animals and plants of outstanding universal value from the point of view of science or conservation;

SCHEDULE—continued

natural sites or precisely delineated natural areas of outstanding universal value from the point of view of science, conservation or natural beauty.

Article 3

It is for each State Party to this Convention to identify and delineate the different properties situated on its territory mentioned in Articles 1 and 2 above.

II. NATIONAL PROTECTION AND INTERNATIONAL PROTECTION OF THE CULTURAL AND NATURAL HERITAGE

Article 4

Each State Party to this Convention recognizes that the duty of ensuring the identification, protection, conservation, presentation and transmission to future generations of the cultural and natural heritage referred to in Articles 1 and 2 and situated on its territory, belongs primarily to that State. It will do all it can to this end, to the utmost of its own resources and, where appropriate, with any international assistance and co-operation, in particular, financial, artistic, scientific and technical, which it may be able to obtain.

Article 5

To ensure that effective and active measures are taken for the protection, conservation and presentation of the cultural and natural heritage situated on its territory, each State Party to this Convention shall endeavour, in so far as possible, and as appropriate for each country:

- (a) to adopt a general policy which aims to give the cultural and natural heritage a function in the life of the community and to integrate the protection of that heritage into comprehensive planning programmes;
- (b) to set up within its territories, where such services do not exist, one or more services for the protection, conservation and presentation of the cultural and natural heritage with an appropriate staff and possessing the means to discharge their functions;
- (c) to develop scientific and technical studies and research and to work out such operating methods as will make the State capable of counteracting the dangers that threaten its cultural or natural heritage;
- (d) to take the appropriate legal, scientific, technical, administrative and financial measures necessary for the identification, protection, conservation, presentation and rehabilitation of this heritage; and
- (e) to foster the establishment or development of national or regional centres for training in the protection, conservation and presentation of the cultural and natural heritage and to encourage scientific research in this field.

Article 6

1. Whilst fully respecting the sovereignty of the States on whose territory the cultural and natural heritage mentioned in Articles 1 and 2 is situated, and without prejudice to property rights provided by national legislation, the States Parties to this Convention recognize that such heritage constitutes a world heritage for whose protection it is the duty of the international community as a whole to co-operate.

2. The States Parties undertake, in accordance with the provisions of this Convention, to give their help in the identification, protection, conservation and preservation of the cultural and natural heritage referred to in paragraphs 2 and 4 of Article 11 if the States on whose territory it is situated so request.

3. Each State Party to this Convention undertakes not to take any deliberate measures which might damage directly or indirectly the cultural and natural heritage referred to in Articles 1 and 2 situated on the territory of other States Parties to this Convention.

Article 7

For the purpose of this Convention, international protection of the world cultural and natural heritage shall be understood to mean the establishment of a system of international co-operation and assistance designed to support States Parties to the Convention in their efforts to conserve and identify that heritage.

SCHEDULE—continued**III. INTERGOVERNMENTAL COMMITTEE FOR THE PROTECTION OF THE
WORLD CULTURAL AND NATURAL HERITAGE****Article 8**

1. An Intergovernmental Committee for the Protection of the Cultural and Natural Heritage of Outstanding Universal Value, called "the World Heritage Committee", is hereby established within the United Nations Educational, Scientific and Cultural Organization. It shall be composed of 15 States Parties to the Convention, elected by States Parties to the Convention meeting in general assembly during the ordinary session of the General Conference of the United Nations Educational, Scientific and Cultural Organization. The number of States members of the Committee shall be increased to 21 as from the date of the ordinary session of the General Conference following the entry into force of this convention for at least 40 States.

2. Election of members of the Committee shall ensure an equitable representation of the different regions and cultures of the world.

3. A representative of the International Centre for the Study of the Preservation and Restoration of cultural Property (Rome Centre), a representative of the International Council of Monuments and Sites (ICOMOS) and a representative of the International Union for Conservation of Nature and Natural Resources (IUCN), to whom may be added, at the request of States Parties to the Convention meeting in general assembly during the ordinary sessions of the General Conference of the United Nations Educational, Scientific and Cultural Organization, representatives of other intergovernmental or non-governmental organizations, with similar objectives, may attend the meetings of the Committee in an advisory capacity.

Article 9

1. The term of office of States members of the World Heritage Committee shall extend from the end of the ordinary session of the General Conference during which they are elected until the end of its third subsequent ordinary session.

2. The term of office of one-third of the members designated at the time of the first election shall, however, cease at the end of the first ordinary session of the General Conference following that at which they were elected; and the term of office of a further third of the members designated at the same time shall cease at the end of the second ordinary session of the General Conference following that at which they were elected. The names of these members shall be chosen by lot by the President of the General Conference of the United Nations Educational, Scientific and Cultural Organization after the first election.

3. States members of the Committee shall choose as their representatives persons qualified in the field of the cultural or natural heritage.

Article 10

1. The World Heritage Committee shall adopt its Rules of Procedure.

2. The Committee may at any time invite public or private organizations or individuals to participate in its meetings for consultation on particular problems.

3. The Committee may create such consultative bodies as it deems necessary for the performance of its functions.

Article 11

1. Every State Party to this Convention shall, in so far as possible, submit to the World Heritage Committee an inventory of property forming part of the cultural and natural heritage, situated in its territory and suitable for inclusion in the list provided for in paragraph 2 of this Article. This inventory, which shall not be considered exhaustive, shall include documentation about the location of the property in question and its significance.

2. On the basis of the inventories submitted by States in accordance with paragraph 1, the Committee shall establish, keep up to date and publish, under the title of "World Heritage List", a list of properties forming part of the cultural heritage and natural heritage, as defined in Articles 1 and 2 of this Convention, which it considers as having outstanding universal value in terms of such criteria as it shall have established. An updated list shall be distributed at least every two years.

3. The inclusion of a property in the World Heritage List requires the consent of the State concerned. The inclusion of a property situated in a territory, sovereignty or jurisdiction over which is claimed by more than one State shall in no way prejudice the rights of the parties to the dispute.

4. The Committee shall establish, keep up to date and publish, whenever circumstances shall so require, under the title of "List of World Heritage in Danger", a list of the property appearing in the

SCHEDULE—continued

World Heritage list for the conservation of which major operations are necessary and for which assistance has been requested under this Convention. This list shall contain an estimate of the cost of such operations. The list may include only such property forming part of the cultural and natural heritage as is threatened by serious and specific dangers, such as the threat of disappearance caused by accelerated deterioration, large-scale public or private projects or rapid urban or tourist development projects; destruction caused by changes in the use or ownership of the land; major alterations due to unknown causes; abandonment for any reason whatsoever; the outbreak or the threat of an armed conflict; calamities and cataclysms; serious fires, earthquakes, landslides; volcanic eruptions; changes in water level, floods, and tidal waves. The Committee may at any time, in case of urgent need, make a new entry in the List of World Heritage in Danger and publicize such entry immediately.

5. The Committee shall define the criteria on the basis of which a property belonging to the cultural or natural heritage may be included in either of the lists mentioned in paragraphs 2 and 4 of this article.

6. Before refusing a request for inclusion in one of the two lists mentioned in paragraphs 2 and 4 of this article, the Committee shall consult the State Party in whose territory the cultural or natural property in question is situated.

7. The Committee shall, with the agreement of the States concerned, co-ordinate and encourage the studies and research needed for the drawing up of the lists referred to in paragraphs 2 and 4 of this article.

Article 12

The fact that a property belonging to the cultural or natural heritage has not been included in either of the two lists mentioned in paragraphs 2 and 4 of Article 11 shall in no way be construed to mean that it does not have an outstanding universal value for purposes other than those resulting from inclusion in these lists.

Article 13

1. The World Heritage Committee shall receive and study requests for international assistance formulated by States Parties to this Convention with respect to property forming part of the cultural or natural heritage, situated in their territories, and included or potentially suitable for inclusion in the lists referred to in paragraphs 2 and 4 of Article 11. The purpose of such requests may be to secure the protection, conservation, presentation or rehabilitation of such property.

2. Requests for international assistance under paragraph 1 of this article may also be concerned with identification of cultural or natural property defined in Articles 1 and 2, when preliminary investigations have shown that further inquiries would be justified.

3. The Committee shall decide on the action to be taken with regard to these requests, determine where appropriate, the nature and extent of its assistance, and authorize the conclusion, on its behalf, of the necessary arrangements with the government concerned.

4. The Committee shall determine an order of priorities for its operations. It shall in so doing bear in mind the respective importance for the world cultural and natural heritage of the property requiring protection, the need to give international assistance to the property most representative of a natural environment or of the genius and the history of the peoples of the world, the urgency of the work to be done, the resources available to the States on whose territory the threatened property is situated and in particular the extent to which they are able to safeguard such property by their own means.

5. The Committee shall draw up, keep up to date and publicize a list of property for which international assistance has been granted.

6. The Committee shall decide on the use of the resources of the Fund established under Article 15 of this Convention. It shall seek ways of increasing these resources and shall take all useful steps to this end.

7. The Committee shall co-operate with international and national governmental and non-governmental organizations having objectives similar to those of this Convention. For the implementation of its programmes and projects, the Committee may call on such organizations, particularly the International Centre for the Study of the Preservation and Restoration of Cultural Property (the Rome Centre), the International Council of Monuments and Sites (ICOMOS) and the International Union for Conservation of Nature and Natural Resources (IUCN), as well as on public and private bodies and individuals.

8. Decisions of the Committee shall be taken by a majority of two-thirds of its members present and voting. A majority of the members of the Committee shall constitute a quorum.

SCHEDULE—continued

Article 14

1. The World Heritage Committee shall be assisted by a Secretariat appointed by the Director-General of the United Nations Educational, Scientific and Cultural Organization.

2. The Director-General of the United Nations Educational, Scientific and Cultural Organization, utilizing to the fullest extent possible the services of the International Centre for the Study of the Preservation and the Restoration of Cultural Property (the Rome Centre), the International Council of Monuments and Sites (ICOMOS) and the International Union for Conservation of Nature and Natural Resources (IUCN) in their respective areas of competence and capability, shall prepare the Committee's documentation and the agenda of its meetings and shall have the responsibility for the implementation of its decisions.

IV. FUND FOR THE PROTECTION OF THE WORLD CULTURAL AND NATURAL HERITAGE

Article 15

1. A Fund for the Protection of the World Cultural and Natural Heritage of Outstanding Universal Value, called "the World Heritage Fund", is hereby established.

2. The Fund shall constitute a trust fund, in conformity with the provisions of the Financial Regulations of the United Nations Educational, Scientific and Cultural Organization.

3. The resources of the Fund shall consist of:

- (a) compulsory and voluntary contributions made by the States Parties to this Convention,
- (b) contributions, gifts or bequests which may be made by:

- (i) other States;

- (ii) the United Nations Educational, Scientific and Cultural Organization, other organizations of the United Nations system, particularly the United Nations Development Programme or other intergovernmental organizations;

- (iii) public or private bodies or individuals;

- (c) any interest due on the resources of the Fund;

- (d) funds raised by collections and receipts from events organized for the benefit of the Fund; and

- (e) all other resources authorized by the Fund's regulations, as drawn up by the World Heritage Committee.

4. Contributions to the Fund and other forms of assistance made available to the Committee may be used only for such purposes as the Committee shall define. The Committee may accept contributions to be used only for a certain programme or project, provided that the Committee shall have decided on the implementation of such programme or project. No political conditions may be attached to contributions made to the Fund.

Article 16

1. Without prejudice to any supplementary voluntary contribution, the States Parties to this Convention undertake to pay regularly, every two years, to the World Heritage Fund, contributions, the amount of which, in the form of a uniform percentage applicable to all States, shall be determined by the General Assembly of States Parties to the Convention, meeting during the sessions of the General Conference of the United Nations Educational, Scientific and Cultural Organization. This decision of the General Assembly requires the majority of the States Parties present and voting, which have not made the declaration referred to in paragraph 2 of this Article. In no case shall the compulsory contribution of States Parties to the Convention exceed 1% of the contribution to the Regular Budget of the United Nations Educational, Scientific and Cultural Organization.

2. However, each State referred to in Article 31 or in Article 32 of this Convention may declare, at the time of the deposit of its instruments of ratification, acceptance or accession, that it shall not be bound by the provisions of paragraph 1 of this Article.

3. A State Party to the Convention which has made the declaration referred to in paragraph 2 of this Article may at any time withdraw the said declaration by notifying the Director-General of the United Nations Educational, Scientific and Cultural Organization. However, the withdrawal of the declaration shall not take effect in regard to the compulsory contribution due by the State until the date of the subsequent General Assembly of States Parties to the Convention.

4. In order that the Committee may be able to plan its operations effectively, the contributions of States Parties to this Convention which have made the declaration referred to in paragraph 2 of this Article, shall be paid on a regular basis, at least every two years, and should not be less than the

SCHEDULE—continued

contributions which they should have paid if they had been bound by the provisions of paragraph 1 of this Article.

5. Any State Party to the Convention which is in arrears with the payment of its compulsory or voluntary contribution for the current year and the calendar year immediately preceding it shall not be eligible as a Member of the World Heritage Committee, although this provision shall not apply to the first election.

The terms of office of any such State which is already a member of the Committee shall terminate at the time of the elections provided for in Article 8, paragraph 1 of this Convention.

Article 17

The States Parties to this Convention shall consider or encourage the establishment of national, public and private foundations or associations whose purpose is to invite donations for the protection of the cultural and natural heritage as defined in Articles 1 and 2 of this Convention.

Article 18

The States Parties to this Convention shall give their assistance to international fund-raising campaigns organized for the World Heritage Fund under the auspices of the United Nations Educational, Scientific and Cultural Organization. They shall facilitate collections made by the bodies mentioned in paragraph 3 of Article 15 for this purpose.

V. CONDITIONS AND ARRANGEMENTS FOR INTERNATIONAL ASSISTANCE

Article 19

Any State Party to this Convention may request international assistance for property forming part of the cultural or natural heritage of outstanding universal value situated within its territory. It shall submit with its request such information and documentation provided for in Article 21 as it has in its possession and as will enable the Committee to come to a decision.

Article 20

Subject to the provisions of paragraph 2 of Article 13, sub-paragraph (c) of Article 22 and Article 23, international assistance provided for by this Convention may be granted only to property forming part of the cultural and natural heritage which the World Heritage Committee has decided, or may decide, to enter in one of the lists mentioned in paragraphs 2 and 4 of Article 11.

Article 21

1. The World Heritage Committee shall define the procedure by which requests to it for international assistance shall be considered and shall specify the content of the request, which should define the operation contemplated, the work that is necessary, the expected cost thereof, the degree of urgency and the reasons why the resources of the State requesting assistance do not allow it to meet all the expenses. Such requests must be supported by experts' reports whenever possible.

2. Requests based upon disasters or natural calamities should, by reasons of the urgent work which they may involve, be given immediate, priority consideration by the Committee, which should have a reserve fund at its disposal against such contingencies.

3. Before coming to a decision, the Committee shall carry out such studies and consultations as it deems necessary.

Article 22

Assistance granted by the World Heritage Committee may take the following forms:

- (a) studies concerning the artistic, scientific and technical problems raised by the protection, conservation, presentation and rehabilitation of the cultural and natural heritage, as defined in paragraphs 2 and 4 of Article 11 of this Convention;
- (b) provision of experts, technicians and skilled labour to ensure that the approved work is correctly carried out;
- (c) training of staff and specialists at all levels in the field of identification, protection, conservation, presentation and rehabilitation of the cultural and natural heritage;
- (d) supply of equipment which the State concerned does not possess or is not in a position to acquire;
- (e) low-interest or interest-free loans which might be repayable on a long-term basis;
- (f) the granting, in exceptional cases and for special reasons, of non-repayable subsidies.

SCHEDULE—continued**Article 23**

The World Heritage Committee may also provide international assistance to national or regional centres for the training of staff and specialists at all levels in the field of identification, protection, conservation, presentation and rehabilitation of the cultural and natural heritage.

Article 24

International assistance on a large scale shall be preceded by detailed scientific, economic and technical studies. These studies shall draw upon the most advanced techniques for the protection, conservation, presentation and rehabilitation of the natural and cultural heritage and shall be consistent with the objectives of this Convention. The studies shall also seek means of making rational use of the resources available in the State concerned.

Article 25

As a general rule, only part of the cost of work necessary shall be borne by the international community. The contribution of the State benefiting from international assistance shall constitute a substantial share of the resources devoted to each programme or project, unless its resources do not permit this.

Article 26

The World Heritage Committee and the recipient State shall define in the agreement they conclude the conditions in which a programme or project for which international assistance under the terms of this Convention is provided, shall be carried out. It shall be the responsibility of the State receiving such international assistance to continue to protect, conserve and present the property so safeguarded, in observance of the conditions laid down by the agreement.

VI. EDUCATIONAL PROGRAMMES**Article 27**

1. The States Parties to this Convention shall endeavour by all appropriate means, and in particular by educational and information programmes, to strengthen appreciation and respect by their peoples of the cultural and natural heritage defined in Articles 1 and 2 of the Convention.

2. They shall undertake to keep the public broadly informed of the dangers threatening this heritage and of activities carried on in pursuance of this Convention.

Article 28

States Parties to this Convention which receive international assistance under the Convention shall take appropriate measures to make known the importance of the property for which assistance has been received and the role played by such assistance.

VII. REPORTS**Article 29**

1. The States Parties to this Convention shall, in the reports which they submit to the General Conference of the United Nations Educational, Scientific and Cultural Organization on dates and in a manner to be determined by it, give information on the legislative and administrative provisions which they have adopted and other action which they have taken for the application of this Convention, together with details of the experience acquired in this field.

2. These reports shall be brought to the attention of the World Heritage Committee.

3. The Committee shall submit a report on its activities at each of the ordinary sessions of the General Conference of the United Nations Educational, Scientific and Cultural Organization.

VIII. FINAL CLAUSES**Article 30**

This Convention is drawn up in Arabic, English, French, Russian and Spanish, the five texts being equally authoritative.

Article 31

1. This Convention shall be subject to ratification or acceptance by States members of the United Nations Educational, Scientific and Cultural Organization in accordance with their respective constitutional procedures.

SCHEDULE—continued

2. The instruments of ratification or acceptance shall be deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Article 32

1. This Convention shall be open to accession by all States not members of the United Nations Educational, Scientific and Cultural Organization which are invited by the General Conference of the Organization to accede to it.

2. Accession shall be effected by the deposit of an instrument of accession with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Article 33

This Convention shall enter into force three months after the date of the deposit of the twentieth instrument of ratification, acceptance or accession, but only with respect to those States which have deposited their respective instruments of ratification, acceptance or accession on or before that date. It shall enter into force with respect to any other State three months after the deposit of its instrument of ratification, acceptance or accession.

Article 34

The following provisions shall apply to those States Parties to this Convention which have a federal or non-unitary constitutional system:

- (a) with regard to the provisions of this Convention, the implementation of which comes under the legal jurisdiction of the federal or central legislative power, the obligations of the federal or central government shall be the same as for those States Parties which are not federal States;
- (b) with regard to the provisions of this convention, the implementation of which comes under the legal jurisdiction of individual constituent States, countries, provinces or cantons that are not obliged by the constitutional system of the federation to take legislative measures, the federal government shall inform the competent authorities of such States, countries, provinces or cantons of the said provisions, with its recommendation for their adoption.

Article 35

1. Each State Party to this Convention may denounce the Convention.

2. The denunciation shall be notified by an instrument in writing, deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

3. The denunciation shall take effect twelve months after the receipt of the instrument of denunciation. It shall not affect the financial obligations of the denouncing State until the date on which the withdrawal takes effect.

Article 36

The Director-General of the United Nations Educational, Scientific and Cultural Organization shall inform the States members of the Organization, the States not members of the Organization which are referred to in Article 32, as well as the United Nations, of the deposit of all the instruments of ratification, acceptance, or accession provided for in Articles 31 and 32, and of the denunciations provided for in Article 35.

Article 37

1. This Convention may be revised by the General Conference of the United Nations Educational, Scientific and Cultural Organization. Any such revision shall, however, bind only the States which shall become Parties to the revising convention.

2. If the General Conference should adopt a new convention revising this Convention in whole or in part, then, unless the new convention otherwise provides, this Convention shall cease to be open to ratification, acceptance or accession, as from the date on which the new revising convention enters into force.

Article 38

In conformity with Article 102 of the Charter of the United Nations, this Convention shall be registered with the Secretariat of the United Nations at the request of the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Done in Paris, this twenty-third day of November 1972, in two authentic copies bearing the signature of the President of the seventeenth session of the General Conference and of the Director-General of the United Nations Educational, Scientific and Cultural Organization, which shall

SCHEDULE—continued

be deposited in the archives of the United Nations Educational, Scientific and Cultural Organization, and certified true copies of which shall be delivered to all the States referred to in Articles 31 and 32 as well as to the United Nations.



