

## **Position of the United State of America on Climate Change with Respect to the World Heritage Convention and World Heritage Sites**

This position paper has been prepared in advance of the Meeting of Experts regarding Climate Change and associated threats to World Heritage Sites and presents the position of the United States of America (USA) on this important issue. The Meeting of Experts, on March 16 and 17, 2006, at UNESCO Headquarters in Paris, France, and hosted by the United Kingdom and the World Heritage Centre, has been directed by the World Heritage Committee Decision 29 COM 7B.a to prepare a report on “Predicting and managing the effects of climate change on World Heritage” to be examined by the Committee at its 30<sup>th</sup> session (Vilnius, July 2006).

In 2005, the World Heritage Centre received four petitions from Non-Government Organizations (NGOs) seeking to have Sagarmatha National Park (Nepal), Huascarán National Park (Peru), the Great Barrier Reef (Australia), and the Belize Barrier Reef Reserve System (Belize) included on the List of World Heritage in Danger. The premise of adding these sites to the List of World Heritage in Danger is that the Outstanding Universal Value (OUV) of these sites is threatened by global climate change. The petitions argue that because global climate change may be resulting from greenhouse gas emissions from man-made sources, these threats constitute a violation of Article 6.3 of the World Heritage Convention. In February 2006, the World Heritage Centre received a similar petition regarding Waterton-Glacier International Peace Park (Canada/USA).

### **The invalidity of the Petition**

#### State Party Consent necessary for inclusion on In Danger List

Article 11.3 of the World Heritage Convention (Convention) states that, “The inclusion of a property in the World Heritage List requires the consent of the State concerned.” It continues to be the position of the USA that inclusion of any World Heritage Site on the List of World Heritage in Danger, even though not specifically articulated in Article 11.4 of the Convention, also requires consent of the State concerned. Therefore, the USA believes that without State Party concurrence, the Committee cannot favorably consider a petition that does not include consent of the State concerned.

#### Criteria for In Danger Listing under the Convention

Article 11.4 of the Convention describes the process for inclusion of a site on the List of World Heritage in Danger:

Article 11.4: 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 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.

Article 11.4 speaks of including sites that “are threatened by serious and specific dangers” and that require “major operations” for the conservation of the site including “an estimate of the cost of such operations.” It is the view of the USA that the petitions fail to identify serious and specific dangers, the major operations necessary for the conservation of the site, or an estimate of the costs of these operations, and thus, no assistance has been requested under the Convention. Article 11.4 does articulate types of serious and specific dangers some of which arguably may be the result of localized or global climate change, however, without a proposed action plan on the part of the State Party to remedy such dangers or impacts, the petition fails to contain the elements necessary to warrant including the site on the List of World Heritage in Danger.

Convention states that State Parties shall do no harm

Article 6.3 of the Convention says:

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.

The petitions argue that industrialized nations have violated Article 6.3 by failing to reduce greenhouse gas emissions thus not preventing global climate change which has caused damage to the World Heritage Sites named in the petitions. This argument fails for many reasons:

- First, the intent of the Convention in Article 6.3 is to require State Parties not to take actions that would damage World Heritage Sites, such as acts of war or other actions that can be directly or indirectly linked to damage to sites. Not taking an action, such as not reducing greenhouse gas emissions, or not signing on to an agreement like the Kyoto Protocol, does not constitute a “deliberative measure which might damage” a site.

- Second, whether a State is a party to the Kyoto Protocol does not equate, as the petitioners argue, to a reduction in alleged harmful emissions. In some cases, States that have ratified Kyoto show tremendous trends of increased emissions, while some non-Party States demonstrate a more positive emissions trend.
- Third, even if this provision applied to not taking particular actions, it would apply equally to all State Parties, not just the developed country Parties.
- Finally, there currently is not enough data available to distinguish whether climatic changes at the named World Heritage Sites are the result of human-induced climate change or natural variability.

### Criteria for In Danger under the Operational Guidelines

The Operational Guidelines for the Implementation of the World Heritage Convention (Guidelines) reiterate the requirements of Article 11.4 of the Convention:

IV.B.177. In accordance with Article 11, paragraph 4, of the *Convention*, the Committee may inscribe a property on the List of World Heritage in Danger when the following requirements are met:

- a) the property under consideration is on the World Heritage List;
  - b) the property is threatened by serious and specific danger;
  - c) major operations are necessary for the conservation of the property;
  - d) assistance under the *Convention* has been requested for the property;
- the Committee is of the view that its assistance in certain cases may most effectively be limited to messages of its concern, including the message sent by inscription of a property on the List of World Heritage in Danger and that such assistance may be requested by any Committee member or the Secretariat.

The Guidelines also set out specific criteria for the inscription of properties on the List of World Heritage in Danger in IV.B.178 and 180. IV.B.179 refers to cultural properties.

IV.B.178. A World Heritage property - as defined in Articles 1 and 2 of the *Convention* - can be inscribed on the List of World Heritage in Danger by the Committee when it finds that the condition of the property corresponds to at least one of the criteria in either of the two cases described below.

IV.B.180. In the case of **natural properties**:

- a) ASCERTAINED DANGER - The property is faced with specific and proven imminent danger, such as:
  - i) A serious decline in the population of the endangered species or the other species of outstanding universal value for which the property was legally established to protect, either by natural factors such as disease or by man-made factors such as poaching.
  - ii) Severe deterioration of the natural beauty or scientific value of the property, as by human settlement, construction of reservoirs

which flood important parts of the property, industrial and agricultural development including use of pesticides and fertilizers, major public works, mining, pollution, logging, firewood collection, etc.

iii) Human encroachment on boundaries or in upstream areas which threaten the integrity of the property.

b) POTENTIAL DANGER - The property is faced with major threats which could have deleterious effects on its inherent characteristics. Such threats are, for example:

- i) a modification of the legal protective status of the area;
- ii) planned resettlement or development projects within the property or so situated that the impacts threaten the property;
- iii) outbreak or threat of armed conflict;
- iv) the management plan or management system is lacking or inadequate, or not fully implemented.

None of these criteria apply to the sites petitioned for inclusion on the List of World Heritage in Danger; therefore, the petition is not warranted.

#### Guidelines require potential remedies from human action

IV.B.181 states that "...the factor or factors which are threatening the integrity of the property must be those that are amenable to correction by human action." It cannot be demonstrated that global climate change is caused only by man-made greenhouse gas emissions. It also cannot be demonstrated that if all human caused greenhouse gas emissions were eliminated immediately, climate change would be reversed in the foreseeable future. Therefore, it cannot be demonstrated that any threats to sites from climate change are amenable to correction by human action.

#### Guidelines state that most Threats to Natural Sites are man-made

IV.B.181 goes on to say that "...in the case of natural properties, most threats will be man-made and only very rarely a natural factor (such as an epidemic disease) will threaten the integrity of the property." Currently, there is not enough data available to distinguish whether climatic changes at the named World Heritage Sites are the result of human-induced climate change or natural variability. In fact, many World Heritage Sites were inscribed because of Outstanding Universal Value (OUV) that is or was the direct result of historic and radical climate change.

#### Guidelines do not provide for petition

IV.B.183 through 189 of the Guidelines describes the procedure for the inscription of properties on the List of World Heritage in Danger. The origin of any action to include a site on the List of World Heritage in Danger is with the Committee in consultation with the State Party and with advice from the Advisory Bodies. Information received from

other organizations may and will be brought to the attention of the Committee, but there is no provision in this section of the Guidelines for a petition to include a site on the List of World Heritage in Danger. Additionally, by satisfying the demands of the sponsors of this petition the Committee would set a dangerous precedent that would likely lead to subsequent petitions on any number of other issues affecting World Heritage Sites.

## **The Appropriate Role of the World Heritage Convention, Committee, and the Centre**

### Unifying qualities and controversy-averse culture of the World Heritage Convention

One of the most significant legacies of the World Heritage Convention is that it provides a non-confrontational forum for virtually every State Party in the world to come together in a positive atmosphere and united desire to protect and conserve the cultural and natural heritage of importance to all humankind regardless of what other differences nations may have between them. The camaraderie created by the unified spirit of conservation that results from the Convention creates a venue where nations can set aside their differences and focus on the global importance of working together to protect our most important shared heritage. This is evidenced by the fact that the Convention is one of the most widely subscribed to conventions in the history of the world and the United Nations.

### The workload of the Committee and the World Heritage Centre

The workload of the Committee and the World Heritage Centre has increased substantially over the past decade. There is no compelling argument for the Committee to address the issue of global climate change--especially at the risk of losing the unified spirit and camaraderie that has become synonymous with World Heritage. Moreover, accepting climate change as a basis for including a property on the List of World Heritage in Danger, suggests the possibility that in the future the Committee may have to consider petitions to include all World Heritage Sites, natural, cultural and mixed sites, on the List of World Heritage in Danger.

### The historic role of climate change in World Heritage

Climate change is as old as the earth itself. In fact, many of the features that constitute the OUV of most natural sites are the result of or linked to dramatic climate change. The timeframes in which the climate has historically changed are such that the impacts of climate change on World Heritage Sites cannot be affected by any short-term action that may result from including the petitioned sites on the List of World Heritage in Danger.

### UN Framework Convention on Climate Change

The United Nations has an effective forum for addressing climate change in the United Nations Framework Convention on Climate Change, which is the appropriate place to

debate the impacts, causes and potential remedies of climate change. Climate change is a complex topic in terms of science, economics, risk management and geo-politics. The Intergovernmental Panel on Climate Change, under the auspices of the World Meteorological Organization and the United Nations Environment Programme, offers another venue to address the study of the scientific and technical information on climate change.

There is not unanimity regarding the impacts, causes, and how to or if man can affect the changes we are observing. Even if there were a global consensus on the issues of climate change impacts, causes, and remedies, it is clear that even the most radical mitigations or remedial actions by man, even if taken immediately, would most likely not appreciably alter current climatic trends for decades or longer.

#### The appropriate role of the Committee, Centre, and the USA

The most appropriate role for the Committee on the issue of climate change and its potential impacts on World Heritage Sites is to collect and share scientific information of how to measure and predict the impacts of climate change, and when appropriate, reasonable and practicable, provide examples of management actions that could be taken to mitigate the impacts of climate change so as to ensure the ongoing conservation of the Outstanding Universal Value of World Heritage Sites. The United State of America has taken such steps and is willing and able to share its expertise in this area of study with other State Parties.