



United Nations Educational, Scientific and Cultural Organization
Organisation des Nations Unies pour l'éducation, la science et la culture

7, place de Fontenoy
75352 Paris 07 SP
France

☎ +33 (0)1 45 68 15 71
Fax +33 (0)1 45 68 55 70

Ref.: CL/WHC.6/02

3 May 2002

Subject: 26th session of the Bureau of the World Heritage Committee (8-13 April 2002)

Sir/Madam,

Please find attached, for your information, copies of letters received from the Permanent Delegation of Israel to UNESCO and from the United States Observer Mission to UNESCO.

The letters, which I have been requested to circulate to you, and which are reproduced as addressed to us, concern the draft decision on the protection of cultural heritage in the Palestinian Territories examined by the Bureau of the World Heritage Committee at its 26th session.

Please accept, Sir/Madam, the assurances of my highest consideration.

A handwritten signature in black ink, appearing to read "F. Bandarin".

Francesco Bandarin
Director
UNESCO World Heritage Centre

To: Representatives of States members of the World Heritage Committee

cc: National Commissions for UNESCO and Permanent Delegates to UNESCO of States members of the World Heritage Committee.

DÉLÉGATION PERMANENTE
D'ISRAËL
AUPRÈS DE L'U.N.E.S.C.O.

Paris, le 15 avril 2002

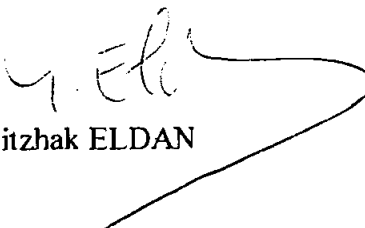
Cher Monsieur,

Suite à notre entretien téléphonique, veuillez trouver ci-joint mes commentaires sur le projet de résolution adopté à la réunion du Bureau du patrimoine mondial jeudi dernier.

Comme vous le savez, les observateurs à cette réunion et en premier lieu Israël – cible de ce projet de résolution scandaleuse – ont été empêchés, contrairement à toutes les règles démocratiques, de présenter leurs points de vue.

C'est pourquoi je vous demande de bien vouloir faire circuler ce texte auprès des membres du Comité du Patrimoine Mondial.

Veuillez agréer, Cher Monsieur, l'expression de mes sentiments distingués.


Yitzhak ELDAN

Monsieur Francesco Bandarin
Directeur
Centre du patrimoine mondial
UNESCO

**Declaration by Mr Yitzhak Eldan, Ambassador and Permanent Delegate of Israel to
UNESCO, 11 April 2002 during the Debate on the Situation in the Middle East
(which did not take place),
26th Session of the Bureau of the World Heritage Committee,
UNESCO Headquarters, Paris**

Mr Chairman, Dear Colleagues,

Four months ago in Helsinki, I expressed my hopes for peace for both Israelis and Palestinians as well as for future cooperation in the field of cultural heritage as soon as a peace agreement would be put in place and Palestinians would become a Party to the Convention. Unfortunately, the Palestinians are continuing their "Intifada" set off in September 2000 after rejecting the Camp David proposals, and multiplying terrorist attacks against Israeli civilians. This massive wave of terrorist violence culminated the first evening of Passover on 27 March 2002 at the Park Hotel in Netanya with the massacre of 28 men, women and children. Faced with the Palestinian refusal to denounce and fight terrorism, the Israeli government had no other choice than to carry out an anti-terrorist operation to defend its citizens. What other government would have acted differently? Israel is taking all necessary precautions, even at the cost of its own soldiers' lives, to avoid innocent civilian deaths or damage to religious or historic institutions in this campaign against the Palestinian terrorist coalition composed of Yasser Arafat's Fatah (Tanzim), the Hamas, Islamic Jihad and others. Israeli soldiers have strict orders to refrain from shooting at these monuments and to do nothing that can endanger their protected status or character. The Palestinians have systematically violated all norms by using these sites as a sanctuary and base for attacking our troops. This is the case for mosques such as the one in Ramallah where Palestinians have stocked Kassam missiles. This is the case also of the Omar Mosque in Bethlehem close to the area of the churches where a powerful explosive charge was discovered. This is the case at the Basilica of the Nativity occupied by Palestinian terrorists who, to make matters worse, took the resident priests and nuns hostage. The Custody of the Holy Land, which is responsible on behalf of the Vatican for the holy sites, is clear in this respect in its communiqué and I quote, "...the problematic situation created in and around the Basilica is the result of forced entry by armed men who then barricaded themselves inside. "

The Israeli army's goal today is to obtain the immediate evacuation of the terrorists located in the Basilica and to free their hostages. Penetration by armed combatants into churches in order to perpetrate hostile acts is a violation of the immunity and special protected status conferred on these monuments and thus constitutes a grave breach of the First Additional Protocol to the Geneva Conventions and a war crime according to any standard of international humanitarian law. The Bureau should condemn them. The presence of Palestinian combatants in the Church of the Nativity, in mosques and public places endangers the lives and security of religious personnel and civilians residing, working or worshipping in these areas, and according to international law, transforms these places into "military objectives". The use by terrorists of civilians as human shields is also a flagrant violation of the Fourth Geneva Convention and its Additional Protocols. It should be categorically condemned.

Mr Chairman, at the beginning of this week, States Party received a letter from the Director of the Division of Cultural Heritage. I draw your attention to the documents concerning the questions and replies on application of Articles 6 and 7 of the Second Protocol of the Geneva Convention on the Protection of Cultural Property. Israel applies the recommendations in these replies scrupulously and actually goes further by refraining from exercising its right to self-defence by attacking religious monuments where hundreds of armed combatants are hiding out.

Mr Chairman, the Draft Resolution which was ordered by the Palestinians solely to isolate Israel diplomatically, is very far from the facts that I have just presented. This is a political and partisan text which has no place in the context of the World Heritage Convention and creates a dangerous precedent. Accusations are made, judgement is passed even before the facts have been verified and responsibility established. Condemnation is based on lies and rumours and at the same time, a request is made for a mission to investigate the situation. Its adoption would be a reward for the terrorists who would be encouraged to continue to violate all that is held most precious to States Party to the Convention. That is why this Draft Resolution contrary to the truth should be rejected, all the more since Israel, State Party to the Convention, has been prevented from participating in the deliberations of the Working Group that drafted the text. Israel was unable to defend its point of view on the situation and also recalls on this occasion how the Palestinian Authority allowed a Jewish religious site, Joseph's Tomb in Nablus, to be transformed into a mosque in October 2000.

To conclude, I would like to reiterate my wish that Israelis and Palestinians find the road to peace again as soon as possible. We have a common enemy, terrorism, the same terrorism condemned by UNESCO at its last General Conference. It is striking the Church of the Nativity and innocent Israelis today. The role of all who are truly interested in protection of our heritage is to condemn this terrorism and call on armed Palestinians to immediately leave the church and free the hostages. Israel will do all in its power to contribute to a non-violent outcome to this situation.

Mr Chairman, The World Heritage Convention was established to advance international cooperation for the protection of the world's cultural and natural heritage. It was not intended to be manipulated for political purposes. The Draft Resolution adopted today by the Bureau only contributes to confrontation and is contrary to the spirit and the letter of the 1972. Convention It is a shame that one State Party to this Convention has been singled out, accused and condemned without verification. The credibility of our professional cooperation is based on both due process and wholehearted respect for the procedures enshrined in the World Heritage Convention. It is my hope that the World Heritage Committee will reject this Draft Resolution in its 26th Session in Budapest in June so that the poison of politicisation does not further compromise our work without in any way promoting peace.

The year 2002 is the United Nations Year for Cultural Heritage. Let us ensure its success by refusing to allow any partisan political agenda to dominate our professional commitment to the conservation of all the world's heritage.

**Déclaration de Monsieur Yitzhak Eldan, Ambassadeur d'Israël auprès de l'UNESCO,
le 11 avril 2002 à l'occasion du débat sur la situation au Proche Orient
(qui n'a pas eu lieu)
dans le cadre de la 26ème Session du Bureau du Patrimoine Culturel Mondial
UNESCO, Paris**

Monsieur le Président, Chers Collègues,

Il y a quatre mois à Helsinki, j'exprimais mes vœux de paix pour les Israéliens et les Palestiniens ainsi qu'une éventuelle coopération dans le domaine du patrimoine culturel et dès lors qu'il y aurait un accord de paix et que les Palestiniens seraient états parties de la Convention. Hélas les Palestiniens continuent leur « Intifada » déclenchée en septembre 2000 après avoir rejeté les propositions de Camp David, tout en multipliant leurs attaques terroristes contre des civils israéliens. Cette vague massive de violence terroriste a culminé le 27 mars 2002 au Park Hôtel à Netanya dans le massacre de 28 hommes, femmes et enfants le soir de la fête de Pâques. Face au refus palestinien de dénoncer le terrorisme et de lutter contre lui, le gouvernement israélien n'avait pas d'autre choix que de prendre la défense de ses citoyens dans le cadre d'une opération anti-terroriste. Quel gouvernement aurait réagi différemment ?! Dans cette campagne contre la coalition terroriste palestinienne du Fatah (Tanzim) de Yasser Arafat, du Hamas, du Djihad islamique et d'autres. Israël prend toutes les précautions nécessaires même au prix de la vie des soldats pour ne pas causer des pertes civiles innocentes ou d'endommager des institutions religieuses ou historiques. Les soldats israéliens ont des instructions très strictes de ne pas tirer sur ces monuments et de ne rien faire qui puissent porter atteinte à leur caractère spécial. Les Palestiniens ont violé de façon systématique toutes les normes en abusant de ces lieux comme sanctuaire et comme base d'attaque contre nos forces. C'est le cas de mosquées comme celle de Ramallah où des Palestiniens ont stocké des missiles kassam. C'est le cas de la mosquée d'Omar à Bethléhem, pas loin des églises, où une forte charge explosive a été trouvée. C'est le cas aussi à la Basilique de la Nativité qui a été occupé par des terroristes palestiniens qui, de surcroît, ont pris comme otage les prêtres et les religieuses qui s'y trouvaient dedans. Le témoignage de la Custodie de Terre Sainte, responsable au nom du Vatican des lieux saints est clair à cet égard et je cite, "....la situation problématique créée dans et autour de la Basilique est le résultat de l'introduction violente effectuée par les hommes armés qui se sont ensuite barricadés sur place."

Le but de l'armée israélienne aujourd'hui est d'obtenir l'évacuation immédiate des terroristes qui se trouvent dans la Basilique et de libérer leurs otages. L'entrée par la force d'hommes armés dans une église pour but de se servir de ce lieu saint comme poste de guerre est une violation de l'immunité et de la protection spéciale dont jouissent ces monuments et donc du Premier Protocole de la Convention de Genève et un crime de guerre d'après les critères du droit humanitaire international. Le Bureau devrait les condamner. La présence de combattants palestiniens dans l'Eglise de la Nativité, dans des mosquées et dans des lieux civils met en danger la vie de leurs habitants et des fidèles, et d'après le droit international, transforme ces lieux en objectifs militaires. L'utilisation par les terroristes des civils comme boucliers humains

est aussi une flagrante violation de la Quatrième Convention de Genève et de ses Protocoles Attachés. Ceci doit être condamné catégoriquement.

Monsieur le Président, au début de cette semaine, les états parties ont reçu un courrier de la part de la Directrice de la Division du Patrimoine Culturelle. J'attire votre attention sur les documents dans lesquels figurent les questions et les réponses relatives à l'application des Articles 6 et 7 du Second Protocole de la Convention de la Haye sur la Protection des Biens Culturels. Israël applique à la lettre les recommandations incluses dans les réponses et va au-delà de celles-ci en n'utilisant pas son droit d'attaquer les monuments religieux où sont retranchés des centaines d'hommes armés.

Monsieur le Président, le Projet de Résolution qui a été commandité par les Palestiniens pour le seul but d'isoler Israël diplomatiquement est loin, très loin des faits que je viens de présenter. C'est un texte à caractère politique et partisan qui n'a pas sa place dans le cadre de la Convention du Patrimoine Mondial et qui crée un précédent dangereux. On accuse, on juge avant même de vérifier les faits et établir les responsabilités. On condamne sur la base de mensonges et de rumeurs et en même temps on demande une commission de vérification. Son adoption serait une récompense pour les terroristes qui y trouveraient une source d'encouragement à continuer à violer tout ce qui est de plus cher aux Etats parties de la Convention. C'est pourquoi ce Projet de Résolution contraire à la vérité doit être rejeté, d'autant plus qu'Israël, Etat partie de la Convention, a été empêché de participer aux délibérations du Groupe de travail qui a rédigé le texte. Israël n'a pu défendre son point de vue sur la situation et rappellera à cette occasion aussi comment l'Autorité palestinienne a permis en octobre 2000 la transformation d'un site religieux juif, le Tombeau de Joseph à Nablus en une mosquée.

Pour terminer, je réitère mon vœu de voir Israéliens et Palestiniens retrouver le chemin de la paix le plus tôt possible. Nous avons un ennemi commun, le terrorisme, celui-là même qui a été condamné par l'UNESCO à sa dernière Conférence Générale. Il frappe aujourd'hui la Basilique de la Nativité et des Israéliens innocents. Le rôle de ceux qui sont véritablement intéressés par la protection de l'héritage est de condamner ce terrorisme et d'appeler les Palestiniens armés à quitter immédiatement l'église et à libérer les otages. Israël de son côté fera tout pour contribuer à une issue non-violente de cette situation.

Monsieur le Président, la Convention relative à la protection du patrimoine mondial a été établie afin de promouvoir la coopération internationale dans le domaine de la protection du patrimoine mondial culturel et naturel et non pour être manipulée à des fins politiques. Le Projet de résolution adopté aujourd'hui par le Bureau a pour seul effet la confrontation. Il est contraire aussi bien à l'esprit qu'à la lettre de la Convention de 1972. Il est honteux qu'un Etat partie de cette Convention soit distingué, mis en accusation et condamné sans vérification. La crédibilité de notre coopération professionnelle est fondée aussi bien sur le respect des principes généraux de droit que sur l'adhésion sincère aux procédures spécifiques qui figurent dans la Convention. J'espère que le Comité pour le Patrimoine Mondial rejettera ce Projet de Résolution lors de sa 26ème Session à Budapest en juin afin que le poison de la politisation ne compromette plus notre travail sans en aucune manière promouvoir la paix.

L'année 2002 est l'Année internationale des Nations unies pour le Patrimoine mondial. Faisons en sorte d'assurer son succès en refusant toute manœuvre politique de s'imposer au détriment de notre souci professionnel de préserver le patrimoine mondial.



UNITED STATES OBSERVER MISSION TO UNESCO

AMERICAN EMBASSY
2, Avenue Gabriel
75382 Paris Cedex 08

April 30, 2002

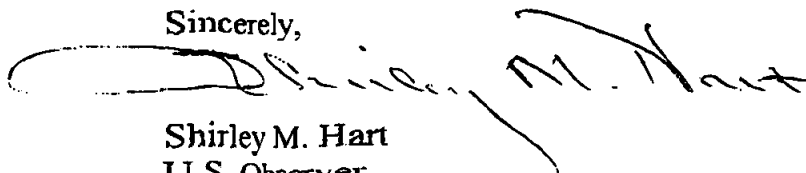
Mr. Francesco Bandarin
Director, World Heritage Center
UNESCO
7, place de Fontenoy
75352 PARIS 07 SP

Dear Mr. Bandarin:

On April 17, 2002, I conveyed to your office a cover letter and statement regarding U.S. views on the World Heritage Bureau's draft resolution on the prevailing situation in the Palestinian Territories, which was approved on April 11. May I now request that both the cover letter and U.S. statement be officially forwarded by the World Heritage Center to all World Heritage Committee members, well in advance of their 26th session in Budapest this June.

Your assistance in this matter would be very much appreciated.

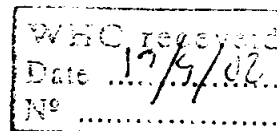
Sincerely,



Shirley M. Hart
U.S. Observer



UNITED STATES OBSERVER MISSION TO UNESCO



AMERICAN EMBASSY
2, Avenue Gabriel
75382 Paris cedex 08

April 17, 2002

Mr. Francesco Bandarin
Director, World Heritage Center
UNESCO
7, place de Fontenoy
75352 PARIS 07 SP

Fax: 01 45 68 55 70

Dear Mr. Bandarin:

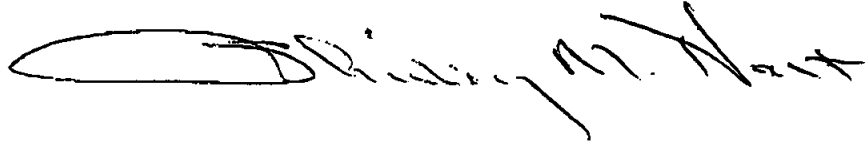
On April 11, 2002, the United States Observer Delegation and other non-Bureau Delegations to the 26th session of the World Heritage Bureau (Paris) were prevented by a decision of the Chairman from making oral or written statements regarding a draft resolution proposing that the World Heritage Committee condemn the destruction and damage caused to cultural heritage in the Palestinian Territories as a "crime against the common cultural heritage of humanity". Because we were deprived of the customary method of making our views on this matter known, this letter transmits for your information the text of the statement the U.S. Delegation would have offered had we been allowed to do so. (The text of the draft resolution is also attached.)

Our statement explains why we believe the draft resolution to be ill-advised and flawed in both process and content. Foremost, however, is the fundamental issue of freedom of expression in World Heritage deliberations – the primary international deliberative body specifically charged with the protection of the world's cultural and natural heritage.

The Chairman's unprecedented suppression of all substantive debate by the parties directly concerned and by all interested Observers is contrary to both the World Heritage Committee's Rules of Procedure and its long-standing customary practice of open discussion. In our opinion, this decision creates the impression that the World Heritage steering committee operates in an arbitrary manner, and serves to damage the credibility of the World Heritage Convention and its governing bodies.

We encourage all delegations to support, as they have in the past, a free and open debate on all substantive issues at the upcoming session of the World Heritage Committee in Budapest.

Sincerely,

A handwritten signature in black ink, appearing to read "Shirley M. Hart". The signature is written in a cursive style with a large, looped initial "S".

Shirley M. Hart
U. S. Observer

**STATEMENT BY THE DELEGATION OF THE UNITED STATES
REGARDING THE WORLD HERITAGE BUREAU'S DRAFT RESOLUTION
ON THE PREVAILING SITUATION IN THE PALESTINIAN TERRITORIES**

- The motion authorizing this resolution was brought forward without advance notice to the Bureau and its observers, and was not circulated in writing, as is customary practice.
- Contrary to the spirit of Rule 18 of the World Heritage Committee's Rules of Procedure, the draft resolution was prepared in closed session by four Bureau member states. Contrary to Rule 8.1 of the same Rules, representatives of the State Party involved and interested Observers were excluded from the drafting group.
- Adequate time was not permitted for review of the resolution, and no time for its debate.
- It was noted in the Bureau's initial deliberations regarding the establishment of the draft working group that the Committee used a similar resolution and process leading up to its 25th meeting in Helsinki when it condemned the recent destruction of the Bamiyan statues in Afghanistan. This is not a valid comparison because:
 - a) Numerous formal communications and pleas to the Taliban by senior UNESCO officials went unheeded, and no representative of Afghanistan appeared at any of the Committee meetings where discussion of the Bamiyan resolution took place.
 - b) In the current situation, both the Israeli and Palestinian Observers were continuously present, but were not permitted to participate in the drafting sessions.
 - c) Importantly, the sites referenced in the Palestinian territories are not on the World Heritage List and have not been nominated to it. Alternatively, the Bamiyan statues were not listed but had been nominated, rendering a clear idea of what was destroyed.
 - d) Because the situation in the Palestinian territories is very fluid at present, the facts regarding damage to the sites and which agents were responsible are not clearly known. Events are unfolding by the hour.

The U.S. Delegation trusts that the World Heritage Bureau will wish to avoid any action that might be seen as politicizing the Convention.

- The Bureau should exercise caution in forwarding recommendations to the Committee regarding cases involving sites that have not been listed, or even proposed for listing, when it has incomplete or conflicting information.
- However, a call for all parties to show self-restraint and to cooperate in conserving the cultural heritage of the region is judicious.

ORIGINAL TEXT**FINAL DRAFT**

A working group was appointed by the Bureau at its 26th session to prepare a draft resolution on the prevailing situation in the Palestinian Territories to be submitted to the Committee for adoption at its 26th session in Budapest, June 2002. The working group was composed of the following States Parties:

South Africa (Chair)

Egypt

Greece

Hungary

Secretariat (Rapporteur)

The following text was prepared by the Working Group for consideration by the 26th session of the Bureau:

The Bureau of the World Heritage Committee, at its 26th session, recommends that the World Heritage Committee adopts the following Draft Resolution at its 26th session:

DRAFT RESOLUTION**The Committee:**

Recalling the Resolution adopted by the 13th General Assembly of States Parties to the World Heritage Convention concerning the means of ensuring better protection of the common heritage of humanity and the relevant decision taken by the Committee at its 25th session in Helsinki (paragraph IV.16 of the report of the session),

Recalling further the Resolution adopted by the 31st session of the General Conference of UNESCO concerning "Acts constituting a crime against the common heritage of humanity" and all the United Nations Resolutions related to the conflict and in particular Resolutions 1397, 1402 and 1403 of the Security Council of the United Nations and the Resolution 53/27 of the General Assembly on Bethlehem-2000,

Noting the provisions of the Convention for the Protection of Cultural Property in the Event of Armed Conflict (The Hague, 1954) and its Protocols, the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1970), the UNIDROIT Convention, the World Heritage Convention Concerning the Protection of the World Cultural and Natural Heritage (1972), the Geneva Conventions (1949) and its Additional Protocols (1977) and other relevant international legal instruments,

Expressing its grave concern for the continuing loss of all innocent lives and at the destruction and damage caused to the Cultural Heritage in the Palestinian Territories, in particular the reported damage caused to the Basilica of the Nativity in Bethlehem, birth place of Jesus Christ and one of the most significant and historic sites on earth; the historic centre of Nablus including its Mosques and the old city of Hebron,

Emphasizing that, despite the fact that the above-mentioned properties are not inscribed on the World Heritage List, this does not mean that they are not of outstanding universal value according to Article 12 of the World Heritage Convention,

Condemns the destruction and damage caused to the cultural heritage in the Palestinian Territories as a "crime against the common cultural heritage of humanity" and strongly urges Israel, as a State Party to the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict (The Hague, 1954) and its first Protocol and to the World Heritage Convention Concerning the Protection of the World Cultural and Natural Heritage, to ensure the protection of all heritage in the Palestinian Territories in its multicultural diversity;

Invites the Director-General of UNESCO to organize a technical fact-finding and consultative mission to investigate, assess and evaluate the extent of the destruction and damage of cultural heritage in the Palestinian Territories and to take appropriate actions for the rehabilitation and restoration of the damaged cultural heritage and restitution of cultural properties, and to this end, *appeals* to the two concerned parties to cooperate with UNESCO in its efforts in the protection of the cultural heritage;

Further invites the Director-General of UNESCO to take all appropriate actions, in accordance with the mandate of the Organization, and within the framework of relevant UNESCO Conventions, to prevent further destruction of cultural heritage in the Palestinian Territories.