



Committee for the Protection of Cultural
Property in the Event of Armed Conflict

Information meeting on the 37th session of the World Heritage Committee

6 May 2013

Intervention by Benjamin GOES,
Chairperson of the Committee for the Protection of Cultural Property in the Event of
Armed Conflict

Mister President,

Mister Assistant Director-General,

Your Excellences,

Dear colleagues,

I would like to warmly thank His Excellency Mister Sok An, Chairperson of the World Heritage Committee, together with the World Heritage Centre, and, in particular, its Director, Mr Rao, for having invited me to speak to you.

My speech will focus on the existing synergies between the 1972 Convention and the 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict and, in particular, its 1999 Second Protocol.

1. The complementary roles of the World Heritage Convention and the Second Protocol to the Hague Convention

Although both instruments only concern immovable cultural heritage, the possibilities for synergies between the 1972 Convention and the 1954 Hague Convention and its Second Protocol are real and important.

The dramatic events that recently occurred in Mali revealed an urgent need to think about this issue. In addition to the horrors that an outbreak of any armed conflict brings, we saw properties inscribed on the World Heritage List deliberately attacked and destroyed, sometimes driven by a determination to eradicate a whole part of cultural heritage and memory.

Following this tragic event, Mali became a State party to the Second Protocol to the 1954 Hague Convention and the international community mobilised forces to safeguard what could still be saved, through the use of different programmes and funds. On that occasion, the World Heritage Fund and the Fund for the Protection of Cultural Property in the Event of Armed Conflict established by the Second Protocol were used, separately but nevertheless complementarily. This shows that we can and must act in cooperation, with urgency, in emergency situations.

2. The protection established by the Second Protocol

Let me now come to the analysis of the protection provided by the Second Protocol and the importance of that protection for the properties included on the World Heritage List of States which are party to both agreements.

The importance of the 1999 Second Protocol is self-evident: the latter Protocol can provide a more effective protection for the cultural properties already included on the World Heritage List, particularly in the event of armed conflict.

That specific protection in the event of armed conflict requires that two conditions are met:

- the State party to the 1972 Convention must firstly also be party to the Second Protocol, thus the importance for States to ratify that Protocol and, if necessary, the Hague Convention if that has not already been done so. In this respect, I respectfully request the support of World Heritage experts to encourage their relevant authorities to undertake those ratifications;
- the State Party must then have obtained the inclusion of the cultural property that it wishes to protect on the List of Cultural Property under Enhanced Protection established by the Second Protocol. May I add that to date, five World Heritage properties have already been entered in this List. This year two States party to the Second Protocol submitted five World Heritage Properties for the granting of enhanced protection.

The granting of enhanced protection provides immunity to the property concerned in the event of armed conflict, since the latter property may not be the subject of attacks nor may it be used for the support of a military action. It is further provided that the States Parties adapt their domestic law to establish as criminal offences serious breaches of the 1999 Second Protocol and to establish the jurisdiction of their courts to repress such breaches. Those breaches include certain acts committed intentionally and in breach of the 1954 Hague Convention or its Second Protocol including acts that affect the immunity of cultural property under enhanced protection.

If a cultural property is to benefit from enhanced protection, a cultural property must comply with the three criteria listed in the Second Protocol. The first is specific to the protection of cultural properties in the event of armed conflict and requires an undertaking by the State not to use the cultural property concerned for military purposes or to shield military sites. The other two criteria are closer to our joint concerns. The second criterion actually lays down that the cultural property concerned must be of the greatest importance for humanity. For the evaluation of this criterion, and in perfect complementarity with the 1972 Convention which introduces the notion of the outstanding universal value, it is presumed, subject to other pertinent considerations, that the immovable cultural properties included on the World Heritage List meet the criterion of cultural heritage of the greatest importance for humanity.

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Lastly, a third and last criterion outlines that the State must prove that the immovable cultural property concerned is, I quote, “protected by adequate domestic, legal and administrative measures recognising its exceptional cultural and historic value and ensuring the highest level of protection”. Those requirements cover any form of negligence, deterioration or destruction, even in peacetime. It is also specified that those measures must be effective in practice and must produce the expected results.

This special attention regarding (upstream) conservation and (downstream) safeguarding, even in peacetime, if it was applied to World Heritage properties, could only strengthen their actual protection, at the very time when the international community is often disarmed when faced with situations where World Heritage properties are in jeopardy.

3. Synergies between 1972 World Heritage Convention and the 1999 Second Protocol

Let me now turn to the synergies that can be implemented between the 1972 Convention and the 1999 Second Protocol.

The objective of the World Heritage Convention is the conservation of heritage through measures of protection, management and restoration. Its Article 11, paragraph 4, considers armed conflicts as a possible cause for inclusion of a property on the World Heritage endangered list. Likewise, the Operational Guidelines for the implementation of World Heritage have already integrated that notion of risks into different provisions¹. The external auditor who assessed the 1994-2011 Global Strategy of the 1972 Convention recommended² reviewing and strengthening paragraphs 115 and 116 of the Operational Directives so that nomination files are complemented by a risk and disaster management and control plan. I think that an *ad hoc* work group expressed similar recommendations with a view to the 36th meeting of the World Heritage Committee. This therefore fits in perfectly with the concerns related to the application of the Second Protocol.

The Committee for the Protection of Cultural Property in the Event of Armed Conflict works relentlessly to optimise its action and to facilitate the work of those States Parties that would like to request enhanced protection status for some of their cultural properties.

Consequently, there are a series of concrete approaches to synergies between the work of our two Committees, in order to reinforce the protection of cultural property deemed to meet the criterion of the greatest importance for humanity and World Heritage property in particular, and I would like to share them with you.

4. A concrete approach to synergies through the modification of the Format for the proposed inclusion of property on the World Heritage list

The Committee for the Protection of Cultural Property in the Event of Armed Conflict decided, at its seventh meeting in December 2012, to propose that the World Heritage Committee should modify its Format for the proposed inclusion of property on the World Heritage list. The idea is a simple one: to add the possibility for a State party to the Second Protocol to be able to request at the same time

¹ Art 6,3) and 11,4) of the Convention, and Art. 44; 179,180 and 182; 241 and 239 of the Guidelines

² Recommendation 17

the inscription of the cultural property concerned on the World Heritage List and the List of Cultural Property under Enhanced Protection.

Let me emphasise the fact that this possibility would be purely optional. In other words, it is not obligatory. Furthermore:

- it would only concern future requests for inscription on the World Heritage List; for properties already included, other options may be considered,
- that optional request related to the granting of enhanced protection would only concern immovable property, as this is the only property protected by both instruments,
- lastly, and naturally, this addition to the Format for the proposed inclusion of property on the World Heritage list would only concern States Parties to the Second Protocol wishing to apply for the granting of enhanced protection for the cultural property concerned.

Despite these mitigations, the States Parties to both agreements may find a large number of advantages in this separate request for protection expressed in a single form, the main advantages are:

1. Firstly, this minor modification of the format will represent a major reduction in the workload for the States, which will be able to submit a property to the two Committees on a single form from now on,
2. Secondly, that single file will represent a significant cost reduction for States,
3. Thirdly, if the double file is accepted, a corollary to this working method will be the increased protection of cultural properties included on the World Heritage list, in particular in the event of armed conflicts, thereby satisfying a certain aspiration of each of the participants at this meeting,
4. Fourthly and lastly, that joint request will reinforce the link between the two instruments and will represent serious economies for UNESCO, especially through the implementation of a joint World Heritage – Second Protocol evaluation, since a series of evaluation criteria will be shared.

This proposal by the Second Protocol Intergovernmental Committee, which I have the honour to chair, together with the practical terms and conditions were communicated by the Assistant Director-General for Culture to the Chairperson of the World Heritage Committee in a letter dated 20 March 2013. In that letter, it is specified, that I quote, “the World Heritage Secretariat received the following elements relating to the abovementioned decisions with a view to their incorporation into the document concerning the revision of the Operational Guidelines that should guide the implementation of the World Heritage Convention which will be reviewed by the World Heritage Committee next June. In this respect, I inform you that the matter has already been examined between the 1954 Convention Secretariat and the World Heritage Centre: the abovementioned decisions will be included in the working documents for the 37th session of the World Heritage Committee”. You will find a reference to the synergies in paragraphs 14 to 16 of the document relating to point 12 of the provisional agenda, which deals with the revision of the Operational Guidelines. We will therefore have the opportunity to discuss the matter later in June within the relevant working group, and I am delighted that UNESCO supports this approach.

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5. Other avenues for synergies

Lastly, I would not like to leave you without concluding that, in addition to the synergy that I have just mentioned, other concrete possibilities for synergies exist and could be implemented.

One of these could, for example, concern the organisation of joint missions for the examination of the state of conservation of properties included on both Lists.

Likewise and as Mr Bandarin rightly suggested, the adaptation of the form concerning section 2 of the periodic report in the context of next year for properties already included on the World Heritage list, according to the terms and conditions to be examined by both secretariats for submission to their respective Committee, would be likely to improve the consistency of those reports.

As you see, the reflection, even if it is only at its beginning, has already got off to a good start. It must, of course, be more thoroughly examined. But more than anything, it seems that such concrete, pragmatic and effective actions are the best way for synergies to be successful in the field and take firm root in reality. I am therefore relying on you to support everything that can make UNESCO's action even more rapid and more efficient. Treading this path will be beneficial to everyone, and first and foremost and above all to the achievement of our shared goal: to provide the highest protection to the most precious immovable cultural property for peoples, recognised as such by UNESCO.

Thank you for your attention.

Benjamin GOES

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Committee for the Protection of
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