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Организация
Объединенных Наций по
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للتربية والعلم والثقافة

联合国教育、
科学及文化组织

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CLT-12/7.COM/CONF.201/6
Paris, 7 November 2012
Original: French

**SECOND PROTOCOL TO THE HAGUE CONVENTION OF 1954
FOR THE PROTECTION OF CULTURAL PROPERTY
IN THE EVENT OF ARMED CONFLICT**

**COMMITTEE FOR THE PROTECTION OF CULTURAL PROPERTY
IN THE EVENT OF ARMED CONFLICT**

Seventh meeting
UNESCO Headquarters, Paris
20 to 21 December 2012

Item 5 of the Provisional Agenda:
**Proposal to Strengthen Synergies between the 1999 Second Protocol to the
Hague Convention of 1954 for the Protection of Cultural Property in the Event of
Armed Conflict and the 1972 World Heritage Convention**

(prepared by Belgium)

I. Basis for the proposal

In light of violent attacks against cultural property of outstanding universal value during armed conflicts (e.g. the destruction of the giant Buddhas of Bamiyan in Afghanistan or the mausoleums in Timbuktu, Mali), it is necessary to efficiently strengthen the protection of cultural property of the greatest importance for humanity.

To reinforce such protection, it is advisable to encourage States

1. That are party to the 1999 Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict to inscribe their cultural property already on the World Heritage List on the List of Cultural Property under Enhanced Protection, as provided for by the aforementioned Second Protocol; and
2. That are not party to the 1999 Second Protocol, or even to the 1954 Hague Convention, to become party to them.

Indeed, the 1999 Second Protocol to the Hague Convention of 1954 requires:

1. That States Parties adapt their national legislation to establish as criminal offences under their domestic law the offences set forth in Article 15 (1) (listed below), and to make them punishable by appropriate penalties.
 - a. *making cultural property under enhanced protection the object of attack;*
 - b. *using cultural property under enhanced protection or its immediate surroundings in support of military action;*
 - c. *extensive destruction or appropriation of cultural property protected under the Convention and this Protocol;*
 - d. *making cultural property under the Convention and this Protocol the object of attack;*
 - e. *theft, pillage or misappropriation of, or acts of vandalism directed against cultural property protected under the Convention.*
2. That States Parties, in accordance with Article 21, adopt such legislative, administrative or disciplinary measures to suppress any use of cultural property in violation of the Hague Convention of 1954 or its Second Protocol, as well as any illicit import, other removal or transfer of ownership of cultural property from occupied territory once such act has been committed.
3. That comprehensive conservation and safeguarding measures are taken, as provided for by Article 10(b) of the aforementioned Second Protocol. This criterion for inclusion in the List of Cultural Property under Enhanced Protection ensures the highest level of protection not only in the event of armed conflict, but also during peacetime. This may be very useful for cultural properties included on the World Heritage List.

To achieve this goal, Belgium proposes to initiate a discussion with the World Heritage Committee with a view to slightly modifying its Format for the nomination of properties for inscription on the World Heritage List in order to insert fields allowing for the simultaneous inscription of the same property on the List of Cultural Property under Enhanced Protection.

II. Scope of the proposal

1. Scope of the subject-matter of the request: immovable cultural property

Given that the definitions of cultural property in the Hague Convention of 1954 and the 1972 World Heritage Convention are not identical, the scope of application of these Conventions is not identical either.

Only immovable cultural property is covered by both Conventions, and thus concerned by our proposal.

2. Temporal scope: future requests

Our proposal would only concern new requests for inscription on the World Heritage List.

Requests for the granting of enhanced protection, as provided for by the Second Protocol, concerning immovable cultural property already on the World Heritage List must therefore follow the existing procedure. In this case, States Parties must use the *ad hoc* form established by the Committee for the Protection of Cultural Property in the Event of Armed Conflict, and submit it to the Committee's Secretariat before the 1st of March each year. The Committee normally decides on these requests during its meetings that are usually held in December.

III. Revision of the Format for the nomination of properties for inscription on the World Heritage List

1. The Format for the nomination of properties for inscription on the World Heritage List under the 1972 Convention could therefore **provide for the possibility for States that are also party to the Second Protocol to simultaneously request the inscription of a property on the World Heritage List and the granting of enhanced protection** through the addition of a section: "Request for the granting of enhanced protection pursuant to the 1999 Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict : yes – no".
2. **Under the section *Protection and Management of the Property*, add a new section 5.k:** "Adequate domestic legal and administrative measures recognizing the outstanding cultural and historical value of the property (Article 10(b) of the Second Protocol to the 1954 Hague Convention)" for the Parties to the Protocol wishing to request enhanced protection for their property.
3. **The addition of an Annex including the Non-military use declaration** with the signature of the competent authorities (which are not necessarily the same as those for a World Heritage nomination).
4. **The addition of section §119 bis in the Guidelines explaining the conditions** under which enhanced protection can be requested and the type of information to provide. It would be sufficient to simply reiterate the relevant provisions of the Guidelines for the Implementation of the Second Protocol .

IV. Administrative and decision-making process

By having a single form, two requests could be made at the same time while being governed by two clearly distinct Conventions.

Each file would thus follow its specific administrative process.

Consequently, if a State wishes to request inscription on the World Heritage List and on the List of Cultural Property under Enhanced Protection, the inscription procedures would follow their respective course and continue being processed separately by the two secretariats (1972 and 1999). Cultural property is inscribed on either list independently, and related decisions would therefore not be linked.

Nevertheless, it may be appropriate for the Committee for the Protection of Cultural Property in the Event of Armed Conflict to decide on such requests after the World Heritage Committee's decisions. In fact, given the bridges already built by the Committee for the Protection of Cultural Property in the Event of Armed Conflict between the Second Protocol and the 1972 Convention, properties on the World Heritage List – which are recognized as having “outstanding universal value” – are, in principle, deemed to meet the criterion “of the greatest importance for humanity” laid down in Article 10(a) of the Second Protocol.

V. Advantages of this proposal

At present, 190 States are party to the 1972 Convention, whereas only 63 States are party to the 1999 Second Protocol to the 1954 Hague Convention.

This amended form would offer:

- **Better visibility of the Hague Convention of 1954** for the Protection of Cultural Property in the Event of Armed Conflict and its two Protocols, **thereby increasing accession to these instruments, particularly the 1999 Second Protocol.**
- **Better protection for cultural property nominated for inscription on the UNESCO World Heritage List**, within the meaning of the 1972 World Heritage Convention (recent examples of Tunisia, Libya...). In fact, it would allow enhanced protection for properties that currently enjoy only general protection given to States Parties to the 1954 Hague Convention, but no legal protection for cultural properties included on the World Heritage List for those States that have not ratified the 1954 Convention.
- **Increased visibility for property under enhanced protection or for which enhanced protection has been requested**, within the meaning of the 1999 Second Protocol to the aforementioned 1954 Hague Convention. Concretely, this would improve the protection of cultural property being of the greatest importance for humanity during armed conflicts.
- **Better protection of cultural property of the greatest importance for humanity, including in peacetime**, since the conservation and safeguarding measures provided for in the Second Protocol are broad, comprehensive and permanent obligations.
- A **reduced workload for the States**, since a single form would avoid the unnecessary duplication of work, such as having to repeatedly provide UTM coordinates, descriptive information, and legislation.

In summary, these synergies, and the complementarity of these two instruments, would benefit Member States, international instruments for the protection of cultural property, and cultural property as a whole.

The Committee may wish to adopt the following decision:

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The Committee,

1. Recalling its decision adopted during its fifth meeting concerning synergies between the Second Protocol to the Hague Convention and the other relevant UNESCO instruments and programmes,
2. Having examined the document CLT-12/7.COM/CONF.201/6, and thanking Belgium for having prepared it,
3. Welcomes the reinforcement of synergies that this proposal could establish between the Second Protocol and the World Heritage Convention of 1972,
4. Invites its Bureau to:
 - raise the awareness of the World Heritage Committee regarding possible synergies between the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict, and particularly its 1999 Second Protocol, and the 1972 World Heritage Convention;
 - present to the World Heritage Committee the concrete proposal detailed above; and,
 - initiate a discussion with the World Heritage Committee with a view to implementing this proposal to modify the Format for the nomination of properties for inscription on the World Heritage List;
5. Requests the Secretariat to present a progress report based on the work accomplished to its eighth meeting.