

**UNITED NATIONS EDUCATIONAL,
SCIENTIFIC AND CULTURAL ORGANIZATION**

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

(Paris, 11 June 2007)

FINAL REPORT

I. First session of the meeting (Paris, 26 October 2006)

1. The first meeting of the Committee for the Protection of Cultural Property in the Event of Armed Conflict (“the Committee”) took place in Paris on 26 October 2006. It was attended by the representatives of the following ten Committee Members (out of twelve): Argentina, Austria, Cyprus, El Salvador, Finland, Greece, Lithuania, Peru, Serbia and Switzerland. Were also attending as observers : eight Parties (Bulgaria, Canada, Ecuador, Egypt, Guatemala, Luxembourg, Slovakia and Spain) out of the then forty-two Parties to the Second Protocol; five States party to the Hague Convention not Parties to the Second Protocol (the Czech Republic, Iraq, Monaco, the Russian Federation and Turkey); three other UNESCO Member States (Andorra, Japan and the United States of America); one Permanent Observer (Palestine); one intergovernmental organization (the International Committee of the Red Cross - ICRC); and four non-governmental organizations (the International Council on Archives - ICA, the International Council of Museums - ICOM, the International Council on Monuments and Sites - ICOMOS and the International Federation of Library Associations and Institutions - IFLA) – the ICA observer also represented the International Committee of the Blue Shield (ICBS). A copy of the list of participants is available upon request from the Secretariat.
2. Following the election of the Chairperson (Dr. Christoph Bazil, Austria), of four Vice-Chairpersons (Cyprus, Finland, Lithuania and Peru) and the Rapporteur (Mr Rino Büchel, Switzerland), the meeting adopted its agenda contained in document CLT-06/CONF/205/1 without amendment. The meeting then adopted the Rules of Procedure contained in document CLT-06/CONF/205/2 also without amendment.
3. The meeting then turned to the update by the Secretariat on the status and implementation of the Second Protocol and proceeded to the next item of the agenda – consideration of the Draft Guidelines for the implementation of the Second Protocol.
4. In view of the late submission by the Secretariat of the Draft Guidelines and the subsequent need for Committee Members and observers to consider it in depth, the Committee Members decided to suspend the meeting after having adopted final recommendations. Those recommendations invited Committee Members and other States Parties to the Second Protocol and Member States of UNESCO not party to the

Second Protocol as well as entities referred to under Article 27(3) to provide in writing to the Secretariat their submissions on the Draft Guidelines by the end of February 2007. They also invited the Secretariat to convene a second session of the Committee's meeting in Paris by the beginning of June 2007 to revise, in light of the written comments received, the Draft Guidelines which will be submitted to the next meeting of the Committee in October 2007.

II. Second session of the meeting

(i) Opening of the meeting

5. The second session of the first meeting of the Committee took place in Paris on Monday, 11 June 2007. It was attended by eleven out of twelve Members of the Committee (Argentina, Austria, Cyprus, El Salvador, Finland, Greece, the Libyan Arab Jamahiriya, Lithuania, Peru, Serbia and Switzerland). Were also represented as observers: seventeen Parties to the Second Protocol which are not Committee Members (Azerbaijan, Belarus, Bulgaria, Canada, Costa Rica, Croatia, Egypt, Estonia, the former Yugoslav Republic of Macedonia, Guatemala, Honduras, Mexico, Netherlands, Nigeria, Romania, Slovakia and Spain); sixteen States party to the Hague Convention which are not party to the Second Protocol (Albania, Belgium, the Czech Republic, the Dominican Republic, Holy See, India, Indonesia, Iraq, Italy, Kuwait, Mauritius, Norway, the Russian Federation, Turkey, Venezuela and Zimbabwe); four other UNESCO Member States (Algeria, Chile, Japan and the United Kingdom); one Permanent Observer (Palestine); two intergovernmental organizations (ICCROM, ICRC); and five non-governmental organizations (ICA, ICBS, ICOM, ICOMOS and IFLA). A copy of the list of participants is available upon request from the Secretariat.
6. The meeting was officially opened by the Assistant Director-General for Culture, who expressed her thanks to the eighteen UNESCO Member States and three non-governmental organisations who have provided the Secretariat with their comments and observations on the Draft Guidelines. She went on to reiterate that the current Draft Guidelines needed a substantial redraft in order to prepare a practical and user-friendly document which would provide guidance to the Parties in the national implementation of the Second Protocol. She then called the attention to the synergy between the World Heritage List and the List of Cultural Property under Enhanced Protection. Ms Rivière concluded by asking the Committee Members and observers to identify key issues related to the implementation of the Second Protocol in order to make this agreement efficient.

(ii). Adoption of the agenda

7. The provisional agenda contained in document CLT-07/CONF/210/1 was adopted without amendment.

(iii). Update by the Secretariat on the status and implementation of the Second Protocol

8. The Secretariat recalled the composition of the Committee and terms of office of its Members and then reported briefly on publications and meetings designed to raise

awareness of the Second Protocol, the 1954 Hague Convention and its 1954 (First) Protocol.

(iv). Consideration of the Draft Guidelines for the implementation of the Second Protocol

9. The Secretariat provided an analytical summary of the comments and observations on the Draft Guidelines so far received (copy attached in Annex I). Then the Chairperson informed briefly the meeting of the main results of the informal meeting of the Bureau (Paris, 30 May 2007) and gave the floor to Committee Members and observers wishing to comment on various aspects of the Draft Guidelines as well as on future work thereon.

10. Ensuing debate highlighted the following issues which may be summarized as follows:

- The parts on international law are to be reduced substantially or even deleted;
- Priority attention should be given to:
 - (i) relationship between different protection regimes under the 1954 Hague Convention and its 1999 Second Protocol;
 - (ii) the List of Cultural Property under Enhanced Protection;
 - (iii) criteria for granting enhanced protection; and,
 - (iv) the relationship between the World Heritage List and the List of Cultural Property under Enhanced Protection.

11. An informal drafting group composed of the members of the Bureau (Dr. Christoph Bazil (Austria), Chair; Mr Rino Büchel (Switzerland), Rapporteur; Cyprus; Finland; Lithuania; and Peru) was set up. This group which will work during the summer via e-mail will elaborate a specific document on these four key issues by 31 August 2007 and disseminate its results widely in order to provide other Parties to the Second Protocol with the possibility to comment thereon. The Bureau will also organize in the middle of September 2007 an informal meeting to provide a progress report. The informal meeting will be open to all States Parties to the Second Protocol.

12. The elaboration of the document on the Fund for the Protection of Cultural Property in the Event of Armed Conflict will be postponed for a later stage.

13. Japan informed the meeting that the ratification of the 1954 Hague Convention and its 1954 (First) Protocol and accession to the Second Protocol are at the final stage.

(v). Adoption of recommendations

14. A copy of the adopted recommendations is attached in Annex II.

(vi). Other business (in particular, use of working languages by the Committee)

15. Following the Secretariat's information on budgetary and administrative consequences of the six-language rule for the interpretation of Committee's deliberations and translation of its working documents before and after the meeting, the Chairperson

opened the discussion. The Committee wished to retain the six working languages but expressed the need to apply this rule with flexibility and common sense.

16. A number of Committee Members and observers also expressed their deep concern over insufficient human and financial resources allocated to the administration of the Committee, the Second Protocol, the 1954 Hague Convention and its 1954 (First) Protocol.
17. The Secretariat also informed the meeting of the provisional timing (in November 2007) and approximate duration of the second meeting of the Committee, the seventh meeting of the High Contracting Parties to the Hague Convention and the second Meeting of the Parties to the Second Protocol. In order to allow sufficient time for the preparation of the Operational Guidelines for the Second Protocol, it was finally agreed that those three meetings should take place in the December 2007 period. The exact duration of the second meeting of the Committee will be decided in September 2007 by the Bureau.

ANNEX I**FIRST MEETING OF THE COMMITTEE
FOR THE PROTECTION OF CULTURAL PROPERTY
IN THE EVENT OF ARMED CONFLICT****INFORMATION DOCUMENT FOR REFERENCE****Draft Guidelines for the Implementation of the 1999 Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict – summary of comments provided by the Secretariat**

1. The Recommendations adopted by the First Session of the First Meeting of the Committee for the Protection of Cultural Property in the Event of Armed Conflict, (Paris, 26 October 2006) invited, among other things, “its Members and other States Parties to the Second Protocol and Member States of UNESCO not party to the Second Protocol as well as entities referred to under Article 27, paragraph 3, to provide in writing to the Secretariat their submissions on the Draft Guidelines for the Implementation of the 1999 Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict (hereafter “the Draft Guidelines”) by the end of February 2007.”
2. By 8 June 2007, the Secretariat has received comments and observations on the Draft Guidelines from the following eighteen UNESCO Member States (Argentina, Austria, Belgium, Canada, Cyprus, Estonia, Finland, Greece, Italy, Japan, Mexico, the Netherlands, Norway, Peru, Slovakia, Switzerland, Turkey and the United Kingdom)¹ as well as three non-governmental organizations (the International Council on Archives², the International Committee of the Blue Shield³ and the International Council of Museums).
3. The main tenets of the comments and observations may be summarized as follows:

3. A - General Remarks

- The current Draft Guidelines are too theoretical, their terminology should be simplified and they should be practice-oriented and focus on practical aspects in order to assist the relevant national authorities (both civilian and military) in the implementation of the Second Protocol at the national level. In particular, they should cover peacetime preparatory measures, dissemination and awareness-raising issues as well as the possibility of using the Second Protocol provisions to mitigate the

¹ Of those States, the following twelve States (Argentina, Austria, Canada, Cyprus, Estonia, Finland, Greece, Mexico, the Netherlands, Peru, Slovakia and Switzerland) are party to the Second Protocol.

² The ICA comments are supported by the International Federation of Library Associations and Institutions and the Coordinating Council for Audiovisual Archives.

³ The ICBS comments are supported by the International Council on Archives, the International Federation of Library Associations and Institutions and the Coordinating Council for Audiovisual Archives.

consequences of natural disasters.

- Two comments expressly pointed out that the current draft suffers from a number of significant weaknesses and inconsistencies and, in consequence, proposed either to edit substantially the current draft or to prepare a completely new draft.
- The Draft Guidelines should gradually take into account national and international developments and experiences in implementing the Protocol. It was emphasized that the Operational Guidelines of the World Heritage Convention should serve as a useful model.
- The Draft Guidelines should not be an article-by-article commentary of the 1999 Second Protocol, nor a textbook on public international law, nor a repetition of the relevant parts of the Second Protocol.
- The Draft Guidelines should focus not only on immovable cultural property but on movable cultural property as well.
- Following the endorsement of the Guidelines by the meeting of the Parties, the Secretariat should prepare a handbook for the protection of cultural property in the event of armed conflict containing the Guidelines, the text of the 1954 Hague Convention and its two 1954 and 1999 Protocols and the Rules of Procedure of the Committee.

3. B – Particular Remarks

Part 1 (Introduction)

- Some States consider confusing to formulate restrictions on the subject-matter to be covered by the Draft Guidelines. Consequently, this part (sub-point iii on page 3) should be deleted.
- In addition, this part should include information on the role of the Committee, a description of its work, the frequency of its meetings and its Rules of Procedure.

Part 2 (Scope of Application)

- As a general remark, this part should be shortened.
- In particular, in part 2.3 (“States and Territories Concerned (Scope Ratione Materiae)”) the reference to territory (“Furthermore; the Second Protocol applies to the entire territories of its State Parties”) should be deleted, because it was opposed by some States.

Part 3 (Standards for Implementation)

- This chapter with several references to regulations of public international law is considered in many comments as “irrelevant” and “redundant” and should be substantially shortened or deleted.

Part 4 (Coexistence of Protection Regimes: Analysis and Interrelations)

- As this and the following part (part 5) are considered as the crucial chapters in the Draft Guidelines, some comments suggested that this part elaborates more in detail the relationship between the Second Protocol and the 1972 World Heritage Convention as well as the co-existence of different protection regimes. In particular, it was proposed

to elaborate the common position with regard to the notion of “cultural heritage of the greatest importance for the humanity” (cf. Article 10 (1) of the Second Protocol) and those of “culture heritage” under Article 1 of the 1972 World Heritage Convention as well as to elaborate precise criteria for eligibility of cultural property for enhanced protection. However, there is consent among States that there is no automatic granting of enhanced protection to cultural sites already inscribed in the World Heritage List (part 4.2 – Coexistence between the 1954 Convention, the Second Protocol and the 1972 World Heritage Convention).

- Whereas in one comment the deletion of point 4.1.1. (“General” Protection v. “Special” and “Enhanced” Protection) was proposed; in another comment a more detailed description of the “general”, “special” and “enhanced” protection-regimes was recommended.
- Finally, the Draft Guidelines must take into account the applicability of the enhanced protection to movable cultural property.

Part 5 (The List of Cultural Property under Enhanced Protection)

- This crucial part needs more elaboration. It was pointed out that conditions and guidance – for the Committee as well as for State Parties – to request enhanced protection are missing and, in consequence, should be developed. In particular, the condition “cultural heritage of the greatest importance for humanity” (part 5.1.1.a.) and the role of the Committee in the evaluation and inscription procedure need further clarification. Finally, some comments highlight the role of the Operational Guidelines for the Implementation of the World Heritage Convention as a useful tool for development of the Draft Guidelines, particularly with regard to the preparation of nomination files for enhanced protection.
- It was suggested that a model inscription form for enhanced protection together with the timetable covering procedural aspects should be elaborated.
- The majority of comments were not in favour of the proposal for a buffer zone or a minimum distance (500m) because those two proposals represent additional requirements not foreseen by Article 10(c) of the Second Protocol.
- Two comments suggested a “fast track” inscription procedure for cultural sites which are already inscribed in the World Heritage List. Several States also requested the elaboration of regulations for urgent (emergency) inscriptions.
- The proposal to use the distinctive emblem of the Convention (part 5.6.2 – Should a Distinctive Emblem be Used) in four different ways in conformity with the protection regime under the Convention and the Second Protocol was considered too complicated and even confusing from the military point of view. Two comments stressed that the issue of marking of cultural property enjoying different protection regimes should be considered by the meeting of the High Contracting Parties to the Hague Convention.
- The relationship between Article 13(1)(b) and Article 14 and the related role of the Committee needs further clarification.
- Further clarification of the role of the International Committee of the Blue Shield and other relevant organizations with regard to the granting of enhanced protection was requested.

Part 6 (International Assistance)

- Several States stressed the need for more detailed information to be provided by State Parties and requested that forms for requesting international assistance should be part of the Draft Guidelines. It was also proposed that the additional information related to movable cultural property may be requested.
- To ensure the coherence of the Draft Guidelines, part 6 should be inserted after part 7 (The Fund).

Part 7 (The Fund)

- Whereas one comment suggested that – following the model of the World Heritage Convention⁴ – the issue of the Fund should be dealt in separate document, other comments proposed more precise guidelines for the establishment, management and use of the Fund.

Part 8 (Monitoring and Supervising the Implementation of the Second Protocol)

- With regard to part 8.1 (Sources for Monitoring and Supervising Purposes), some comments underscored that the workload for the Committee and the Secretariat will increase. In consequence, it was pointed out that additional resources for the Secretariat are required. Some comments also asked for further clarifications on the role of the advisory bodies and non-governmental organizations.
- Concerning the reporting system (point 8.2) some comments proposed to streamline the reports in order to reduce the workload of the State Parties and to coordinate them with the reporting obligations under the 1954 Hague Convention.
- One comment suggested the merger of parts 5 and 8.

⁴ Financial Regulations for the World Heritage Fund

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ADOPTED RECOMMENDATIONS

The Committee for the Protection of Cultural Property in the Event of Armed Conflict (hereafter “the Committee”):

1. Thanks all UNESCO Members States and non-governmental organizations concerned which provided to the Secretariat their valuable comments on the Draft Guidelines for the Implementation of the 1999 Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict;
2. Recommends that its Bureau pursue its informal work in order to identify core issues of the Draft Guidelines and to elaborate on them; and
3. Invites the Bureau to provide to the next meeting of the Committee a redraft of the Draft Guidelines containing the core issues based on the new comments which will have been received from UNESCO Member States and international organisations concerned.