



United Nations
Educational, Scientific and
Cultural Organization

Organisation
des Nations Unies
pour l'éducation,
la science et la culture

Organización
de las Naciones Unidas
para la Educación,
la Ciencia y la Cultura

Организация
Объединенных Наций по
вопросам образования,
науки и культуры

منظمة الأمم المتحدة
للتربية والعلم والثقافة

联合国教育、
科学及文化组织

CLT-09/CONF/204/9
Paris, 3 February 2011
Original: English

UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

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

(Paris, 22 – 24 November 2010)

FINAL REPORT

I. Opening of the meeting

1. The fifth meeting of the Committee for the Protection of Cultural Property in the Event of Armed Conflict, established by the 1999 Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict (hereafter “the Committee”), took place at UNESCO Headquarters from 22 to 24 November 2010. The meeting was attended by all twelve States that are members of the Committee (Argentina, Austria, Cyprus, Finland, Greece, the Islamic Republic of Iran, Italy, Japan, Lithuania, the Netherlands, Romania and Switzerland), nineteen States party to the Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict (hereafter the “Second Protocol”) that are not Committee members (Armenia, Azerbaijan, Belgium, Canada, Chile, Croatia, the Czech Republic, Egypt, Estonia, Hungary, Mexico, Nigeria, Panama, Qatar, Serbia, Slovakia, Slovenia, Spain and Uruguay), two High Contracting Parties to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict (hereafter the “Hague Convention”) that are not Parties to the Second Protocol (Cambodia and the United States of America), one other UNESCO Member State (Togo), one intergovernmental organization (ICRC) and six non-governmental organizations – International Committee of the Blue Shield (ICBS), International Council on Archives (ICA), International Council of Museums (ICOM), International Council on Monuments and Sites (ICOMOS), the International Institute of Humanitarian Law (IIHL) and the World Association for the Protection of Cultural Heritage in Times of Armed Conflict (WATCH) – attended as observers. The list of participants is available from the Secretariat upon request.

2. The meeting was opened by the Assistant Director-General for Culture, Mr Francesco Bandarin. He underscored the importance of the meeting, whose agenda included such significant

issues such as the granting of enhanced protection to eleven cultural sites from Azerbaijan, Cyprus, Italy and Lithuania, as well as the examination of national reports on the implementation of the Second Protocol provided by the Parties, the discussion of possible synergies between the Second Protocol and other relevant UNESCO instruments, and analysis of the feasibility of establishing a comprehensive database on the national implementation of the Second Protocol. Referring to enhanced protection, Mr Bandarin emphasized that its primary purpose is to ensure the highest possible level of protection in the event of armed conflict; not to create a new “brand” by conferring a particular international status, nor to create a competition between the List of Cultural Property under Enhanced Protection and the World Heritage List. Finally, Mr Bandarin called the participants’ attention to the financial implication of using five working languages of the Committee for the interpretation and translation of working documents. Mr Bandarin therefore formally proposed to include a new item in the agenda to reduce the number of working languages of the Committee from five to two (French and English).

II. Election of the Bureau

3. After considering proposals from the floor, the following Bureau was elected: Mr Nout van Woudenberg (the Netherlands) – Chairperson; Mr Noritsugu Takahashi (Japan) – Rapporteur; the Islamic Republic of Iran, Italy, Romania and Switzerland – Vice-Chairpersons.

III. Adoption of the agenda

4. The meeting considered the provisional agenda contained in document CLT-10/CONF/204/1, amended it by reversing the order of items 6 (Report on the implementation of the Guidelines for the Implementation of the 1999 Second Protocol to the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict) and 7 (Consideration of requests for enhanced protection), and then added a new item on the reduction of the number of working languages of the Committee. The new item was placed after item 9 (Consideration of a proposal concerning a database). Finally, the Committee decided to insert item 8 (Consideration of possible synergies between the Second Protocol and other UNESCO instruments and programmes) after item 5 (Consideration of national reports on the implementation of the Second Protocol). The agenda was adopted as amended.

IV. Update of the Secretariat on the status and implementation of the Second Protocol

5. The Secretariat’s representative reported to the meeting on the follow-up of the recommendations of the fourth meeting of the Committee (i. e. the development of synergies between the List of Cultural Property under Enhanced Protection, the World Heritage List, the List of World Heritage in Danger as well as the Memory of the World Programme; reinforcement of the Secretariat’s financial and human resources and the state of contributions to the Fund for the Protection of Cultural Property in the Event of Armed Conflict) and the status of the Second Protocol, the Hague Convention and its 1954 Protocol. He then turned to the Secretariat’s activities regarding the dissemination of those instruments (i. e. the publication of the Basic Texts of the Hague Convention and its two Protocols, reprint of the updated English, French and Spanish versions of the Information Kit on the above agreements and publication of the kit in Chinese) and gave examples of recent significant publications on the protection of cultural property in the event of armed conflict. He concluded by mentioning the important meeting on the protection of cultural property that took place in September 2010, the Vienna International Seminar on the Implementation of the Hague Convention and its two Protocols for Bosnia and Herzegovina,

Croatia, the former Yugoslav Republic of Macedonia, Montenegro, Serbia and Slovenia. The Chairperson took note of this update with gratitude and interest.

V. Report of the Bureau to the Committee

6. The Committee examined the report of the Bureau of the Committee contained in document CLT-10/CONF/204/7 and adopted the decision contained therein. This and other decisions adopted by the Committee at its fifth meeting are contained in Annex I.

VI. Consideration of national reports on the implementation of the Second Protocol

7. Following the Secretariat's introduction of document CLT-10/CONF/204/3 and its addendum, and its apology for not including some national reports in the summary of national reports due to technical reasons, two States took the floor to provide examples of implementation of international humanitarian law linked to the protection of cultural property. As at this final stage, other States also provided information on their national implementation of the Second Protocol, the Committee then adopted the decision contained in the above-mentioned document, modifying the number of national reports received to twenty-four, from eighteen. The Chairperson expressed his disappointment that the number of reporting States was not higher than this and called upon the Parties to provide their new reports on the implementation of the Second Protocol in 2012.

VII. Consideration of possible synergies between the Second Protocol and other UNESCO instruments and programmes

8. Further to the Secretariat's introduction of this item (document CLT-10/CONF/204/4), the Chairperson opened the discussion. One Committee member asked whether paragraph 10 should be redrafted to allow the Committee to take into consideration, when evaluating the condition of being of the greatest importance for humanity of the movable cultural property concerned, the fact that such property has already been inscribed in the List of Intangible Cultural Heritage in Need of Urgent Safeguarding or the Representative List of Intangible Cultural Heritage of Humanity. She stressed that the original wording of the document might be confusing because some of the criteria for including intangible cultural heritage in the Representative List is to ensure its visibility and awareness of its significance, not "uniqueness" the latter of which is not applicable to intangible heritage. The Chairperson explained that, when evaluating requests for the granting of enhanced protection, the Committee bases its decisions on the 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 "Guidelines"), and that the document as a whole illustrated synergy and interplay among different lists. He therefore proposed to retain the current wording, and this proposal was accepted.

9. The Chairperson then opened a discussion on the draft decision. The main points of the discussion may be summarized as follows:

- a request for inclusion of the reference to the 1970 Convention in the draft decision
- a replacement of the term "instruments" by the term "conventions" taking into account the fact that the former term is broader than the latter
- a request to list different conventions, and
- a request to the Secretariat to include relevant information on the progress of co-operation with the secretariats of other UNESCO conventions and programmes.

The Committee then adopted the decision on this point reflecting the above issues.

VIII. Consideration of requests for enhanced protection

10. The Chairperson opened this item by naming the eleven requests for the granting of enhanced protection: six cultural properties submitted by Azerbaijan – Atashgah Fire-worshippers Temple; Gobustan Rock Art Cultural Landscape (World Heritage site); Sheki Khan Sarayi (the Palace of the Sheki Khan); Momina-khatun Turbasi (the Mausoleum of Momina-khatun); the Mausoleum of Yusuf ibn Kuseyir (Yusuf son of Kuseyir); and the Walled City of Baku, including the Shirvanshahs' Palace and Maiden Tower (World Heritage site); three cultural properties submitted by the Republic of Cyprus – Choirokoitia, Painted Churches in the Troodos Region, and Paphos (Site I: Kato Paphos town; Site II: Kouklia village) (all World Heritage sites); one cultural property submitted by Italy - Castel del Monte (World Heritage site); and, one cultural property submitted by Lithuania – Kernavé Archeological Site (Cultural Reserve of Kernavé) (World Heritage site). He briefly referred to the Secretariat's document on this issue (CLT-10/CONF/204/2) and then stressed the sixty-day deadline set forth in Article 11(5) of the Second Protocol providing for the possibility of Parties to submit representations regarding requests for the granting of enhanced protection, and Rule 34 of the Rules of Procedure of the Committee concerning the six-week deadline for the distribution of working documents for Committee meetings.

11. One member of the Committee requested additional time in order to properly study the requests and discussed at length procedural issues related to the transmission of the requests to the Committee members and observers, such as the availability of full documentation only at the beginning of the meeting. This delegation was therefore not initially in a position to take a decision on the requests due to the late circulation of the information.

12. Mr Peltonen, the previous Chairperson of the Committee, spoke on behalf of the previous Bureau of the Committee and called the attention of the Committee to the two informal meetings of the Bureau (Paris, June and September 2010). He stated that both the Guidelines and the Rules of Procedure of the Committee were unclear regarding the timelines for submission and, for this reason, it was necessary for the Committee to apply them with flexibility when considering requests for enhanced protection for the first time. He concluded by asking the Committee to respect the work of the previous Bureau and the Secretariat.

13. The Chairperson reiterated that the Secretariat's document on enhanced protection for the fifth meeting of the Committee, which was based on the information available as of September 2010, contained all relevant information about the properties and their compliance with the three conditions of Article 10 of the Second Protocol. The Chairperson called upon the Committee to follow a legally sound and pragmatic approach.

14. His statement was followed by a general discussion, the main points of which may be summarized as follows:

- the necessity to assess each application on its merit
- the need to learn by evaluating the requests and gathering the necessary experience
- the proposal to evaluate requests exclusively on the basis of written submissions and to allow the use of oral presentations only in case of “representations”
- the need to determine which entity can issue the non-military use declaration, and
- the importance of clarifying the methods of transmission of requests to the Secretariat.

VIII(i). THE CYPRIOT REQUESTS

15. The Chairperson turned to the discussion of the request for the granting of enhanced protection to Choirokoitia, an archaeological site, and the related draft decision. In this context, one member of the Committee questioned whether the Cypriot request complied with the condition of “due consideration of the protection of cultural property concerned in military planning and training programs” and requested proof as to the status of that property under international humanitarian law and national law.

16. In the ongoing discussion, several Committee members referred to the evaluation of the request by the previous Bureau, and the Chairperson stressed the need for a pragmatic approach when considering this and other requests. The Cypriot delegation gave a presentation on the three cultural properties submitted for the granting of enhanced protection, clarified parts of its national legislation, reiterated that the properties concerned are excluded from military operational planning, and explained the availability of the relevant inventories or digital maps of land registers.

17. The Chairperson concluded the discussion and opened the debate on the draft decision granting enhanced protection to Choirokoitia. The debate resulted in the replacement of the word “Referring” by the word “Recalling”; deletion of the second and fourth paragraphs; modification of the fifth paragraph which became the new third paragraph; and minor editorial changes in the Statement of Inclusion of the property on the List of Cultural Property under Enhanced Protection. The Committee adopted the decision as amended, and Choirokoitia was the first cultural property to be entered on the List of Cultural Property under Enhanced Protection.

18. The Committee then considered requests for the granting of enhanced protection for the other two Cypriot properties: the Painted Churches in the Troodos Region and Paphos (Site I: Kato Paphos town; Site II: Kouklia village). It amended draft decisions in line with the adopted decision for Choirokoitia, and granted enhanced protection to both properties.

VIII(ii). THE ITALIAN REQUEST

19. Following the adoption of decisions on the three Cypriot properties, the Committee considered the Italian request for Castel del Monte, which was introduced by a short presentation given by Italy. Italy then submitted additional information clarifying the fulfilment of condition of Article 10(b) of the Second Protocol (i. e. being protected by adequate domestic legal and administrative measures recognising its exceptional cultural and historic value and ensuring the highest level of protection) and proposed to align the draft decision with the decisions adopted for the Cypriot properties. In this context, one Committee member called the attention of the meeting to the late submission of the additional information and again stressed the need to comply with the relevant deadlines. However, the Chairperson again stressed the lack of clarity of the Guidelines, and expressed the opinion that the fundamental information included in the request was received on time, and the additional information presented during the meeting merely helped to clarify the existing information. This view was supported by several Committee members. The Chairperson stressed that the way in which the Committee handled the reception of additional information during this meeting did not set a precedent for the future.

20. The discussion resulted in the revision of the draft decision to bring it in line with the decisions adopted for the three Cypriot cultural properties, and enhanced protection was granted to Castel del Monte.

VIII(iii). THE LITHUANIAN REQUEST

21. The meeting then considered the Lithuanian request for the granting of enhanced protection to Kernavė Archeological Site (Cultural Reserve of Kernavė). The Lithuanian representative gave a short presentation of this property, then pointed out that some information was still missing from the request and would be provided in the near future. The Chairperson thanked Lithuania for its pragmatism and stated that once the missing information (i. e. UTM co-ordinates and full reflection of Chapter 4 of the Second Protocol in the Lithuanian national legislation) has been received by the Secretariat and assessed by the Bureau, it would be submitted to the Committee.

22. The meeting concluded the consideration of the Lithuanian request by adopting a decision referring the request back to Lithuania to submit additional information. The first, second, and third paragraphs of the draft decision were deleted and replaced with two new introductory paragraphs. The fourth paragraph of the draft decision became the third paragraph in the new document, wherein the term “Referring” was replaced with the term “Recalling”. Elements of the third and fourth paragraph of the draft decision were amalgamated to become the new fourth paragraph. Finally, the sixth paragraph of the draft decision was deleted.

VIII(iv). THE AZERBAIJANI REQUESTS

23. The Chairperson introduced the six Azerbaijani requests: Atashgah Fire-worshippers Temple; Gobustan Rock Art Cultural Landscape; Sheki Khan Sarayi (the Palace of the Sheki Khan); Momina-khatun Turbasi (the Mausoleum of Momina-khatun); the Mausoleum of Yusuf ibn Kuseyir (Yusuf son of Kuseyir); and, the Walled City of Baku, including the Shirvanshahs’ Palace and Maiden Tower. The Azerbaijani delegation stated that four of the six requests were not yet complete and that referral would therefore be the best option. The Chairperson agreed and thanked Azerbaijan for its pragmatism. He then proposed to go through the four referral decisions to be followed by a presentation by Azerbaijan on the Walled City of Baku.

24. The Committee adopted decisions concerning the Atashgah Fire-worshippers Temple; Sheki Khan Sarayi (the Palace of the Sheki Khan); Momina-khatun Turbasi (the Mausoleum of Momina-khatun); and, the Mausoleum of Yusuf ibn Kuseyir (Yusuf son of Kuseyir) referring the properties in question back to the Azerbaijani authorities to submit additional information. The text of the decisions was editorially aligned to the decision adopted for the Kernavė Archeological Site (Lithuania), though it should be noted that the decision of referral for the Azerbaijani requests contained references to more paragraphs in the Guidelines than the decision of referral for the Lithuanian request.

25. Following the presentation on the Walled City of Baku, the Chairperson opened the floor for substantial discussion. Its main points may be summarized as follows:

- the query and uncertainty about the implementation by Azerbaijan of the third bullet of paragraph 39 of the Guidelines (i. e. appropriate criminal legislation providing for the repression of, and jurisdiction over, offenses committed against cultural property under enhanced protection within the meaning of, and in accordance with, Chapter 4 of the Second Protocol), and
- the impossibility for the Committee to consider additional substantive information provided by Azerbaijan at that late stage, due to an insufficiency of time.

26. During the discussion, one Committee member proposed to apply paragraph 73 of the Guidelines concerning the granting of enhanced protection in exceptional cases. However, it afterwards withdrew this proposal.

27. As the discussion revealed a divergence of opinions and a possibility for consensus seemed to be far away, the Chairperson proposed to vote on the compliance of the Azerbaijani request with the three conditions of Article 10 of the Second Protocol. As one Committee member wished to consult his national authorities and other Committee members were in favour of further discussions, the Chairperson adjourned the meeting until the morning of Wednesday, 24 November 2010 and announced that he would have informal consultations during the evening.

28. In the morning of 24 November 2010, the Chairperson re-opened the debate on the granting of enhanced protection to the Walled City of Baku and suggested that the Committee consider the following three options:

- granting the enhanced protection to the Walled City of Baku
- referring back to Azerbaijan this request for additional information, or
- adjournment of the consideration of this request under Rule 30 of the Rules of Procedure because the Committee did not have sufficient time and opportunity to properly consider relevant information received during the meeting, particularly that related to the implementation of the third bullet point of paragraph 39 of the Guidelines (i. e. appropriate criminal legislation providing for the repression of, and jurisdiction over, offenses committed against cultural property under enhanced protection within the meaning of, and in accordance with, Chapter 4 of the Second Protocol).

29. The Chairperson then opened the discussion and applied Rule 23(3) of the Rules of Procedure to limited the discussion to the Committee members only. The discussion revealed the preference of the Committee members for the adjournment of the discussion until the sixth meeting of the Committee. The Azerbaijani representative reacted by summarizing the reasons for the granting of enhanced protection to the Walled City of Baku and emphasized that its country is located in a war-stricken region where there is the possibility of damage to and destruction of the cultural property. He concluded by referring to his country's national legislation prohibiting the use of cultural property for military purposes and stating that Azerbaijan was among the first five States that ratified the Second Protocol.

30. The meeting then decided to not take a decision on the draft decision contained in document CLT-10/CONF/204/2, but to adjourn the debate on the granting of enhanced protection to the Walled City of Baku until the sixth meeting of the Committee. Further, it wished to encourage the Azerbaijani authorities to submit any supplemental information as necessary.

31. As to the request to grant enhanced protection to the Gobustan Rock Art Cultural Landscape, the Azerbaijani representative proposed the adjournment of the debate as well. Several Committee members were in favour of this proposal, and the debate was adjourned until the sixth meeting of the Committee. The Azerbaijani authorities were encouraged to submit any supplemental information as necessary.

IX. Report on the implementation of the Guidelines

32. The Chairperson briefly introduced document CLT-10/CONF/204/5, explaining that the amendments proposed would be only effective once they are endorsed by the Meeting of the

Parties, and suggested that the Committee focus on the content of the proposed amendments. He then opened the discussion on this item.

33. One Committee member proposed to clarify the third bullet point of paragraph 39 of the Guidelines (i. e. appropriate criminal legislation providing for the repression of, and jurisdiction over, offenses committed against cultural property under enhanced protection within the meaning of, and in accordance with, Chapter 4 of the Second Protocol). Another Committee member agreed with this proposal and invited the Secretariat to provide the next meeting of the Committee with a draft covering provisions of Chapter 4 of the Second Protocol. The Chairperson pointed out that there were two possible solutions: to amend the bullet point or to draft an explanation. He proposed that the Secretariat prepare for the sixth meeting of the Committee a draft explanation of this issue. The Committee agreed with this proposal.

34. The Chairperson then turned to the issue of clarifying the transmitter of and timeframe for the submission of requests for enhanced protection and introduced the proposals contained in paragraph 45 of the Guidelines. The discussion focused on three issues: (i) by whom the request should be transmitted; (ii) the deadline for the submission of requests to the Secretariat; and, (iii) the exclusion of certain categories of requests from the deadline. It resulted in the decision to send requests by the Permanent Delegation of the Party concerned, to set an annual deadline of 1 March by which requests must be received in order to be considered by the Committee at its ordinary meeting the same year, provided that they are complete, and the exemption of requests for provisional enhanced protection from the 1 March deadline.

35. The Committee went on to consider proposed modifications to paragraph 46 concerning the advisability of providing supplemental information in a single submission of one complete file within two months of the date of the request, as well as the proposal to forward to the Bureau for its *prima facie* consideration complete requests accompanied by the checklist for completeness prepared by the Secretariat. The discussion resulted in the insertion of the term “prima facie” before the word “consideration” and the replacement of the term “checklist for completeness” by the term “review of completeness”.

36. Thus, the proposed modifications to the procedural aspects of the granting of enhanced protection establish a three-stage procedure:

- (i) The establishment of a fixed deadline of 1 March of each year for the submission of requests for the granting of enhanced protection (requests for provisional enhanced protection are excluded from this requirement).
- (ii) The two-month deadline for the applicant Party to complete the requests since the Secretariat’s communication stating that the request(s) was (were) incomplete.
- (iii) Submission by the Secretariat of complete request(s) to the Bureau for *prima facie* consideration.

37. The next issue related to the proposal contained in paragraph 55 was to mark the UTM co-ordinates of the boundary of the property proposed for enhanced protection on the map(s) of such property attached to the request. In this context, the Chairperson explained the importance of using the UTM co-ordinates because of their use by the military. The meeting endorsed the proposal by inserting the words “and the UTM co-ordinates of the boundaries of such property are marked on the map(s) attached to the request” after the word “defined” in the first phrase of this paragraph.

38. The final proposal to modify the Guidelines concerned the clarification in paragraph 59 of the national competent authority issuing a non-military use declaration under Article 10(c) of the Second Protocol, as well as the limitation of the temporal scope of such declaration to a future time. It was stressed in the discussion that the determination of this authority was within the discretionary power of each State Party and that its competence should not be questioned. The participants and observers also considered the draft non-military use declaration contained in Annex I to document CLT-10/CONF/204/5 and stressed its usefulness as a model. The ensuing discussion resulted in three modifications: (i) the replacement of the words “issued by the national authority for which the State concerned has provided sufficient proof of competence in this matter” by the words “issued by the national authority which has been authorized by the State concerned as competent for this matter” after the word “declaration” in the second phrase; (ii) the use of the verb “confirm” in the singular form; and, (iii) the deletion of the words “are not and” after the words “its immediate surroundings”. The draft non-military use declaration was adjusted accordingly. The Chairperson stressed that a Party submitting a request for the granting of enhanced protection was not obliged to use the declaration; however, it was to be considered a guidance tool.

X. Consideration of a proposal concerning a database

39. A representative of the Netherlands introduced this item on behalf of the Republic of Cyprus, Finland, Japan and the Netherlands by referring to paragraph 104 of the Guidelines related to the establishment, on a voluntary basis, of a database containing the relevant legislative, judicial or other information related to the national implementation by Parties of the Second Protocol. The Committee also considered document CLT-10/CONF/204/6 containing a draft decision. The discussion showed support for this proposal and the Committee adopted a decision requesting the Secretariat to present at the sixth meeting of the Committee the results of the information analysis and feasibility study of a possible database for the voluntary exchange of information by the Parties concerning this information.

XI. Reduction of the number of working languages of the Committee

40. Following the opening of the debate on this issue, one Committee member pointed out that a relevant working document proposing an amendment to the Rules of Procedure should have been distributed six weeks before the beginning of the fifth meeting of the Committee. Following a debate of this issue, it was decided to postpone this item until the sixth meeting of the Committee.

XII. Adoption of recommendations

41. The Committee concluded the meeting by adopting a series of recommendations which included a request to the Secretariat to provide a report on the obligation of the Parties to implement Chapter 4 of the Second Protocol in their national legislation, as addressed in paragraph 39 of the Guidelines, and to organize in spring 2011 an expert meeting as referred to in the Report of the Bureau to the Committee.

XIII. Other business

42. The Secretary of the Committee brought to the attention of the Committee members a letter from the Permanent Delegation of Georgia addressed to the Committee members and the Director-General concerning the state of the Ilori St. Georges Church situated in Abkhazia, against which acts of vandalism were allegedly committed.

Annex I

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

(UNESCO, 22 – 24 November 2010)

ROOM XII

RECOMMENDATIONS

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

Thanking the members of the Bureau in its previous and current composition and the Secretariat for having prepared the Fifth Meeting of the Committee and the following working documents: Report of the Bureau to the Committee [document CLT-10/CONF/204/7]; Consideration of national reports on the implementation of the Second Protocol [document CLT-10/CONF/204/3]; Report on the implementation of the Guidelines for the Implementation of the Second Protocol [document CLT-10/CONF/204/5]; Consideration of requests for enhanced protection [document CLT-10/CONF/204/2]; Consideration of possible synergies between the Second Protocol and other UNESCO instruments and programmes [document CLT-10/CONF/204/4]; and Consideration of a proposal concerning a database [document CLT-10/CONF/204/6];

Recalling the Recommendations of the fourth Meeting of the Committee;

Having granted enhanced protection to the requests of the Republic of Cyprus for the cultural properties of Choirokoitia, Paphos (Sites I and II), and the Painted Churches of the Troodos Region; and to the request of the Republic of Italy for the cultural property of Castel del Monte;

Having referred back to Azerbaijan the requests for enhanced protection for the following cultural properties: Atashgah Fire-worshippers temple, Momina-khatun Turbasi (the Mausoleum of Momina-khatun), Sheki Khan Sarayi (the Palace of the Sheki Khan), and the Mausoleum of Yusuf ibn Kuseyir (Yusuf son of Kuseyir);

Having referred back to Lithuania the request for enhanced protection for the cultural property of Kernavé Archeological Site (Cultural Reserve of Kernavé);

Having adjourned the debates until the sixth Meeting of the Committee regarding the requests for enhanced protection of Azerbaijan for the cultural properties of the Walled City of Baku, including Shirvanshahs' Palace and Maiden Tower and Gobustan Rock Art Cultural Landscape; *encouraging* Azerbaijan to submit any supplemental information as necessary;

Having noted the withdrawal of the request for enhanced protection by the Dominican Republic for the cultural property of the Colonial City of Santo Domingo;

Requesting the Secretariat to provide a report on the obligation of the Parties to implement Chapter 4 of the Second Protocol in their national legislation as addressed in paragraph 39 of the Guidelines for the Implementation of the Second Protocol;

Requesting the Secretariat to organize in spring 2011 an expert meeting as referred to in the Report of the Bureau to the Committee CLT-10/CONF/204/7;

Requesting the Secretariat to present the results of the information analysis and feasibility study (and recommendations) of a possible database at its sixth Meeting;

Having adopted the annexed decisions;

Adopts the following Recommendations:

1. *Recommends* to the fourth Meeting of the Parties to endorse the annexed amendments to the Guidelines for the Implementation of the Second Protocol made during this fifth Meeting of the Committee;
2. *Recommends* to the fourth Meeting of the Parties to encourage those High Contracting Parties that are not yet party to the Second Protocol to consider doing so;
3. *Recalling* the recommendations of the third Meeting of the Parties, *strongly encourages* the Director-General to provide sufficient human and financial resources to ensure the functioning of the Secretariat of UNESCO in the implementation of the Second Protocol, the Hague Convention and the 1954 (First) Protocol, and *recommends* to the fourth Meeting of the Parties to make a similar request;
4. *Recommends* to the fourth Meeting of the Parties to invite Parties and other potential donors to provide voluntary contributions with a view to assisting the Secretariat in reinforcing its financial and human resources;
5. *Recommends* to the fourth Meeting of the Parties to encourage Parties, potential Parties and other potential donors to consider contributing to the Fund to ensure the granting of financial and other assistance.

The Committee also:

Decides to have its next (sixth) ordinary meeting in the second half of November or first half of December 2011;

Invites the Bureau to prepare the sixth ordinary Meeting of the Committee.

Decisions adopted at the fifth Meeting of the Committee for the Protection of Cultural Property in the Event of Armed Conflict

Item 4 - CLT-10/CONF/204/7: Report of the Bureau to the Committee

The Committee:

1. *Referring* to the recommendation of its fourth meeting (UNESCO Headquarters, 27 – 29 May 2009) which, among other things, invited “the Bureau to prepare the 5th ordinary Meeting of the Committee”;
2. *Thanking* the Bureau and the Secretariat for preparing document CLT-10/CONF/204/7;
3. *Considering* this document;
4. *Takes note* thereof.

Item 5 - CLT-10/CONF/204/3: Consideration of national reports on the implementation of the Second Protocol

The Committee:

1. *Referring* to Articles 37(2) and 27(1)(d) of the Second Protocol;
2. *Noting* that twenty-four national reports on the implementation of the Second Protocol have been provided;
3. *Thanking* the Secretariat for its work;
4. *Having considered* document CLT-10/CONF/204/3;
5. *Thanks* those Parties which have provided the Secretariat with such reports;
6. *Reminds* the Parties of the obligation under the Second Protocol to submit a report on the implementation of this agreement;
7. *Recalls* that, in accordance with paragraph 100 of the Guidelines for the Implementation of the Second Protocol, the next report will be due in 2012.

Item 6 - CLT-10/CONF/204/2: Consideration of requests for enhanced protection

Choirokoitia (Republic of Cyprus)

The Committee:

1. *Recalling* Articles 10 and 11 of the Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict, as well as parts III.A and III.B of the Guidelines for the Implementation of the Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict;
2. *Having considered* the request for enhanced protection for Choirokoitia;
3. *Decides* to grant enhanced protection to Choirokoitia;

4. *Adopts* the following Statement of Inclusion of the said property on the List of Cultural Property under Enhanced Protection:

The cultural property of Choirokoitia complies with the three conditions of Article 10 of the Second Protocol in the following ways:

- By virtue of its inscription on the World Heritage List on the basis of criteria (ii), (iii) and (iv), and in light of paragraph 36 of the Guidelines for the Implementation of the Second Protocol to the Hague Convention, Choirokoitia is deemed to comply with the condition of the greatest importance for humanity;
- By being protected by the relevant provisions of the 1935 Cypriot Antiquities Law, and particularly in virtue of the provisions on the so-called “Controlled Areas” related to the close governmental supervision of all development projects either in or within close proximity to those areas; the exemption of the site of Choirokoitia from the operational planning of the National Guard; having a detailed inventory and adequate fire protection plans; and being included in military planning and training programmes, Choirokoitia complies with the condition of being protected by adequate domestic legal and administrative measures recognizing its exceptional cultural and historic value and ensuring its highest level of protection; and as the Republic of Cyprus implemented the provisions of Chapter 4 of the Second Protocol by the law ratifying this Protocol;
- By declaration of the Ministry of Defence of the Republic of Cyprus that it is not and will not be used for military purposes or to shield military sites.

Paphos (Site I: Kato Paphos town; Site II: Kouklia village) (Republic of Cyprus)

The Committee:

1. *Recalling* Articles 10 and 11 of the Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict, as well as parts III.A and III.B of the Guidelines for the Implementation of the Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict;
2. *Having* considered the request for enhanced protection for Paphos (Site I: Kato Paphos town; Site II: Kouklia village);
3. *Decides* to grant enhanced protection to Paphos (Site I: Kato Paphos town; Site II: Kouklia village);
4. *Adopts* the following Statement of Inclusion of the said property on the List of Cultural Property under Enhanced Protection:

The cultural property of Paphos (Site I: Kato Paphos town; Site II: Kouklia village) complies with the three conditions of Article 10 of the Second Protocol in the following ways:

- By virtue of its inscription on the World Heritage List on the basis of criteria (iii) and (vi), and in light of paragraph 36 of the Guidelines for the Implementation of the Second Protocol to the Hague Convention, Paphos (Site I: Kato Paphos town; Site II: Kouklia village) is deemed to comply with the condition of the greatest importance for humanity;
- By being protected by the relevant provisions of the 1935 Cypriot Antiquities Law, and particularly in virtue of the provisions on the so-called “Controlled Areas” related to the close governmental supervision of all development projects either in or within close

proximity to those areas; the exemption of Paphos (Site I: Kato Paphos town; Site II: Kouklia village) from the operational planning of the National Guard; having a detailed inventory and adequate fire protection plans; and being included in military planning and training programmes, Paphos (Site I: Kato Paphos town; Site II: Kouklia village) complies with the condition of being protected by adequate domestic legal and administrative measures recognizing its exceptional cultural and historic value and ensuring its highest level of protection; and as the Republic of Cyprus implemented the provisions of Chapter 4 of the Second Protocol by the law ratifying this Protocol;

- By declaration of the Ministry of Defence of the Republic of Cyprus that it is not and will not be used for military purposes or to shield military sites.

Painted Churches in the Troodos Region (Republic of Cyprus)

The Committee:

1. *Recalling* Articles 10 and 11 of the Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict, as well as parts III.A and III.B of the Guidelines for the Implementation of the Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict;
2. *Having* considered the request for enhanced protection for the Painted Churches in the Troodos Region;
3. *Decides* to grant enhanced protection to the Painted Churches in the Troodos Region;
4. *Adopts* the following Statement of Inclusion of the said property on the List of Cultural Property under Enhanced Protection:

The cultural property of the Painted Churches in the Troodos Region complies with the three conditions of Article 10 of the Second Protocol in the following ways:

- By virtue of its inscription on the World Heritage List on the basis of criteria (ii), (iii) and (iv), and in light of paragraph 36 of the Guidelines for the Implementation of the Second Protocol to the Hague Convention, the Painted Churches in the Troodos Region are deemed to comply with the condition of the greatest importance for humanity;
- By being protected by the relevant provisions of the 1935 Cypriot Antiquities Law, and particularly in virtue of the provisions on the so-called “Controlled Areas” related to the close governmental supervision of all development projects either in or within close proximity to those areas; the exemption of the Painted Churches in the Troodos Region from the operational planning of the National Guard; having a detailed inventory and adequate fire protection plans; and being included in military planning and training programmes, the Painted Churches in the Troodos Region complies with the condition of being protected by adequate domestic legal and administrative measures recognizing its exceptional cultural and historic value and ensuring its highest level of protection; and as the Republic of Cyprus implemented the provisions of Chapter 4 of the Second Protocol by the law ratifying this Protocol;
- By declaration of the Ministry of Defence of the Republic of Cyprus that it is not and will not be used for military purposes or to shield military sites.

Castel del Monte (Italy)

The Committee:

1. *Recalling* Articles 10 and 11 of the Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict, as well as parts III.A and III.B of the Guidelines for the Implementation of the Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict;
2. *Having* considered the request for enhanced protection for Castel del Monte;
3. *Decides* to grant enhanced protection to Castel del Monte;
4. *Adopts* the following Statement of Inclusion of the said property on the List of Cultural Property under Enhanced Protection:

The cultural property of Castel del Monte complies with the three conditions of Article 10 of the Second Protocol in the following ways:

- By virtue of its inscription on the World Heritage List on the basis of criteria (i) (ii) and (iii), and in light of paragraph 36 of the Guidelines for the Implementation of the Second Protocol to the Hague Convention, Castel del Monte is deemed to comply with the condition of the greatest importance for humanity;
- By being protected by the relevant provisions of the decree n. 569/1992, the Regulation Containing Rules of Fire Safety for Historic and Artistic Buildings Designated as Museums, Galleries and Exhibitions, the law n. 42/2004, the Code of cultural properties and landscape and the law n. 45/2009, the Italian Law of Ratification and Execution of the Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict, adopted at The Hague on 26 March 1999, as well as Rules of Adjustment of the Internal Legal Order; being excluded from the use by the Italian armed forces for any military planning activity, exercise and structure finalized to national defence and training programmes; Castel del Monte complies with the condition of being protected by adequate domestic legal and administrative measures recognizing its exceptional cultural and historic value and ensuring its highest level of protection; and the Republic of Italy implemented the provisions of Chapter 4 of the Second Protocol in its ratification law;
- By a letter of 22 April 2010, signed by the Chief of Defence General Staff, stating that Castel del Monte and its immediate surroundings is not used for military purposes or to shield military sites and will not be so used.

Kernavé Archeological Site (Cultural Reserve of Kernavé) (Lithuania)

The Committee:

1. *Recalling* Articles 10 and 11 of the Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict, as well as parts III.A and III.B of the Guidelines for the Implementation of the Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict;

2. *Having* considered the request for enhanced protection for Kernavé Archeological Site (Cultural Reserve of Kernavé);
3. *Recalling* paragraph 71 of the Guidelines for the Implementation of the Second Protocol to the Hague Convention;
4. *Decides* to refer said request back to Lithuania to submit additional information, with regard to paragraphs 39, 56 and 58 of the Guidelines for the Implementation of the Second Protocol to the Hague Convention.

Atashgah Fire-worshippers temple (Azerbaijan)

1. *Recalling* Articles 10 and 11 of the Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict, as well as parts III.A and III.B of the Guidelines for the Implementation of the Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict;
2. *Having* considered the request for enhanced protection for Atashgah Fire-worshippers temple;
3. *Recalling* paragraph 71 of the Guidelines for the Implementation of the Second Protocol to the Hague Convention;
4. *Decides* to refer said request back to Azerbaijan to submit additional information, with regard to paragraphs 32-35, 39, 58 and 59 of the Guidelines for the Implementation of the Second Protocol to the Hague Convention.

Momina-khatun Turbasi (the Mausoleum of Momina-khatun)

The Committee:

1. *Recalling* Articles 10 and 11 of the Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict, as well as parts III.A and III.B of the Guidelines for the Implementation of the Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict;
2. *Having* considered the request for enhanced protection for Momina-khatun Turbasi (the Mausoleum of Momina-khatun);
3. *Recalling* paragraph 71 of the Guidelines for the Implementation of the Second Protocol to the Hague Convention;
4. *Decides* to refer said request back to Azerbaijan to submit additional information, with regard to paragraphs 32-35, 39, 55, 58 and 59 of the Guidelines for the Implementation of the Second Protocol to the Hague Convention.

Sheki Khan Sarayi (the Palace of the Sheki Khan) (Azerbaijan)

The Committee:

1. *Recalling* Articles 10 and 11 of the Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict, as well as parts III.A and III.B

of the Guidelines for the Implementation of the Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict;

2. *Having* considered the request for enhanced protection for Sheki Khan Sarayi (the Palace of the Sheki Khan);
3. *Recalling* paragraph 71 of the Guidelines for the Implementation of the Second Protocol to the Hague Convention;
4. *Decides* to refer said request back to Azerbaijan to submit additional information, with regard to paragraphs 32-35, 39, 55, 58 and 59 of the Guidelines for the Implementation of the Second Protocol to the Hague Convention.

The Mausoleum of Yusuf ibn Kuseyir (Yusuf son of Kuseyir)

The Committee:

1. *Recalling* Articles 10 and 11 of the Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict, as well as parts III.A and III.B of the Guidelines for the Implementation of the Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict;
2. *Having* considered the request for enhanced protection for Yusuf ibn Kuseyir (Yusuf son of Kuseyir);
3. *Recalling* paragraph 71 of the Guidelines for the Implementation of the Second Protocol to the Hague Convention;
4. *Decides* to refer said request back to Azerbaijan to submit additional information, with regard to paragraphs 32-35, 39, 55, 58 and 59 of the Guidelines for the Implementation of the Second Protocol to the Hague Convention.

Item 7 - CLT-10/CONF/204/5: Report on the implementation of the Guidelines for the implementation of the Second Protocol to the Hague Convention

The Committee:

1. *Having* considered document CLT-10/CONF/204/5;
2. *Decides* to amend the Guidelines and submit the amendments, as contained in the Annex to this decision for endorsement to the fourth Meeting of the Parties in 2011.
3. *Decides* to continue further discussion on the Guidelines in the light of the debate at the Fifth Meeting of the Committee.

Item 8 - CLT-10/CONF/204/3: Synergies between the Second Protocol to the Hague Convention and other relevant UNESCO instruments and programmes

The Committee:

Recalling the relevant recommendations of its fourth meeting and the third Meeting of the Parties to the Second Protocol with regard to the development of synergies with relevant UNESCO conventions and programmes;

1. *Takes* note of document CLT-10/CONF/204/4 concerning synergies between the Second Protocol to the Hague Convention of 1954 and other relevant UNESCO conventions and programmes;
2. *Requests* the Secretariat to ensure that synergies foreseen in document CLT-10/CONF/204/4 between the Second Protocol to the Hague Convention of 1954 and other relevant UNESCO conventions and programmes apply at all levels when assisting Parties with the identification, submission of proposals for enhanced protection, inclusion of cultural property on the List, and protection and safeguarding measures of cultural property;
3. *Thanking* the Secretariat for its work;
4. *Welcomes* the efforts of the Secretariat to elaborate the cooperation between secretariats of different conventions;
5. *Invites* the Secretariat to include relevant information on the progress of cooperation with the secretariats of other UNESCO conventions in the updates by the Secretariat to the Committee on the status and implementation of the Second Protocol.

Item 9 - CLT-10/CONF/204/6: Consideration of a proposal concerning a database

The Committee:

1. *Referring* to paragraph 104 of the Guidelines concerning the submission by the Parties, on a voluntary basis, of the relevant legislative, judicial or other information relevant to their national implementation of the Second Protocol and its subsequent registration in a database.
2. *Recalling* Resolution 12 of the Third Meeting of the Parties requesting the Committee “to further consider the issue of a possible database for the voluntary exchange of information by the Parties concerning legislation, jurisprudence or other matters relevant to the implementation of the Second Protocol.”
3. *Noting* the existing relevant databases at UNESCO and *recalling* the recommendations relating to the development of synergies with relevant UNESCO conventions and programmes.
4. *Having considered* document CLT-10/CONF/204/6 concerning the consideration of a proposal concerning a possible database.
5. *Requests* the Secretariat to undertake an information analysis and feasibility study for a possible database for the voluntary exchange of information by the Parties concerning legislation, jurisprudence or other matters relevant to the implementation of the Second Protocol.
6. *Encourages* the Parties to make voluntary contributions to UNESCO in the support of the information analysis and feasibility study.
7. *Requests* the Secretariat to present the results of the information analysis and feasibility study (and recommendations) at its Sixth Meeting.

Amendments to the Guidelines for the Implementation of the Second Protocol made during this fifth Meeting of the Committee

45. The request for the granting of enhanced protection is sent by the Permanent Delegation to UNESCO of the Party to the Committee through the Secretariat. Requests need to be received by the Secretariat by 1 March of each year at the latest in order to be considered at the upcoming meeting of the Committee. Requests received after this deadline will be considered during the next meeting of the Committee. The above-mentioned date does not apply to requests for provisional enhanced protection.

46. The Secretariat acknowledges the receipt, checks for completeness and registers the request. The Secretariat requests any additional information from the Party, as appropriate, and all such information must be received, preferably, in a single submission of one complete file within two months of the date of the request from the Secretariat. The Secretariat forwards complete requests to the Bureau for *prima facie* consideration together with a review of completeness prepared by the Secretariat.

55. The boundaries of an immovable cultural property and its immediate surroundings are clearly defined, and the UTM co-ordinates of the boundaries of such property are marked on the map(s) attached to the request. Maps are sufficiently detailed to determine precisely which area of land and/or building(s) are nominated. Movable cultural property is identified by its detailed descriptions and sufficient images.

59. The Party describes the use of the cultural property. The declaration, issued by the national authority which has been authorized by the State concerned as competent for this matter, confirms that the cultural property and its immediate surroundings ~~are not and~~ will not be used for military purposes or to shield military sites is attached to the request. The information provides the facts needed to support and substantiate the argument that the cultural property meets the criterion laid down in Article 10(c).