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

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

**FIFTH MEETING
(UNESCO HEADQUARTERS, 22-24 NOVEMBER 2010, ROOM XII)**

**ITEM 9 OF THE PROVISIONAL AGENDA:
CONSIDERATION OF A PROPOSAL CONCERNING A DATABASE**

**(DOCUMENT PREPARED BY THE REPUBLIC OF CYPRUS,
FINLAND, JAPAN AND THE NETHERLANDS)**

Document prepared by the Republic of Cyprus, Finland, Japan, and the Netherlands

Consideration of a proposal concerning a possible database or system for the voluntary exchange of information by the Parties concerning legislation, jurisprudence or other matters relevant to the implementation of the Second Protocol to the Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict (The Hague, 26 March 1999)

Introduction

1. The Third Meeting of the Parties to the Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict, held during 23-24 November 2009, requested 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” (Resolution No.12).

2. In the Guidelines for the Implementation of the 1999 Second Protocol to the Hague Convention, the following paragraph was added to Chapter V, “Monitoring the implementation of the Second Protocol”:

104. The Parties are also invited to inform the Committee through the Secretariat, on a voluntary basis, of all legislative, judicial or other matters relevant to the Parties’ implementation of the Second Protocol. The Secretariat will register this information in a database.

Background

3. Under the Convention and the Second Protocol, respectively, High Contracting Parties and Parties are invited to report every four years on the implementation of these instruments. These valuable reports should inform on legal, administrative and practical implementation measures that have been adopted (Article 26(2) of the Convention, Article 37(2) of the Second Protocol, Paragraph 99-103 of the Guidelines).

4. When discussing the above-mentioned paragraphs of the Guidelines during the Third Committee meeting (4 - 6 June 2008), a need was felt to find a way to share relevant information between Parties in up-to-the-minute reports, and to not restrict the information flow to a moment once every four years. In this way, Parties can learn from each other’s experiences and (best) practices when implementing these instruments, whether they relate to the “protection of the cultural property in occupied territory”, “enhanced protection” or “on serious violations of the Protocol”. Also, States that have not ratified the Convention and/or its Protocols would benefit from information which might be useful when considering the ratification of these instruments.

Relevant databases for cultural heritage and its conventions at UNESCO

5. At UNESCO, several public databases exist in support of heritage conventions, e.g. the World Heritage List and the Intangible Heritage Lists.

6. Another type of database is the UNESCO Database of National Cultural Heritage Laws. This database is the principal tool to inform Member States of national laws related to cultural heritage. It is an international gateway to national laws on the protection of cultural heritage. The UNESCO Database aims to protect cultural heritage by fighting against looting, theft, illegal export and import, illicit trafficking of cultural property, as well as against other threats to cultural heritage.

This database was approved by the UNESCO General Conference in 2003, and officially launched in 2005 by the UNESCO Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in case of Illicit Appropriation. As of August 2010, the Database contains 2300 laws from over 180 countries in 42 languages.

Through the database, any individual or entity (i.e. governments, customs officials, dealers, organizations, lawyers, buyers, etc.) is enabled to access cultural heritage laws currently in force, as well as relevant previous laws, and it allows for a rapid consultation of relevant national laws. To keep the database up-to-date, Member States are requested to send new or revised legislation to UNESCO.

7. At UNESCO, a new database is in development as an initiative of the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in case of Illicit Appropriation (“the Intergovernmental Committee”). It will contain examples of restitution cases wherein a request for return or restitution was satisfied through either a voluntary gesture by the holder of the cultural property or pursuant to alternative solutions such as exchanges, loans or the making of replicas.

Synergies in relation to information exchange through databases at UNESCO

8. Regarding the voluntary information exchange under the Second Protocol as described in paragraph 104 of its Guidelines, synergies could be found with already existing databases being used to provide information.

As Member States already submit their heritage legislation to the UNESCO Database of National Cultural Heritage Laws, the laws implementing the Hague Convention, the First Protocol and the Second Protocol are already or could be part of this universal database.¹

¹ Note of the Secretariat: The inclusion of the relevant legislation on the implementation of the Hague Convention and its two Protocols in the existing UNESCO Database of National Cultural Heritage Laws is subject to the official agreement of the relevant authorities of the U.S.A. that provide extrabudgetary funding for all aspects of this database, including funding the post of the colleague who is in charge of it. The Secretariat is in contact with the U.S.A. regarding the possible extension of its scope. If the response is positive, then a project

Information Analysis

9. For case-law and other matters relevant to the implementation of the Second Protocol, an information analysis could be set up to assess how such a database should be established. This analysis should (further) define or research the purpose of the database. For example, the following questions should be considered:

- Who will be the potential user(s)?
- Which actors?
- Which needs?
- What information should be put in the database?
- What information is lacking to prepare a database?
- Which ground rules should be observed?

The UNESCO environment should also be researched: which databases (e.g. Cultural Heritage Laws Database) and other systems already exist (e.g. information through website and links etc.)?

The analysis should look in to what should be done to make the desired information available within the UNESCO environment. Should this be an extension of an existing database? Should it be a separate database? Are there alternative ways of making information available?

10. With the conclusions of the information analysis, a proposal for a system or database (designed on the basis of the programme of requirements) and a feasibility study could be drawn up. The feasibility study and/or business plan should research how the system could work and be maintained in a sustainable way:

- How should the organization around the system/database function?
- What will be the costs?
- Which possibilities for extra-budgetary funding in the short and long term should be explored?

11. With the comments of the Committee, the above approach could be further developed by the Bureau. The Committee might consider informing the meeting of *High Contracting Parties to the Convention for the Protection of Cultural Property in the Event of Armed Conflict (The Hague, 1954)* of a proposal for a database for the Second Protocol, and to suggest to make this database available for all jurisprudence, etc., related to the Hague Convention and its two Protocols.

Draft Decision:

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 cultural heritage databases at UNESCO and *recalling* the recommendations relating to the development of synergies with relevant UNESCO instruments 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 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.
7. *Requests* the Secretariat to present the results of the information analysis (and recommendations) at its Sixth Meeting.