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UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

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

(Paris, 14-15 December 2011)

FINAL REPORT

I. Opening of the meeting

1. The sixth 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 on 14 and 15 December 2011. The meeting was attended by all twelve States that are members of the Committee (Argentina, Austria, Azerbaijan, Belgium, Croatia, El Salvador, the Islamic Republic of Iran, Italy, Japan, the Netherlands, Romania and Switzerland); sixteen 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, Canada, Chile, the Czech Republic, Egypt, Estonia, Hungary, Mexico, Niger, Panama, Qatar, Serbia, Slovakia, Slovenia, Spain and Uruguay); two High Contracting Parties to the 1954 Hague Convention 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 – the International Committee of the Blue Shield (ICBS), the International Council on Archives (ICA), the International Council of Museums (ICOM), the International Council on Monuments and Sites (ICOMOS), the International Institute of Humanitarian Law (IIHL) and the World Association for the Protection of Tangible and Intangible Cultural Heritage in Times of Armed Conflict (WATCH) – attended as observers. The list of participants together with the meeting documents are available on-line at <http://www.unesco.org/new/en/culture/themes/movable-heritage-and-museums/armed-conflict-and-heritage/meetings-and-conferences/>.

2. The meeting was opened by the Assistant Director-General for Culture, Mr Francesco Bandarin, who reiterated the successful implementation of the Hague Convention during the armed conflict in Libya and highlighted the importance of the present meeting by referring to significant issues on its agenda such as the consideration of the

granting of enhanced protection to two Azerbaijani cultural sites and one Lithuanian cultural site, the examination of the request for financial assistance from the Fund for the Protection of Cultural Property in the Event of Armed Conflict (hereafter “the Fund”) submitted by El Salvador and the proposal to amend the Rules of Procedure of the Committee. When referring to enhanced protection, Mr Bandarin stressed that the status this category of protection provides is one of the most effective means of protecting cultural property of “greatest importance to humanity” in the event of armed conflict. With regard to the request for financial assistance by El Salvador, Mr Bandarin pointed out that it is for the first time that the Committee had to consider such a request and, therefore, the Committee’s response would set the precedent for further requests for financial or other forms of assistance. Finally, referring to the amendments to the Rules of Procedure of the Committee, Mr Bandarin called the participants’ attention to the fact that those Rules must enable the Secretariat to further focus its limited resources on purely programmatic aspects, in order to strengthen the role and visibility of the 1954 Convention and its two Protocols.

II. Election of the Bureau

3. The following Bureau was elected: Chairperson, Mr Nout van Woudenberg (the Netherlands); Vice-Chairpersons, Belgium, Croatia, El Salvador, and Italy; Rapporteur, Mr Noritsugu Takahashi (Japan).

4. The Chairperson thanked the members of the outgoing Committee, the newly elected members of the Committee and the three previous Bureau members (the Islamic Republic of Iran, Romania and Switzerland) for their contribution to the successful conduct of the business of the Committee and its Bureau.

III. Adoption of the agenda (document CLT-11/CONF/211/1)

5. The meeting considered the provisional agenda contained in document CLT-11/CONF/211/1 and amended it by adding two items to the agenda. The meeting added the request for financial assistance from the Fund submitted by El Salvador as agenda item 8 and an introduction on the fund-raising strategy for increasing the resources of the Fund by the Secretariat as agenda item 9. Finally, the Committee decided to consider the Italian proposal to facilitate the submission of a request for the granting of enhanced protection after item 4 as well as to have a presentation on the Secretariat’s website on the 1954 Hague Convention and its two Protocols. As a consequence, the agenda was adopted as amended.

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

6. The Secretariat informed the meeting on the follow-up on the recommendations of the fifth Meeting of the Committee: i.e., the endorsement of amendments to the Guidelines for the Implementation of the Second Protocol by the fourth Meeting of the Parties; the encouragement of those High Contracting Parties that are not yet party to the Second Protocol to consider becoming party; the provision of 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 Protocol 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 Information Kit on the Hague Convention and its two Protocols in Arabic, Chinese, English, French and Spanish and ongoing preparation of its Russian version, the forthcoming publication in 2012 of an enlarged and updated French version of the article-by-article commentary on the Second Protocol by Professor Toman and the publication of the 2005-2010 periodic report on the implementation of the Hague Convention and its two Protocols) and concluded by mentioning the participation of the Secretariat in international meetings organized by outside bodies. The Chairperson took note of this update with gratitude and interest.

V. Consideration of requests for enhanced protection (document CLT-11/CONF/211/2)

7. The Chairperson introduced this item by inviting the Secretariat to present a short briefing on the issue. The Secretariat listed the pending requests: one cultural property submitted by Lithuania – Kernavé Archeological Site (Cultural Reserve of Kernavé) (this request had been referred back by the fifth Meeting of the Committee); and two cultural properties submitted by Azerbaijan (the debates had been adjourned on these two requests during the fifth Meeting of the Committee) – Gobustan Rock Art Cultural Landscape and the Walled City of Baku, including the Shirvanshahs' Palace and Maiden Tower; all three properties being inscribed on the World Heritage List. The Chairperson briefly referred to the Secretariat's document on this issue (CLT-11/CONF/211/2) and then to the fact that the amendments to paragraphs 45 and 46 of the Guidelines for the Implementation of the Second Protocol, related to procedural aspects of the submission of requests for the granting of enhanced protection, had been endorsed by the fourth meeting of the Parties to the Hague Convention on 12 December, 2012.

V. (i) THE LITHUANIAN REQUEST

8. The discussion of this item started with the consideration of the Lithuanian request for the granting of enhanced protection to Kernavé Archeological Site (Cultural Reserve of Kernavé). The Lithuanian delegate gave a short presentation of this property, which included the information that was missing at the fifth Meeting of the Committee (i.e. UTM co-ordinates and full implementation of Chapter 4 of the Second Protocol in the Lithuanian national legislation). The Chairperson praised the work of Lithuania.

9. The Chairperson subsequently invited the meeting to comment on the pages of the working document concerning the Lithuanian request. One Committee member added that he would like to obtain more information on the placement of fire hydrants and fire extinguishers. In reply to this question, the Secretariat and Lithuania provided the information requested.

10. Before turning to the discussion of the draft decision, the Chairperson briefly opened a general discussion on the advisability of granting enhanced protection to this Lithuanian cultural site. This discussion mainly focused on the issue of compliance with Article 10(c) of the Second Protocol and the Committee finally decided that the condition was satisfied. The Chairperson then introduced the draft decision and the ensuing discussion resulted in an agreement to grant enhanced protection to Kernavé Archeological Site (Cultural Reserve of Kernavé).

V. (ii) THE AZERBAIJANI REQUESTS

11. The Chairperson started the consideration of this item by introducing the request for the granting of enhanced protection to the Walled City of Baku (including Shirvanshah's Palace and the Maiden Tower). He emphasized the difficulty of the internal legislative process in Azerbaijan and the positive co-operation between all the entities concerned and praised the efforts of the relevant Azerbaijani authorities. However, he went on to say that regrettably the relevant penal legislation implementing Chapter 4 of the Second Protocol was not in force yet and, for this reason, the request was not complete.

12. The Chairperson then opened a discussion on the draft decision. The order of paragraphs 6 and 7 was reversed, and the request was referred back to Azerbaijan. The decision was adopted as amended.

13. The meeting then turned to the consideration of the request for the granting of enhanced protection to Gobustan (Gobustan Rock Art Cultural Landscape). Following a PowerPoint presentation by the Azerbaijani Delegation, the meeting was informed of a new system of fire protection and evacuation as well as of the Register of the National Historical Artistic Preservation of Gobustan, which was submitted to the Secretariat on 9 December 2011.

14. The Azerbaijani Delegation thanked the Chairperson and the Secretariat for their continued support and explained that three additional paragraphs were added to the draft penal legislation, which provide for a more wide-ranging protection of cultural property. Azerbaijan declared that the new laws were now in draft form and would be submitted for the consideration of Azerbaijan's Parliament in the near future. Further to a specific request, Azerbaijan agreed to make its newly drafted laws available to the Parties to the Second Protocol once they had passed the draft stage and were formally adopted.

15. On the basis of the discussion regarding the Walled City of Baku with Shirvanshah's Palace and Maiden Tower, the meeting agreed that the second Azerbaijani request was not yet complete and referred it back to Azerbaijan. The draft decision on this item was amended accordingly and adopted. The Chairperson thanked Azerbaijan for its ongoing efforts and encouraged further pursuit of its goals.

V. (iii) The Italian proposal

16. Italy proposed to improve the Enhanced Protection Request Form by making Part 3 more precise (3.E – Information regarding responsible authorities and 3.F – Justification for the enhanced protection). The Chairperson thanked Italy and stressed the importance of ensuring the coherence of the wording of the Second Protocol. Several members of the Committee expressed the need to clarify the scope of the Italian proposal and requested more time to review the proposed amendments. Italy agreed and the Chairperson closed the discussion by stating that the issue would be referred to the next meeting of the Bureau for its consideration, and that the Secretariat would ask all Parties to the Second Protocol which have already submitted requests for enhanced protection to share their experiences. The outcome of this enquiry will be presented to the seventh Committee meeting.

VI. Report on the obligation of the Parties to implement Chapter 4 of the Second Protocol (document CLT-11/CONF/211/3)

17. The Chairperson briefly introduced document CLT-11/CONF/211/3 and invited the Secretariat to give a short presentation on this agenda item. Following the presentation by the Secretariat, the Chairperson opened the floor for discussion. The Austrian delegate praised the document and asked for an adjustment of paragraph 5 by deleting the words “providing special protection for cultural property under enhanced protection” for the sake of clarity. Following the Greek and Austrian proposals, the reference to “universal custodial jurisdiction” was deleted from paragraphs 19 and 20. The Chairperson closed the discussion, and the draft decision was adopted without amendments.

VII. Consideration of a proposal concerning the Voluntary Information Exchange of Measures for Implementing the Second Protocol (document CLT-11/CONF/211/4)

18. The fifth Meeting of the Committee requested the Secretariat to present the results of the information analysis and feasibility study of a database for the voluntary exchange of information at the present meeting. The brief introduction by the Secretariat to this item was followed by a presentation on the newly designed UNESCO website on the protection of cultural property in the event of armed conflict and on how to access it. This interactive information is now available online. The revised website includes scanned copies of national reports on the implementation of The Hague Convention and its two Protocols, information on those agreements, a link to the UNESCO Database of National Cultural Heritage Laws and the International Committee of the Red Cross database, a list of partners and information relative to news and events. The Chairperson was very pleased with the substantial improvement of the website. A representative of ICRC informed the meeting that ICRC received *ad hoc* funding to update its database, which would be used to gather and upload information on customary international humanitarian law, including information on the 1954 Convention and its two Protocols. The draft decision was adopted without amendments.

VIII. El Salvador – Request for financial assistance from the Fund for the Protection of Cultural Property in the Event of Armed Conflict (document CLT-11/CONF/211/6)

19. The meeting agreed to change the order of items in the agenda and discuss the request for financial assistance by El Salvador before the amendments to the Rules of Procedure of the Committee. The Secretariat introduced the item and explained that the Bureau considered the request at its informal September 2011 Paris meeting and added that El Salvador obtained funds under UNESCO’s Participation Programme for other parts of the same project. The Chairperson went on to outline the safeguarding aspects of El Salvador’s plan and explained that the assistance given through the Fund would enable El Salvador to complete the third step of a wider project. The Chairperson then defined the parameters for granting this assistance under the guidelines concerning the use of the Fund.

20. The delegate from El Salvador clarified that the funds received under UNESCO’s Participation Programme helped them to cover the costs for the first two phases of the project (2002-2003 and 2008-2009), which involved marking cultural sites with the emblem of the Hague Convention and starting awareness-raising and training campaigns. The third

phase of the project, for which El Salvador is requesting financial assistance from the Fund for the Protection of Cultural Property in the Event of Armed Conflict, involves activities specifically linked to the implementation of the 1954 Convention and its two Protocols.

21. The Secretariat's document contained a draft decision with two options: option 1 in the amount of 13,500 USD to cover activities in conformity with Article 29(1) of the Second Protocol; and option 2 in the amount of 23,500 USD covering all activities. The Chairperson explained both options and the reasons for including them and then opened the discussion. Argentina, Austria, Azerbaijan, Belgium, El Salvador, the Islamic Republic of Iran, Japan and the Netherlands took part in the discussion, which resulted in the adoption of option 2. As a consequence, the draft decision was adopted as amended by deleting option 1.

IX. Introduction to a Fundraising Strategy

22. In view of the recommendation of the recent fourth Meeting of the Parties to the Second Protocol requesting the Director-General to prepare a fundraising strategy for increasing the resources of the Fund for the Protection of Cultural Property in the Event of Armed Conflict, the Secretariat gave a brief presentation on the Fund established by the Second Protocol and explained its purpose. Finally she proposed the elaboration of a long-term fundraising strategy that reaches out beyond traditional sources by calling upon professional fund-raisers to help increase the resources available to the Fund. The Chairperson introduced the draft decision, which was adopted by the Committee with some minor amendments.

X. Consideration of amendments to the Rules of Procedure of the Committee (document CLT-11/CONF/211/5)

23. The Chairperson opened the meeting with this agenda item on the morning of 15 December 2011. Following a brief presentation by the Secretariat, he proposed to discuss individually the four items covered by the document (i.e., submission of items to the provisional agenda of the meeting, formalization of the practice of organizing meetings of the Bureau of the Committee in between Committee meetings, numbers of working languages of the Committee, and modalities of the dispatch of working documents). The changes related to the submission of items to the provisional agenda of the meeting, formalization of the practice of organizing meetings of the Bureau in-between Committee meetings and modalities of the dispatch of working documents were adopted without change.

24. The Chairperson subsequently invited the Assistant Director-General for Culture, Mr Bandarin, to introduce the changes related to the proposal to reduce the working languages of the Committee from six to two. Mr Bandarin started by explaining the difficulties that the Organization has been facing during this moment of financial hardship and went on to point out that the reduction of the costs of translation and interpretation would allow the Secretariat to divert the resources gained by this measure to programme activities. The Chairperson then proposed not to amend Rule 33 of the Rules of Procedure of the Committee but to suspend this Rule provisionally under Rule 41 as a transitory measure.

25. The Austrian delegate emphasized that languages are to be understood as a working tool and further enquired about the usual practice of other UNESCO intergovernmental Committees with regard to the use of working languages. Mr Bandarin

explained that Committees are sovereign bodies that can decide on their working languages; for instance the World Heritage Committee, and the Committees of the 2003 and the 2005 Conventions work in two languages, English and French. He went on to state that the total difference between the use of five and two languages amounted to 41,800 USD. He concluded by stating that the reduction of the time of meetings as well as dispatching documents in an electronic format would result in substantial savings. There was a general concern, voiced by Switzerland and Belgium in particular, that even if savings are small they are significant for the Secretariat's programme activities.

26. El Salvador then took the floor and proposed a transitory measure to reduce the working languages for translations to English and French and languages for interpretation to English, French and Spanish. Argentina seconded this proposal. Switzerland expressed a different opinion and proposed to follow the Secretariat's proposal to amend Rule 33 in order to use only English and French, (the option was seconded also by Italy), or alternatively to agree on the sole use of English and French by suspending the application of Rule 41 of the Rules of Procedure. After a summing up of the three options above by the Chairperson, El Salvador stated that it was not in a position to accept the modified Rule 33 but might agree to its provisional suspension.

27. Croatia asked about the possibility of extrabudgetary contributions to the Secretariat and enquired about the consequences of maintaining the *status quo*.

28. Belgium, the Islamic Republic of Iran and Japan referred to the practice of other Committees within the Culture Sector established by standard-setting instruments and expressed preference for the use of English and French.

29. Argentina, seconded by El Salvador, was not in favour of eliminating Spanish interpretation at Committee meetings. The Chairperson then went on to propose the provisional suspension of Rule 33 until the tenth Meeting of the Committee in 2015 by using French and English for the translation of working documents and by using French, English and Spanish for interpretation of its deliberations. Argentina and El Salvador were in favour of this proposal which was adopted by consensus.

30. When concluding the discussion on this item, the Chairperson pointed out that the extrabudgetary financing for additional languages would still remain an option and that this was the case in the past when Spain provided extrabudgetary funds to facilitate the use of Spanish in other Committees.

31. Finally, the Chairperson suggested a separation of this decision from the decision on previous amendments because it concerned a suspension of Rule 33 of the Rules of Procedure and not an amendment thereto. The Committee agreed and the decision was adopted separately from the decision on other amendments.

XI. Adoption of recommendations

32. The Committee adopted the recommendations as amended (copy attached).

XII. Other business

33. The delegate from Belgium referred to a discrepancy between the English and French versions of the Second Protocol and asked the Secretariat to deal with this issue.

Finally, Italy enquired about the date of the next Bureau meeting. The Chairperson replied that it might take place in April or May 2012.