



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

6 SP

CLT-15/6.SP/CONF.202/2
Paris, 22 September 2015
Original: English

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

SIXTH MEETING OF THE PARTIES

**UNESCO Headquarters, Paris
8 (p.m.) and 9 December 2015**

Item 7 of the Provisional Agenda:

**Creation of a distinctive emblem for cultural property under enhanced protection
and establishment of the modalities for its use**

This document contains a proposal for an emblem of cultural property under enhanced protection and amendments to the Guidelines for the Implementation of the Second Protocol to the 1954 Convention with regard to the creation of a distinctive emblem for such property and establishment of the modalities for its use recommended by Decision 9. COM 4 of the Committee at its ninth meeting (18-19 December 2014)

Draft Decision: paragraph 4

1. At its ninth meeting, held in 18 and 19 December 2014, the Committee for the Protection of Cultural Property in the Event of Armed Conflict ("the Committee") examined document CLT-14/9.COM/CONF.203/4/REV2¹ concerning the creation of a distinctive emblem for cultural property under enhanced protection and the establishment of the modalities for its use and adopted Decision 9.COM 4 which, among others, recommended "that the Meeting of the Parties endorses proposals for the modification of the Guidelines for the Implementation of the Second Protocol contained in Annex 2 to document CLT-14/9.COM/CONF.203/4/REV2, with necessary linguistic adjustments by the Secretariat to ensure consistency with the current Guidelines". It also recommended that the Meeting of the Parties examine proposal No. 3 in Annex I to the same document, including its graphic charter and the modalities for its use at its Sixth Meeting with a view, if appropriate, to approving them and amending the Guidelines accordingly.
2. To reflect the discussion at the ninth meeting of the Committee and ensure consistency with the Guidelines, the Secretariat made certain adjustments to the proposals for the modification of the Guidelines. These adjustments are highlighted in yellow. The modified version of the proposals, as requested by the Committee, is attached to the present document (Annex II).
3. Article 23.3(b) of the Second Protocol provides that it is for the Meeting of the Parties to endorse the Guidelines for the Implementation of the Second Protocol to the Hague Convention ("the Guidelines") developed by the Committee. This function also includes the approval of all subsequent amendments to the Guidelines.
4. In view of the above, the Meeting of the Parties may wish to adopt the following decision:

DRAFT DECISION 6.SP 2


The Meeting of the Parties,

1. Having examined document CLT-15/6.SP/CONF.202/2,
2. Thanks the Committee for recommending a distinctive emblem for cultural property under enhanced protection as contained in Annex I thereto;
3. Also thanks the Committee for the proposals for the modifications of the Guidelines for the Implementation of the Second Protocol contained in Annex II thereto;
4. Endorses the above-mentioned distinctive emblem and the amendments to the Guidelines as proposed in Annex II to the present document.

¹ Please see the document: http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/pdf/9COM-4-Distinctive-emblem-rev2_en.pdf

Annex I

Distinctive Emblem for Cultural Property under Enhanced Protection, including its graphic charter

<p>Proposal 3</p>	
-------------------	---

Annex II
Draft amendments to the Guidelines for the Implementation of the 1999 Second Protocol

Guidelines for the Implementation of the 1999 Second Protocol	Proposed amendments
III.E Use of the emblem	III.E Use of the emblem The Distinctive Emblem for cultural property under enhanced protection and modalities for its use
<p>94. The provisions of the Convention define the use of the emblem to mark cultural property under general and special protection. The Second Protocol does not include any provisions on how to mark cultural property under enhanced protection with the emblem.</p>	<p>94. The provisions of the Convention define the use of the emblem to mark cultural property under general and special protection. The Second Protocol does not include any provisions on how to mark cultural property under enhanced protection with the emblem. Without prejudice to the provisions of the 1954 Hague Convention and the Regulations for its execution relating to the marking of cultural property under general protection and to the marking of cultural property under special protection, a distinctive emblem (hereinafter the “Distinctive Emblem”) is created for the exclusive marking of cultural property under enhanced protection.</p>
<p>95. As cultural property under enhanced protection is, by definition, cultural property, Parties are entitled to mark such cultural property in accordance with Article 6 of the Convention.</p>	<p>95. As cultural property under enhanced protection is, by definition, cultural property, Parties are entitled to mark such cultural property in accordance with Article 6 of the Convention. “Marking of cultural property under enhanced protection” means marking as defined <i>ratione materiae</i> in paragraph 103 of these Guidelines.</p>
<p>96. The Parties should make an effort to increase awareness and enhance respect for the emblem at national and international levels.</p>	<p>96. The Parties should make an effort to increase awareness and enhance respect for the emblem at national and international levels. The considerations related to the visibility of the Distinctive Emblem guide the Parties in their choice of modalities for placing of the Distinctive Emblem.</p>

Modalities for using the Distinctive Emblem

97. The Distinctive Emblem **should be** used in accordance with the modalities for its use, as set out below. Under these Guidelines, the expression “modalities for using the Distinctive Emblem” covers the basic principles relating to the Distinctive Emblem, the modalities for its use and measures protecting it from misuse.

Basic principles relating to the Distinctive Emblem

98. The Distinctive Emblem is intended to ensure the recognition and identification of cultural property under enhanced protection, particularly during the conduct of hostilities, in order to ensure the effectiveness of the provisions of the Second Protocol and, more particularly, to contribute to the effectiveness of Article 12 on the “Immunity of cultural property under enhanced protection”. The Distinctive Emblem is also intended to ensure legal certainty **with** regard to criminal responsibility of belligerents in order to ensure reasonable implementation of Article 15 (1) of the Second Protocol. Under these Guidelines, “reasonable implementation” **means establishing as criminal offences under domestic criminal law of the Parties** serious violations of the Second Protocol as set forth in Article 15 (2) of the Second Protocol.

99. The marking of cultural property under enhanced protection is declaratory of the enhanced protection granted for cultural property pursuant to a decision taken by the Committee. The marking of cultural property, while contributing to the effectiveness of enhanced protection, has no constitutive effect.

100. On account of its use for protective purposes and in order to ensure its visibility, the Distinctive Emblem – without prejudice to the use of other relevant emblems, in particular the World Heritage emblem, to mark cultural property – **should be** affixed alone without any other logo and/or emblem, due consideration being taken of a combatant’s field of vision when directing an attack, be it from the land, sea or air, during

hostilities.

101. The Distinctive Emblem must be used in accordance with the relevant rules of international humanitarian law and the modalities *ratione materiae* and *ratione temporis* for its use specified in these Guidelines. All use of the Distinctive Emblem that is inconsistent with observance of the prescribed rules **should be** considered to be misuse.

102. When the Committee grants enhanced protection for cultural property under the normal procedure, **it encourages** the Party that has jurisdiction **or control** over that cultural property to mark it by using the Distinctive Emblem for cultural property under enhanced protection. When the Committee **is requested** to grant enhanced protection under the emergency procedure, **it requests** the Party that has jurisdiction or control over the cultural property to mark the property.

Modalities for using the Distinctive Emblem

Use *ratione materiae*

103. The Distinctive Emblem **should be** used only to mark cultural property under enhanced protection. It may not be used for purposes – e.g. commercial, non-commercial – other than those specified in these Guidelines.

104. The use of the Distinctive Emblem for cultural property under enhanced protection is without prejudice to the **provisions of** the 1954 Hague Convention and the Regulation for its execution with regard to the application of the “transport under special protection”

Use *ratione temporis*

105. In peacetime, Parties that have jurisdiction **or control** over cultural property under enhanced protection may make preparations to mark such property by using the Distinctive

Emblem.

106. In times of armed conflict – i.e. from the outbreak of hostilities leading to the advent of the armed conflict until the end of the armed conflict, including occupation – the Parties to the conflict **are encouraged** to mark cultural property under enhanced protection by using the Distinctive Emblem.

107. Without prejudice to Article 17 paragraph (2) of the 1954 Hague Convention, in the event of suspension or cancellation of enhanced protection by the Committee, Parties that have jurisdiction or control over the cultural property concerned by said suspension or cancellation **should** remove the Distinctive Emblem that had been used to mark the property.

Modalities for placing the Distinctive Emblem

108. The Distinctive Emblem **should be** placed and the extent of its visibility determined at the discretion of the Parties' competent authorities.

109. As cultural property under enhanced protection is primarily part and parcel of heritage that is of the greatest importance to humanity, the Distinctive Emblem **should be** placed on the cultural property in a manner benefitting the property.

110. The Parties' resources permitting, technological developments will determine the means used – in times of peace and in times of armed conflict – to place the Distinctive Emblem on cultural property, including movable property, under enhanced protection.

Protection of the Distinctive Emblem from misuse

111. Use of the Distinctive Emblem that does not comply with **principles** set out in these Guidelines **should be avoided**.

112. The Parties **are encouraged** to disseminate the information

concerning the Distinctive Emblem and the modalities for its use both within their civilian population and among military personnel.

113. The Parties are encouraged to enact legislation on the protection of the Distinctive Emblem and the modalities for its use and/or take other measures, as appropriate, on the protection of the Distinctive Emblem and the modalities for its use.

Table 2: Examples of possible measures of international assistance provided by the Committee

Purpose of international assistance	Resources	Technical measures	Legal measures
Preparatory measures	- Disbursement from the Fund	<ul style="list-style-type: none"> - Training of staff and specialists at all levels in the field of protection of cultural property under enhanced protection - Provision of experts and skilled personnel to ensure that the preparatory protection work is carried out correctly - Expert advice on peacetime preparatory measures (preparation and regular update of inventories, surveys, maps, publications, websites, etc.) with regard to immovable and movable cultural property, the creation of the relevant administrative services for the protection of cultural property, and the organization of refuges for movable cultural property - Expert advice related to the marking of cultural property under enhanced protection with the distinctive emblem in accordance with Article 6 of the Convention - Dispatch of technical missions to undertake operational projects 	Expert advice on the elaboration and updates of Parties' national legislation implementing different aspects of the Second Protocol, such as administrative, technical or penal measures.
Emergency measures	- Disbursement from the Fund	<ul style="list-style-type: none"> - Organisational <i>ad hoc</i> measures for drawing up emergency plans, preparing inventories, surveys, maps, publications, websites, etc. - Establishment and operation of ad hoc infrastructures - Establishment of refuges for movable cultural property under enhanced protection for its temporary protection 	Assistance in the elaboration and enactment of laws under emergency procedure, as appropriate.
Recovery measures	- Disbursement from the Fund	<ul style="list-style-type: none"> - Dispatch of experts and skilled personnel to help preserve assist in the preservation and conserve conservation of damaged cultural property - Provision of the appropriate equipment and/or administrative assistance with a view to facilitating the return of the removed cultural property in accordance with Article 5 of the Second Protocol 	

Table 3: Examples of possible measures of technical assistance provided by UNESCO

Forms of Technical Assistance of UNESCO	Resources	Technical measures	Legal measures
Expert advice	- Resources of UNESCO	<ul style="list-style-type: none"> - Expert advice on peacetime preparatory measures based on the experience of other Parties, High Contracting Parties which are not parties to the Second Protocol, other UNESCO Member States, and relevant international and national governmental organizations having objectives similar to those of the Convention and its two Protocols. In particular, the provision of such advice focuses on (i) the preparation and regular updates of inventories of immovable and movable cultural property, (ii) the creation of the relevant administrative services for the protection of cultural property, and (iii) the organization of refuges for movable cultural property - Expert advice related to the marking of cultural property under enhanced protection with the distinctive emblem of the Convention (as recommended by part III.E on <i>The Use of the Emblem</i> of the current Guidelines) - Expert advice on the dissemination of the provisions of the Second Protocol within the general public and target groups (i.e., the military or law enforcement agencies) 	- Expert advice on the elaboration and update Parties' national legislation implementing different aspects of the Second Protocol, such as administrative, technical or penal measures
Operational activities	- Resources of UNESCO	<ul style="list-style-type: none"> - Dissemination of various studies and reports on different aspects of the implementation of the Second Protocol - Dispatch of technical missions to undertake operational projects 	