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

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

(Paris, 4-6 June 2008)

FINAL REPORT

I. Opening of the meeting

1. The third meeting of the Committee for the Protection of Cultural Property in the Event of Armed Conflict (hereinafter "the Committee") took place in Paris from 4 to 6 June 2008. The meeting was attended by all 12 Committee members (Austria, Cyprus, El Salvador, Finland, Greece, Japan, Libyan Arab Jamahiriya, Lithuania, Netherlands, Peru, Serbia and Switzerland). The following were also represented as observers: 13 States Parties to the Second Protocol that were not Committee members (Armenia, Belarus, Bulgaria, Canada, Czech Republic, Ecuador, Egypt, Honduras, Hungary, Luxembourg, Mexico, Panama and Slovakia), 12 High Contracting Parties to the 1954 Hague Convention that were not Parties to the Second Protocol (Belgium, Bolivarian Republic of Venezuela, Holy See, India, Iraq, Italy, Monaco, Norway, Pakistan, Poland, Portugal and Turkey), three other UNESCO Member States (Algeria, Chile and United States of America), one intergovernmental organization (ICRC) and four non-governmental organizations (ICA, ICOM, ICOMOS and the International Institute of Humanitarian Law). The list of participants is available from the Secretariat upon request.

2. The meeting was opened by the Director-General, Mr Koïchiro Matsuura. He congratulated the Committee on having developed the first three chapters of the Guidelines at its second meeting in December 2007. He then underscored the implications of the next three chapters on dissemination of the Second Protocol, monitoring of its implementation, and international assistance. Regarding dissemination, the Director-General stressed the importance of making the relevant people and authorities aware of the Second Protocol's provisions while respecting each country's particularities. As for the monitoring of Second Protocol implementation, he thanked Finland for having proposed a list of issues to be addressed in national reports on implementation of the Second Protocol. This approach would facilitate the preparation of reports and the implementation of the Second Protocol by States Parties. The Director-General also spoke in favour of measures of international assistance as a form of international solidarity with conflict-affected Member States requiring support and aid from other Member States in their efforts to protect cultural property. In conclusion, the Director-General underlined the fact that adopting the Guidelines was not an end in itself but, on the contrary, was a means of enabling the Committee to be fully effective. It was thus important to be able to rely on the commitment of all States Parties to the Second Protocol.

II. Election of the Chairperson

3. Mr Karim Peltonen (Finland) was elected Chairperson by consensus.

III. Election of four Vice-Chairpersons and the Rapporteur

4. Four Vice-Chairpersons were elected (Libyan Arab Jamahiriya, El Salvador, Japan and Netherlands), and Ms Photini Panayi (Cyprus) was elected Rapporteur.

IV. Adoption of the agenda

5. The meeting adopted the agenda after having added a further item entitled “Discussion of a strategic plan”.

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

6. The Secretariat stated the main reasons for holding the Committee’s third meeting, recalled the composition of the Committee and terms of office of its members and then briefly reviewed progress in implementing the Second Protocol, the 1954 Hague Convention and its First Protocol (1954). It went on to list its main activities relating to the dissemination and implementation of these agreements; these activities had been updated on the UNESCO website and formed part of a special focus on the protection of cultural property in the event of armed conflict, including reference to implementation of the agreements by Switzerland and Austria. The Secretariat also made mention of the updating of the bibliography on this subject and the main meetings held in this area.

VI. Consideration of the three additional chapters of the draft Guidelines on the dissemination of the Second Protocol, the monitoring of its implementation, and international assistance, followed by discussion

7. Mr Peltonen suggested that the text be considered chapter by chapter. This proposal was accepted by the Committee. He then invited Finland, which had proposed Chapter 4 on dissemination, to introduce the text.

Chapter 4: Dissemination

8. Finland introduced Chapter 4 on dissemination of the Second Protocol, which was drawn directly from Article 30 of the latter, as a chapter aimed at encouraging States Parties to develop and improve education and information relating to protection of cultural property at national level. Finland emphasized that this chapter was designed to provide guidance for States Parties while allowing them some latitude in their choices and decisions regarding national implementation of the Second Protocol.

The main points of the discussion may be summarized as follows.

- **Redrafting of paragraph 97¹** on scope of dissemination

Firstly, the Committee decided to insert an explicit reference to States Parties in order to emphasize their role in disseminating the Second Protocol. Secondly, the Committee decided

¹ Note by the Secretariat: All references to the relevant paragraphs of draft Chapters 4 and 5 are to the version of these chapters adopted during the morning of 6 June 2008.

not to restrict dissemination of the Second Protocol to the “national level” and therefore chose to adopt the more neutral expression used in Article 30: “as widely as possible”. Lastly, in the second sentence of paragraph 97, the original use of “must” in reference to the States Parties was found to be unsatisfactory by the Committee, which preferred the term “undertake”, which was less peremptory and therefore more appropriate to the Guidelines.

- **Redrafting of paragraph 98** on the obligation of States Parties to supply military and civilian authorities with certain types of information on implementation of the Second Protocol. The Committee decided to add an explicit reference to the obligation of States Parties to take appropriate measures according to circumstances in the introductory paragraph of paragraph 98.
 - In the first subparagraph the Committee included doctrine and training materials in order to widen sources of information for implementation of the Second Protocol by the military.
 - With regard to the four measures listed in paragraph 98, the Netherlands suggested merging the last two points in a new paragraph, since they related to a common action, namely the States Parties “communicating to one another”. They eventually withdrew their proposal, finding the current structure sufficiently clear and in no particular need of change.
 - Japan proposed inserting in the second subparagraph of paragraph 98 a reference to UNESCO document CLT/CIH/MCO/2008/PI/H/1 on the Inserts on the Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict, 1999. This proposal found no support among Committee members, who had not been involved in the drafting of the document – prepared by a UNESCO consultant – and who were unable to consult their competent authorities on this matter. The Committee suggested that the document be included in the UNESCO bibliography on implementation of the Hague Convention and its two protocols.

Chapter 5: Monitoring the implementation of the Second Protocol

9. Finland introduced Chapter 5 as a practical guide to presenting the periodic reports that States Parties are supposed to submit to the Committee every four years; it contains a list of essential items that have to be covered by these reports.

However, Finland proposed a new version of Chapter 5 principally intended to bring together all the subparagraphs on items to be covered in the periodic report in the current paragraph 102, which the Committee approved. Estonia and Canada also submitted amendments, but these were not adopted by the Committee.

- **Redrafting of paragraph 99** introducing the obligation on States Parties to report to the Committee on implementation of the Second Protocol. The Committee standardized the wording, using the term “Second Protocol” throughout, and altered the text to remove the imperative mood.

5.1 Periodic reports of the Parties

- **Redrafting of paragraph 100** on the reporting period.
 - The Committee agreed that reports from States Parties to the Second Protocol should be submitted at four-yearly intervals at the same time as reports from the High Contracting Parties.

- The Committee decided to specify in a footnote that the first date by which reports should be submitted would be 1 July 2008, as suggested by the Director-General, and the next would be 2012. The Committee also stated that this reporting cycle would apply to all States Parties, regardless of the date on which they had become Parties to the Second Protocol.
- Lastly, Second Protocol reports would be sent to the Committee (rather than the Director-General) through the UNESCO Secretariat, which also acts as Secretariat to the Committee.
- **Redrafting of paragraph 101**, whose second sentence specifies the implementation measures to be covered by reports. The Committee thought it better to leave out military implementation measures and confine reporting to legal, administrative and practical implementation measures.
- **Redrafting of paragraph 102** on the items to be covered by States Parties in their periodic reports. The Committee then reviewed the wording of each subparagraph point by point.
 - With respect to implementation of general provisions regarding protection, the Committee adopted the Finnish proposal with a few minor amendments. A new subparagraph, repeating the second subparagraph of Finland's paragraph 11, makes provision for States Parties that are occupying powers to report to the Committee on how they are complying with the provisions of the Second Protocol concerning protection of cultural property in occupied territory.
 - As for implementation of provisions regarding enhanced protection, the Committee amended the Finnish proposal by slightly modifying the meaning of the sentence: States Parties must state whether they intend to request the inclusion of a property in the List of Cultural Property under Enhanced Protection. An additional subparagraph on use of the emblem was amended, since, under Chapter 3.5 of the Guidelines, States Parties are entitled to use the emblem to mark cultural property under enhanced protection. This point had been suggested by Finland in former paragraph 7.2, but the Committee thought it more appropriate to mention it here as it related to enhanced protection rather than general protection.
 - Concerning implementation of provisions regarding criminal responsibility, the Committee rejected Finland's proposal to refer specifically to individuals having contravened or given orders to contravene the Second Protocol. It chose to employ a more general turn of phrase, requesting to be informed of national legislation concerning criminal responsibility for serious violations within the meaning of the Second Protocol. An additional subparagraph refers to other national legislative, administrative and disciplinary measures to combat other violations not covered by the previous subparagraph.
 - As to implementation of provisions regarding dissemination, the Committee decided to use a very general phrase, namely "to inform on the measures taken concerning dissemination".

Lastly, the Committee decided to remove the provision concerning official translations that appeared in the first part of former paragraph 11.

- **Redrafting of paragraph 103** on focal points for correspondence, designated by States Parties. The Committee wished to specify that States Parties should designate "a single national focal point" to facilitate exchange of information. A sentence was added making States Parties' Permanent Delegations to UNESCO the preferred focal points. Former paragraph 13 was incorporated into the current paragraph 103 stating that "the Secretariat will make a list of these addresses available on its website". Former paragraph 14 was moved to paragraph 100.

- **Paragraph 104** is the result of a Committee amendment to an additional paragraph proposed by the Netherlands concerning establishment of a database and information network. The Committee chose to move this paragraph (originally 5.1.4a) to separate it from periodic reporting, since this is an exchange of information on a voluntary basis.
 - It was emphasized that this network ought to be an evolving dynamic base that could be improved over time and would be funded by extrabudgetary contributions.
 - In this connection, the Assistant Director-General for Culture told the Committee that the database of national legislation on cultural heritage, for example, relied entirely on extrabudgetary funds from the United States of America (a budget of \$239,600 having been approved for the 2008-2009 biennium). She also drew the Committee's attention to the financial consequences of setting up a database that the Secretariat was not currently in a position to maintain without additional resources.

5.2 Reports of the Committee to the meeting of the Parties

- **Redrafting of paragraph 105** on the functions of the Committee, which "is entitled to consider" rather than "is required". A last sentence was also added, specifying that "in fulfilling its functions, the Committee makes recommendations, as appropriate". Consequently, the Committee, which has hitherto considered and commented on the reports submitted to it, can now make recommendations to the States Parties.
- **Redrafting of paragraph 106** on the various informational resources at the Committee's disposal. In particular, the Committee decided to make specific mention of the stakeholders referred to in paragraph 13 of the Guidelines.
- **Redrafting of paragraph 107**, listing the issues that the Committee must include in its report. The Committee wished to specify that the issues mentioned were "a minimum".

Chapter 6: International assistance

10. The Secretariat introduced the draft chapter on international assistance, touching on the various forms of assistance and their procedural aspects.

11. Japan presented the Committee with a working paper referring to the issues to be considered in this field: the various categories of assistance granted under the Second Protocol, priorities when awarding resources from the Fund for the Protection of Cultural Property in the Event of Armed Conflict, the information to be provided with a request for assistance, and the question of the Fund itself.

12. Finland also submitted a working paper covering the need to differentiate between forms of international assistance, information on implementation of international assistance, and direct assistance between States Parties.

13. Having undertaken an initial examination of the various categories of international assistance, the Committee decided to postpone scrutiny of this chapter. It also decided to instruct the Bureau to pursue its work informally and develop this chapter further by including a reference to the Fund. Lastly, the Committee considered that, since the States Parties had not finished preparing the Draft Guidelines in their entirety, the extraordinary meeting of States Parties scheduled for this year should be cancelled.

VII. Discussion of a strategic plan

14. Finland presented its proposal for a strategic plan to establish and improve the Committee's working methods. Among the points worth mentioning in this plan are a review of the Committee's Rules of Procedure and the laying down of procedures for using the Fund. The proposal to draw up a strategic plan was supported by the other Committee members, who agreed that the Bureau, meeting as an informal working group, should work on a draft plan that would identify and determine priorities concerning action needed for international implementation of the Second Protocol and with particular reference to the Fund, the Committee's annual working schedule, dissemination of information and preparation of the Guidelines.

VIII. Adoption of recommendations

15. The Chairperson opened the discussion on the draft recommendations that had been drawn up to reflect the discussion and its conclusions. Following an in-depth discussion, the Committee adopted the recommendations by consensus. These recommendations appear in the annex.

IX. Other business

16. The Assistant Director-General for Culture wished to say something about the Committee's six working languages. In particular, she stressed that the difference between six working languages and two would amount, for the Second Protocol Committee, to \$65,500 per biennium, or 30% of the budget available for implementing the Convention and its two Protocols. The Intergovernmental Committees set up for the 2003 Convention and the 2005 Convention had both decided to work in two languages. The decision of the Committee established under the Second Protocol therefore had substantial implications for use of the Secretariat's resources, since the bulk of available funds was used for translation and interpreting. The Chairperson pointed out that the Committee had, among other things, delegated responsibility to the Bureau for reviewing the Committee's Rules of Procedure in the strategic plan, so that the language question could be put on the agenda of a future meeting.

17. During the discussion, the representative of the United States of America raised the question of his country's ratification of the Hague Convention.

X. Closure of the meeting

18. The Chairperson declared the meeting closed and thanked all participants, observers and the Secretariat for their contributions.

ANNEX

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

(UNESCO, 4-6 June 2008)

Room XI

ADOPTED RECOMMENDATIONS

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

1. *Thanking* Finland and the Secretariat for having prepared a proposal of Chapters 4 to 6 of the Draft Guidelines for the Implementation of the Second Protocol (hereafter “Draft Guidelines”),
2. *Having developed* Chapters 4 and 5 of the Draft Guidelines,
3. *Decides* that the Bureau pursue its informal work in order to develop further the “Chapter on International Assistance” of the Draft Guidelines, including the consideration of the reference to the Fund by the end of January 2009, instead of convening an extraordinary meeting of the Parties;
4. *Invites* the Bureau to provide the next meeting of the Committee with a draft chapter, as mentioned in paragraph 3 above;
5. *Invites* its members to provide in writing to the Secretariat their submissions on the draft chapter, as mentioned in paragraph 3 above, by the end of September 2008;
6. *Invites* the Bureau to prepare a draft plan for the next meeting of the Committee, identifying and prioritizing actions needed for the international implementation of the Second Protocol with special reference to the Fund, and the annual work plan of the Committee, dissemination of information and elaboration of the Guidelines;
7. *Encourages* its members to take up the question of resources of the Secretariat of the 1954 Hague Convention and its two Protocols in their comments to the Director-General on the Draft Programme and Budget for the years 2010 and 2011 (35 C/5);
8. *Recommends* to the Director-General to provide sufficient human and financial resources in order to ensure the assistance by the Secretariat of UNESCO in the implementation of the Second Protocol;
9. *Decides* to have its next meeting in the first half of 2009.