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

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

Seventh meeting
UNESCO Headquarters, Paris
20-21 December 2012

FINAL REPORT

I. Opening of the meeting

1. The seventh meeting of the Committee for the Protection of Cultural Property in the Event of Armed Conflict (hereinafter, "the Committee"), established by the 1999 Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict (hereinafter, "the 1999 Second Protocol"), took place at UNESCO Headquarters on 20 and 21 December 2012. The meeting was attended by the 12 States members of the Committee (Argentina, Austria, Azerbaijan, Belgium, Croatia, El Salvador, Islamic Republic of Iran, Italy, Japan, Netherlands, Romania and Switzerland). In addition, 27 States Parties to the 1999 Second Protocol that were not Committee members (Armenia, Bahrain, Benin, Bosnia and Herzegovina, Brazil, Canada, Chile, Colombia, Costa Rica, Cyprus, Czech Republic, Ecuador, Egypt, Estonia, Finland, Georgia, Hungary, Libya, Mali, Mexico, Nicaragua, Palestine, Poland, Serbia, Slovakia, Slovenia and Uruguay), 22 High Contracting Parties to the Hague Convention of 1954 that were not party to the 1999 Second Protocol (Bolivarian Republic of Venezuela, Cambodia, China, Côte d'Ivoire, Denmark, Democratic Republic of the Congo, France, Holy See, India, Iraq, Kuwait, Mauritius, Morocco, Norway, Pakistan, Portugal, Russian Federation, Senegal, Syrian Arab Republic, Turkey, United Republic of Tanzania and the United States of America), eight other Member States of UNESCO (Afghanistan, Algeria, Democratic People's Republic of Korea, Gambia, Ireland, Republic of Korea, Togo and Uganda), four intergovernmental organizations (European Union, International Committee of the Red Cross (ICRC), International Centre for the Study of the Preservation and Restoration of Cultural Property (ICCROM), and Organisation of Islamic Cooperation (OIC)) and two non-governmental organizations (International Council on Monuments and Sites (ICOMOS) and World Association for the Protection of Tangible and Intangible Cultural Heritage in Time of Armed Conflict (WATCH)) attended as observers. The list of participants and the working documents of the meeting are available at the following web address: <http://www.unesco.org/new/en/culture/themes/armed-conflict-and-heritage/meetings-and-conferences/>.

2. The Assistant Director-General for Culture, Mr Bandarin, thanked the States members of the Committee and all the observers for their support and cooperation in the protection of cultural property in time of peace and during armed conflict, and stressed the relevance of the Hague Convention of 1954 and its two Protocols of 1954 and 1999. He then explained recent activities undertaken by UNESCO in Mali and the Syrian Arab Republic for the protection of heritage. He reported on UNESCO's cooperation with the Secretariat of the United Nations, Interpol, the World Customs Organization, and Italian and French specialist police forces. He recalled that, after the emergency UNESCO mission to Mali in May 2012, the World Heritage Committee, at its 36th session, had decided to add Timbuktu and the Tomb of Askia to the UNESCO List of World Heritage in Danger, and that the Organization had requested the cooperation of neighbouring countries in preventing the trafficking of cultural property. Mr Bandarin also recalled that, at the request of the World Heritage Committee, the Director-General had created a Special Account for the Safeguarding of World Heritage Properties in Mali, in order to support that country in its efforts to preserve and protect the property affected by armed conflict. He further informed the Committee that the Director-General had allocated U.S. \$140,000 from the emergency fund to the UNESCO Office in Mali for the protection of cultural heritage. Then he reported to the Committee on training conducted and on information material (passport containing the list of property on the World Heritage List and a map showing the location of cultural property) on the protection of cultural heritage, and thanked all the Member States that had provided financial support. He reported that Mali had become a Party to the 1999 Second Protocol on 15 November 2012 and that the Committee had accepted its request for emergency financial assistance from the Fund for the Protection of Cultural Property in the Event of Armed Conflict (hereinafter, "the Fund"). Mr Bandarin reported on the Secretariat's coordinated activity with the Secretariat of the United Nations and the secretariats of other United Nations agencies in the adoption of Security Council resolutions for the protection of cultural property in the Syrian Arab Republic and Mali, and on joint humanitarian activity with other partners, including the Economic Community of West African States (ECOWAS) and the African Union. Mr Bandarin then introduced the issues on the agenda: the improvement of the Enhanced Protection Request Form; the consideration of synergies between the 1999 Second

Protocol and the World Heritage Convention; fund-raising; the international assistance granted to El Salvador and Mali from the Fund, and consideration of the protection of cultural property in occupied territory. He concluded his introduction by declaring that the meeting would be an important landmark in the strengthening of international cooperation and fuller implementation of the 1999 Second Protocol.

Agenda item 1

II. Election of the Bureau

3. Argentina nominated Dr Ramiro Riera, who was not present at the meeting, as Chairperson of the Committee. This candidacy was supported by El Salvador. The representative of the Office of International Standards and Legal Affairs explained that, as the role of Chairperson was exercised on a personal level, it required the physical presence of the proposed candidate at the meeting. Following that explanation and a brief discussion, Argentina withdrew the candidacy of Dr Riera.

4. The following Bureau was elected: Chairperson – Mr Benjamin Goes (Belgium); Vice-Chairpersons – Argentina, Austria, Azerbaijan and El Salvador; and Rapporteur – Ms Alida Matković (Minister Counsellor, Permanent Delegation of Croatia to UNESCO).

5. Mr Nout van Woudenberg, the outgoing Chairperson, thanked the members of the Committee, the members of the Bureau and the Secretariat for their contribution to the successful conduct of the activities of the Committee and the Bureau. Mr Benjamin Goes, the newly-elected Chairperson, thanked the Committee for the confidence it had placed in him and expressed the hope that the work of the Committee would be guided by a spirit of consensus.

Agenda item 2

III. Adoption of the agenda – Document CLT-12/7.COM/CONF.201/1

6. The Committee examined the provisional agenda and added two items to it: emergency financial assistance granted to Mali from the Fund (item 4); and, under the item for other business, the presentation of an Italian directive on the protection of cultural property in the event of armed conflict, published by the Staff Headquarters of Italian Defence (item 10). The agenda was adopted, as amended.

7. The Chairperson announced that during the meeting interpretation would be available in French, English and Spanish and that, in accordance with Decision 6.COM 5 (B) of the sixth meeting of the Committee, the working documents were available in French and English.

Agenda item 3

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

8. The Secretariat informed the Committee that, since its sixth ordinary meeting (14-15 December 2011), Angola had deposited its instrument of accession to the Hague Convention of 1954 on 7 February 2012 and that Benin and Palestine had submitted their instruments of accession to the Hague Convention of 1954 and its two Protocols on 17 April and 22 March 2012, respectively. Mali had become a party to the 1999 Second Protocol on 15 November 2012 by depositing an instrument of accession and requesting immediate implementation in accordance with Article 44 of the 1999 Second Protocol. There were thus 126 High Contracting Parties to the Hague Convention of 1954, of which 102 States were bound by the 1954 First Protocol and 64 by the 1999 Second Protocol.

Activity by UNESCO to protect cultural property in Mali and the Syrian Arab Republic

9. The Secretariat reported to the Committee on the implementation of United Nations Security Council resolutions 2056 (2012) and 2071 (2012), which, *inter alia*, strongly condemned the desecration, damage and destruction of sites of holy, historic and cultural significance, called on all parties in the North of Mali to cease all abuses of human rights and violations of international humanitarian law, and urged all parties to immediately take appropriate steps to ensure the protection of Mali's world heritage sites. Further, with regard to the Syrian Arab Republic, resolution 2043 (2012) had established a United Nations Supervision Mission in Syria. The Secretariat also informed the Committee of the following actions and activities.

Letter to Mr Romano Prodi, United Nations Special Envoy for the Sahel

10. The Director-General sent a letter to Mr Romano Prodi, expressing her concern regarding the cultural heritage situation in the northern regions of Mali, recalling the obligation of parties to non-international conflicts to respect cultural property in accordance with Article 19.1 of the Hague Convention of 1954 and requesting Mr Prodi's support in raising awareness among the rebel groups of their responsibilities to protect cultural heritage.

Op-ed by the Director-General in the International Herald Tribune

11. On 3 December 2012, the Director-General, in an article published in the International Herald Tribune, deplored the deliberate destruction of cultural heritage during armed conflicts, particularly in Mali and the Syrian Arab Republic. She also provided information on UNESCO's implementation of standard-setting instruments, the development of "coalitions for culture" and the prevention of armed conflict.

UNESCO's activity in the Syrian Arab Republic

12. Consultations were held in November and December 2012 between UNESCO and other interested partners to discuss possible ways of providing assistance for Syrian cultural heritage.

Follow-up to the decisions of the sixth meeting of the Committee

13. The Secretariat did not receive in 2012 a complete request from Azerbaijan for enhanced protection of the Walled City of Baku with the Shirvanshah's Palace and Maiden Tower and the Gobustan Rock Art Cultural Landscape.

Improvement of the website for exchange of information

14. The French and English versions of 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 (hereinafter "the Guidelines") were available online and the national reports on the implementation of the Hague Convention of 1954 and its two Protocols would be made available online.

Granting of financial assistance to El Salvador

15. In accordance with Decision 6.COM 6 of the sixth meeting of the Committee, the Permanent Delegation of El Salvador would present a report on the use of the financial assistance from the Fund for the Protection of Cultural Property in the Event of Armed Conflict.

Appeal by the Director-General encouraging the Parties, all other Member States of UNESCO and other potential donors to contribute to the Fund

16. On 18 July 2012, on behalf of the Director-General, the Assistant Director-General for Culture, Mr Bandarin, sent an email to the Permanent Delegations and National Commissions of

the Parties to the Second Protocol informing them that the sixth meeting of the Committee had granted financial assistance to El Salvador in the amount of U.S. \$23,500 for projects related to the protection of cultural property. He reminded them that supplementary voluntary contributions would enable the Committee to grant more assistance. Netherlands and Slovakia contributed to the Fund in July 2012.

Preparation of a fund-raising strategy for increasing the resources of the Fund for the seventh meeting of the Committee in 2012 – Document CLT-12/7.COM/CONF.201/4.

17. A fund-raising strategy for the Fund was prepared and presented by the Secretariat.

Implementation of the recommendations of the sixth meeting of the Committee

Improvement of the Enhanced Protection Request Form

18. Proposed improvements to the Enhanced Protection Request Form were presented by the Secretariat in document CLT-12/7.COM/CONF.201/2.

Presentation of tentative lists and requests for the granting of enhanced protection

19. On 31 January 2012, Mr Bandarin sent an email to the Permanent Delegations and National Commissions of the Parties to the 1999 Second Protocol indicating that the Secretariat wished to receive tentative lists of the cultural property for which a Party intended to request the granting of enhanced protection, as envisaged in paragraphs 52 and 53 of the Guidelines. To date, a provisional list had been received from the Delegation of Belgium, and Germany had informed the Secretariat that in 2013 it would submit a comprehensive list of the cultural property for which it intended to request the granting of enhanced protection.

Urging the High Contracting Parties that were not yet party to the Convention of 1954 and its two Protocols to accede to them

20. On 1 March 2012, Mr Bandarin sent an email to all Member States of UNESCO, inviting them to consider favourably becoming party to the Convention of 1954 and/or its two Protocols (1954 and 1999). Since then, four new States had become party to one or more of those instruments (see paragraph 8).

Other issues relating to the implementation of the Second Protocol

Status of the Fund for the Protection of Cultural Property in the Event of Armed Conflict

21. As of 17 December 2012, the Fund contained U.S. \$309,780.21. That amount had been reached thanks to the generous contributions of Estonia, Finland, Netherlands and Slovakia. The latter two voluntary contributions to the Fund were made in July 2012 (€25,000 from the Netherlands and €10,000 from Slovakia). Interest continued to accumulate on the Special Account.

Requests for periodic reports on the implementation of the Hague Convention and its two Protocols

22. In accordance with the relevant paragraphs of the recommendation of the ninth Meeting of the High Contracting Parties and the resolution of the fourth meeting of the Parties to the Second Protocol (both of 12 December 2011), Mr Bandarin sent, on 14 March 2012, letters by electronic mail to the ministers responsible for relations with UNESCO of each High Contracting Party requesting the submission of reports on the implementation of the Hague Convention of 1954 and its two Protocols, with a suggested final date for submission of 30 October 2012. To date, the Secretariat had received 15 periodic reports from the following States: Belgium, Cambodia,

Cyprus, Finland, Greece, Hungary, Japan, Jordan, Lithuania, Mexico, Netherlands, Peru, Romania, Slovakia and Slovenia.

International conference (September-October 2012)

23. The International Conference on the Protection of Cultural Heritage, held on the occasion of the fiftieth anniversary of the ratification by Switzerland of the Hague Convention of 1954, took place from 30 September to 2 October 2012. The main goal of the meeting was to examine various legal and practical issues related to national implementation of the Hague Convention and its Second Protocol. In addition, the Swiss authorities distributed the card games used by their armed forces in order to inform them about the protection of cultural property.

24. The members of the Committee thanked the Secretariat for its exhaustive report which would be distributed with the well-referenced introductory speech by the Assistant Director-General for Culture. The Delegation of the Netherlands pointed out that its country had provided a substantial portion of the contributions to the Fund and commended the other States that had contributed. It also deplored the lack of contributions and appealed to the Parties to contribute to the Fund.

Agenda item 4

V. Request for financial assistance from Mali – Document CLT-12/7.COM/CONF.201/2

25. In its presentation, the Secretariat recalled that Article 29 (i) (b) of the Second Protocol provided for the possibility of granting financial assistance in relation to emergency, provisional or other measures to be taken in order to protect cultural property during periods of armed conflict or of immediate recovery after the end of hostilities in accordance with, *inter alia*, Article 8 paragraph (a). Such assistance was granted by the Committee from the Fund. The methods for using the Fund were set out in the guidelines concerning the use of the Fund and in the Guidelines. Paragraph 111 of the Guidelines more specifically enabled the Committee to provide assistance for, *inter alia*, “cultural property in support of measures referred to in Article 29(1)”. On 7 December 2012, the Malian National Commission for UNESCO submitted to the Secretariat a request for financial assistance from the Fund in relation to emergency measures concerning the collections of several cultural institutions. The assistance would also benefit world heritage sites. After verifying the whole request, the Secretariat considered it to be complete. Following the request’s evaluation by the Bureau of the Committee, the Secretariat had consulted all the members of the Committee by email on 13 December 2012. The six other members of the Committee that were not members of the Bureau supported the request. At the request of two members of the Bureau, the draft decision was modified. The procedure followed was in accordance with paragraph 150 of the Guidelines, which established that “requests for emergency measures may be submitted at any time [...] in view of the urgency, the Committee will consider as soon as possible these requests on an ad hoc basis”.

26. Mr Klessigué Abdoulaye Sanogo, National Director of the Cultural Heritage of Mali, thanked the Director-General, the members of the Committee, the States Members of UNESCO and the Secretariat on behalf of the Minister of Culture of Mali for the attention granted to Mali and for their support in the crisis it was going through. He recalled that since January 2012 Mali had faced a state of armed conflict which threatened cultural heritage, and in particular the world heritage located on its territory. He made a detailed presentation of the property threatened, including that located in Timbuktu, where 11 of 16 mausoleums had been destroyed, the Tomb of Askia in the city of Gao, the ancient cities of Djenné and other property located in the Dogon Country. He said that the assistance provided from the Fund would make it possible to assess the damage, update inventories and protect the cultural property.

27. The Committee confirmed the decision that it had approved as amended on the basis of ad hoc consultation by email on 18 December 2012. By that Decision 7.COM 1, it approved Mali’s request for financial assistance relating to emergency measures for activities in conformity with

Article 29 (i) (b) of the Second Protocol in the amount of U.S. \$40,500 from the Fund. The Committee invited Mali to inform the Secretariat as to the use of the financial assistance and the implementation of the project before the next meeting of the Bureau. The Committee also invited the Secretariat to prepare for the next meeting of the Bureau, and for the Committee's eighth meeting, a report on the use of the financial assistance approved and the implementation of the project. It requested the Director-General to take all appropriate steps to reinforce the cooperation with Mali under the Programme and Budget for 2012-2013 (36 C/5) approved by the General Conference at its 36th session, and by mobilizing extrabudgetary resources, and urged the Member States of UNESCO, governmental and non-governmental organizations as well as international and private institutions to provide emergency assistance to Mali in UNESCO's fields of competence.

Agenda item 5

VI. Consideration of improvement of the Enhanced Protection Request Form – Document CLT-12/7.COM/CONF.201/2

28. Introducing the item, the Chairperson recalled that the Bureau had examined the issue at the suggestion of the Delegation of Italy. The Secretariat also recalled that the Committee, at its sixth meeting in 2011, had considered the proposal submitted by the Delegation of Italy suggesting modifications to the Enhanced Protection Request Form in order to make it easier to use. The Committee transmitted the proposal to the Bureau with a view to producing a document to be presented at its seventh meeting and had requested the Secretariat to consult the Parties that had already formulated an enhanced protection request. In February 2012, the Secretariat invited the Permanent Delegations of Azerbaijan, Cyprus, Dominican Republic, Italy and Lithuania to provide comments. Italy had submitted the proposal for modification that had been made at the sixth meeting of the Committee and which was based on its experience for the Castel del Monte site. Further, Belgium had requested the Bureau, at its meeting in June 2012, to study the possibility of developing synergies between the Enhanced Protection Request Form and the World Heritage List nomination form. Following the June 2012 meeting, the Bureau having decided to extend the consultation to all the Parties to the Second Protocol, the Secretariat integrated the six additional responses to prepare modifications which were submitted to the Bureau at its meeting in September 2012. The draft form in annex to the working document contained the comments made by the Bureau.

29. A consensus emerged on the content of the Enhanced Protection Request Form. The Committee then examined the model non-military use declaration and, after an in-depth debate, decided to adapt its text and that of the signature in line with the terms of Article 10(c) of the Second Protocol. As a result, Decision 7.COM 2 was adopted, as amended, by the Committee.

Agenda item 6

VII. Consideration of synergies between the 1999 Second Protocol and the 1972 World Heritage Convention – Document CLT-12/7.COM/CONF.201/3 and Document CLT-12/7.COM/CONF.201/6

30. Introducing the item, the Secretariat recalled that the Committee, at its fifth meeting in 2010, had considered a document which analysed possible synergies between the List of Cultural Property under Enhanced Protection (hereinafter, "the List") and the World Heritage List, as well as other UNESCO instruments. The Committee had requested the Secretariat to ensure that the synergies foreseen in document CLT- 10/CONF/204/4 between the 1999 Second Protocol and other relevant UNESCO conventions and programmes applied at all levels when assisting Parties with identifying cultural property, submitting enhanced protection proposals and including cultural property on the List. The Secretariat reported on a number of consultations at the level of the Cultural Conventions Liaison Group, the consideration by the Secretariat of requests for enhanced protection relating to sites already on the World Heritage List, as well as cases of sites on the

World Heritage List also benefiting from enhanced protection which were then added to the List of World Heritage in Danger. The Secretariat concluded by giving specific examples of activities to protect cultural property in Libya, Mali and the Syrian Arab Republic. The Committee then adopted Decision 7.COM 3, requesting the Secretariat to ensure that the synergies foreseen in document CLT-12/7.COM/CONF.201/3 applied at all levels when assisting Parties with identifying cultural property, submitting enhanced protection proposals and including cultural property in the List, and taking measures to protect and safeguard cultural property in accordance with both the 1999 Second Protocol and the World Heritage Convention.

31. The Chairperson then gave the floor to the Delegation of Belgium, which outlined document CLT-12/7.COM/CONF.201/6. The Delegation pointed out that the main objectives of its proposal were to begin a dialogue with the World Heritage Committee in order to modify slightly its format for the nomination of properties for inscription on the World Heritage List, with a view to adding fields relating to the simultaneous addition of the same property to the List of Cultural Property under Enhanced Protection. To that end, the Delegation proposed a revision of the aforementioned format and the Operational Guidelines for the Implementation of the World Heritage Convention (hereinafter “the Operational Guidelines”). It specified that its proposal only concerned immovable cultural property covered by both instruments, would only affect future requests, would not have retroactive effect, would not be binding and would only concern Parties to both instruments. The Delegation of Belgium said that, in order to implement the mechanism for synergy, it would be necessary to add a section 5(k) to the aforementioned format, in the part on “Protection and Management of the Property”, worded as follows, “Adequate domestic legal and administrative protection measures recognizing the outstanding cultural and historical value of the property and ensuring the highest level of protection (Article 10, paragraph (b) of the Second Protocol to the Hague Convention of 1954)”, for Parties to the Protocol that wished to request the granting of enhanced protection for their property. The Delegation of Belgium added that it would also be necessary to amend the Operational Guidelines to reflect the change and to revise the Guidelines. Taking into consideration the timetables of the Committees for these two instruments, the Delegation of Belgium pointed out that the Committee could adapt its timetable pending the decision of the World Heritage Committee.

32. Ms Rössler, Deputy Director of the World Heritage Centre, informed the Committee that a working group on all revisions to be made to the Operational Guidelines would, during the next session of the World Heritage Committee (Phnom Penh, June 2013), consider a working document to be produced in February and March 2013 and which would be sent out in May 2013. She explained that any specific proposal should be submitted in writing to the World Heritage Secretariat so that it could be integrated into the document being prepared. While welcoming the principle of synergies, she pointed out that the Hague Convention of 1954 was mentioned in paragraph 44 of the Operational Guidelines. Following her comments on the draft decision, the Chairperson proposed that the Committee invite the Director-General to take the matter into consideration.

33. Stressing the potential of synergies, the representative of ICOMOS welcomed closer cooperation between the two standard-setting instruments. She also considered the possibilities that presented themselves for revising the documentation relating to the Operational Guidelines, and proposed giving greater visibility to sites on the World Heritage List that benefited from enhanced protection.

34. The Delegation of the Netherlands thanked Belgium and supported its proposal for synergies.

35. Mr Bandarin commented that, given the non-retroactive nature of the proposal, a small number of newly-inscribed sites would benefit from the possibility, but that the majority of existing sites would not. He proposed referring in the draft to the “retrospective inventory” and to include on a voluntary basis in the six-year cycle of periodic reports the possibility of reviewing the form and making up for the delay with the other sites.

36. The Delegation of Belgium thanked Mr Bandarin for his proposal, which it considered excellent and which would make it possible to envisage joint action within the framework of the periodic reports. Ms Rössler informed the Committee that the second cycle of periodic reports was under way and that the format could not be revised at that point. She explained that it would be possible to consider the proposals in the third cycle, after 2015.

37. The Delegation of the Netherlands, noting that only five sites on the World Heritage List were also on the List of Cultural Property under Enhanced Protection, suggested calling on Parties to the Second Protocol to request the granting of enhanced protection for their cultural property which was already on the World Heritage List. Following the proposal, the Committee amended the draft decision and invited the Director-General to raise the awareness of the World Heritage Committee regarding possible synergies between the 1972 World Heritage Convention and the Hague Convention of 1954, and particularly its 1999 Second Protocol. It also proposed that the World Heritage Committee consider the concrete proposal detailed in document CLT-12/7.COM/CONF.201/6 on the modification of the format for the nomination of properties for inscription on the World Heritage List, and that it take into consideration the synergies in the framework of the periodic reports. The Committee adopted Decision 7.COM 6 as amended.

Agenda item 7

VIII. Consideration of a fund-raising strategy for the Fund for the Protection of Cultural Property in the Event of Armed Conflict – Document CLT-12/7.COM/CONF.201/4

38. Introducing the item, the Chairperson pointed out that the main objective was to provide the Committee with a viable strategy for increasing the resources of the Fund, and that the Bureau had examined and approved the document under consideration. He invited the Secretariat to make its presentation on the item.

39. The Secretariat recalled that the document was a response to the request that the Committee had made at its preceding meeting to increase the financing of the Fund and its visibility through partnerships in order to fund international assistance, make it more visible by means of partnerships, encourage national fund-raising efforts and align its strategy with that of UNESCO in the broader context of responding to post-conflict and post-disaster situations. It stressed that the development and implementation of the fund-raising strategy should comply in full with the UNESCO policy framework for strategic partnerships to be presented at the 190th session of the Executive Board, and with the current version of the Extrabudgetary Resource Mobilization Strategic Plan. Finally, the Secretariat set out the elements of the strategy contained in the document.

40. The Delegation of the Netherlands declared that its country was the only State Party to make annual contributions and urged other States Parties to contribute to the Fund as well. It pointed out that it was the role of the Parties to encourage other legal and physical persons to contribute to the Fund.

41. The Delegation of Belgium asked for the strategy to be more operational so that the Committee would be in a position to adopt it, and offered to contribute to it on a bilateral basis. It declared that the Committee's results and projects would make it possible to improve visibility, but that that was different from fund-raising.

42. The Delegation of Austria provided clarifications on some of the information contained in the document, of which the Chairperson and the Secretariat took note.

43. The majority of the members of the Committee who participated in the discussion on the item desired both the operational implementation and the updating of the fund-raising strategy.

44. Having discussed amendments to the draft decision, the Committee adopted Decision 7.COM 4 as amended, by which it requested the Secretariat to start implementing the

resource mobilization strategy for the Fund, to report to it at its eighth meeting on the status of implementation, and to present an update, at its ninth meeting, on the strategy.

Agenda item 8

IX. Report of El Salvador on the use of the financial assistance granted from the Fund for the Protection of Cultural Property in the Event of Armed Conflict – Document CLT-12/7.COM/CONF.201/5

45. Having introduced the item, the Chairperson gave the floor to the Secretariat. The Secretariat recalled that, at its sixth meeting (December 2011), the Committee, by its Decision 6.COM 6, had approved the request for financial assistance made by El Salvador for an amount of U.S. \$23,500 from the Fund. By that decision, the Committee had invited El Salvador to present at its seventh meeting a report on the use of the financial assistance granted with a view to ensuring monitoring and evaluation.

46. In November 2012, El Salvador had presented the mid-term report which was annexed to document CLT-12/7.COM/CONF.201/5. The project was to be completed in March 2013 and a final report would be submitted to the Committee at its eighth meeting in 2013. In accordance with the contract with the Ministry for Foreign Affairs of El Salvador, two payments had been made, the first in June 2012 at the start of the project and the second in November 2012 after receipt of the mid-term report. The third and final payment would be made after submission of the final report in March 2013.

47. As requested in Decision 6.COM 6, the documentation produced in the framework of the project would be made available to Member States on the UNESCO website¹ so that States could benefit from the experience of El Salvador. When the Secretariat received the documentation, it would create a page dedicated to the El Salvador project on its site.

48. The Delegation of El Salvador presented its report, explaining that the objectives pursued were disseminating information, raising awareness, and marking five cultural properties with the Blue Shield emblem. With regard to methodology, the Delegation reported that the Sub-Commission for the Protection of Cultural Property of the Inter-institutional Committee on International Humanitarian Law in El Salvador (CIDH-ES) had created three committees in charge of training, logistics and documentation respectively. The committees were in contact with the social actors and institutions active in the territories where the cultural properties were located. The activity was implemented by the Ministry of Defence in coordination with the Division of Culture of the Presidency of the Republic for the participation of the experts and archaeologists responsible for the cultural property to be marked. The progress achieved was as follows: contact with local actors, networks and institutions; creation of a network of local contacts and experts; updating of training modules, and holding of training workshops for all stakeholders, including the local military detachment, historians, restorers and civil society actors. Exhibitions and presentations on the project made it possible to provide greater visibility and understanding of the purpose and use of the Blue Shield. The Delegation of El Salvador thanked the Parties to the Second Protocol and the Secretariat for their assistance.

49. The Committee adopted Decision 7.COM 5, by which, *inter alia*, it invited El Salvador to present a final report on the use of the financial assistance at its eighth meeting with a view to ensuring appropriate monitoring and evaluation.

¹ <http://www.unesco.org/new/en/culture/themes/armed-conflict-and-heritage>

Agenda item 9

X. Consideration of the protection of cultural property in occupied territory – Document CLT-12/7.COM/CONF.201/7

50. Introducing the document prepared by Azerbaijan and placed on the provisional agenda following a verbal request, the Delegation of Azerbaijan stressed the importance of the issue for the application of the Hague Convention of 1954 and its 1999 Second Protocol, and for an implementation of existing results-based mechanisms. The Delegation recalled that the document explained the problem and presented a legal analysis of existing instruments, of the provisions which provided a legal basis for the protection of cultural property in occupied territory (Article 19 of the Hague Convention of 1954 and Article 9 of the Second Protocol) and of specific proposals emerging from the mechanisms enshrined by the two instruments. The Delegation emphasized that the Committee's mandate was to supervise the application of the Second Protocol, which was why it was important to consider thoroughly the protection of cultural property in occupied territory, a very important aspect of the Second Protocol.

51. The Delegation of Austria, while appreciating the validity of the goals of considering the issue, stated that it first required an in-depth legal analysis to determine the role of the Committee which, in fact, was not specifically defined in that respect by the Second Protocol. It stressed the role of the Meeting of the Parties in this context. Given that the Committee did not have the necessary information to reach a decision as to substance, the Delegation proposed that the Secretariat, based on the document and the meeting's deliberations, present a full report on the scope of the Hague Convention of 1954 and its Second Protocol in legal terms, in view of international humanitarian law and the practice of the International Committee of the Red Cross and that of the United Nations, in order to enable the Committee to proceed with a substantive discussion.

52. Supporting that proposal and in reference to a very useful previous report by the Secretariat on the implementation of Chapter 4 of the 1999 Second Protocol on criminal responsibility and jurisdiction, the Delegation of the Netherlands proposed that the Secretariat consult the Office of Legal Affairs of UNESCO and that of the United Nations. The Delegation of Belgium, while stressing the importance of considering the issue, indicated prior improvements to be made to such a report in addition to integrating the analyses and experiences of other entities with the aim of a more thorough debate at Committee level. All members of the Committee that then spoke on the item, the Delegations of Argentina, El Salvador, Italy and Switzerland, highlighted the importance of the issue and the need to consider it on the basis of an in-depth legal analysis. The Chairperson then gave the floor to observers.

53. The Delegation of Armenia stressed that the issue had multiple legal, political, economic and other aspects. It asked for a number of clarifications, in particular with regard to the draft decision.

54. The Delegation of Azerbaijan rose to a point of order and recalled that the debate related to the document submitted to the Committee and not to the draft decision, which the Chairperson confirmed by specifying that the Committee was currently at the stage of general debate on that item of the agenda.

55. The Delegation of Georgia said that it considered that setting up a mechanism to monitor the protection of cultural property in occupied territory was a major current challenge. It welcomed and encouraged consideration of the issue by the Committee and considered that it would be reasonable to begin work to develop effective protection and observation mechanisms for cultural property in occupied territory.

56. The representative of ICRC recalled that organization's regular collaboration with the UNESCO Secretariat and its willingness to share its expertise. He stressed that ICRC had sent the Secretariat a report on occupation and other forms of administration of foreign territory which could

provide a useful basis for considering the issue. He explained that ICRC could not be formally associated with a report drawn up by the Secretariat of an intergovernmental organization, but could work on one in accordance with procedures to be determined.

57. The representative of Palestine stressed the importance of the matter and the need for a decision by the Committee.

58. On resuming that item of the agenda the following day, the Chairperson gave the floor to the Delegation of Austria, which presented a draft decision drawn up by a group of countries in order to present a consensus-based text to the Committee.

59. During the consideration of the draft decision, the Delegations of Argentina and El Salvador put forward an amendment and proposed the full inclusion of paragraph 102 of the Guidelines. They also explained that, in the absence of a report by the Secretariat on that issue, a number of substantive questions that had not yet been resolved required thorough examination. Those Delegations were also concerned about the lack of clarity as to the Committee's mandate and about a certain number of shortcomings in legal terms.

60. The Delegation of Austria explained that, during the preparation of the draft decision, after careful consideration of paragraph 102 of the Guidelines, only the points relating to occupied territories were retained in view of their relevance to the draft decision. The two delegations withdrew their amendment.

61. The Committee adopted the proposed text and decided to include in it references to Articles 4, 5, 18, 21, 22 and 23 of the Hague Convention of 1954 and to Articles 9, 33, 34, 35 and 36 of the 1999 Second Protocol, and to recall paragraph 102 of the Guidelines which, *inter alia*, provided that Parties which were occupying powers should include information in their periodic reports on the implementation of the provisions of the Second Protocol concerning the protection of the cultural property in occupied territory. The Committee also decided to refer to paragraph 134 of the Guidelines, which provided for technical assistance from UNESCO with a view to organizing the protection of cultural property, which might include the dispatch of technical missions to undertake operational projects, if so requested. Emphasizing the importance of safeguarding and preserving cultural property in occupied territory, the Committee took note of document CLT-12/7.COM/CONF.201/7 entitled, "Protection of Cultural Property in Occupied Territory", submitted by Azerbaijan, and adopted Decision 7.COM 7, by which it requested the Secretariat to prepare a document based on discussions at the seventh meeting giving specific emphasis to the implementation of the relevant provisions and mechanisms of the Hague Convention of 1954 and the 1999 Second Protocol concerning the protection of cultural property in occupied territory and to present it at the Committee's eighth meeting in 2013.

62. The Delegation of Armenia regretted the fact that it had not been heard as an observer State before the adoption of the decision by the Committee. It asked about the possibility of giving the floor to observer States and recalled that the Committee's Rules of Procedure stipulated that the Chairperson had the power to do so. It deplored the fact that the decision adopted did not include the provisions of the Second Protocol and those of the Guidelines *in extenso* and raised concerns about the risks of politicization of the Committee.

63. The Chairperson explained that, when a point of order was raised, he was legally obliged to take it into consideration. He declared that it would be appropriate to examine and clarify from a legal point of view the issue of the status of observers and their opportunity to take the floor during meetings of the Committee, particularly when it was considering a draft decision.

XI. Adoption of recommendations

64. Having considered the draft recommendations, which focused on contributions to the Fund with a view to enabling the provision of financial assistance and other kinds of assistance, the

importance of submitting national reports on the implementation of the Second Protocol, and the Cultural Conventions Liaison Group, the Committee adopted the recommendations as amended.

XII. Other business

65. The Delegation of Italy recalled that its country had prepared a directive for the armed forces with the objective of presenting the content of the Convention and its two Protocols and describing the measures envisaged for protecting cultural property in the event of armed conflict, as well as in time of peace. The second part was based on individual criminal liability and serious violations in accordance with the Second Protocol.

66. The Delegation of Austria thanked the Delegation of Italy for the directive, but commented that there was no specific distinctive symbol for cultural property benefiting from enhanced protection.

67. The Delegation of the Netherlands asked for the presentation to be sent to the members of the Committee, the Chairperson and the Secretariat with the corrections related to cultural property that the Delegation of Cyprus had requested.

68. Before closing the meeting, the Chairperson sought to clarify his intentions for the lines of work of the Bureau so that they were set down in writing, obtained the approval of the Committee and were included in the draft report of the Secretariat, as follows: implementation of the decisions and recommendations adopted by the Committee; ensuring the distribution of the report and the final documents, taking into account all the discussions of the Committee; pursuing the awareness-raising and promotion strategy for ratifications of the Second Protocol; working on the issue of a distinctive symbol and studying the legal feasibility of adopting such a symbol for enhanced protection and examining the implementation of Article 10(a) (the criteria requiring the greatest importance for humanity) with regard to immovable cultural property which was not part of the World Heritage List, as well as movable cultural property.

XIII. Closing of the meeting

69. The Chairperson paid warm tribute to his predecessor, Mr Nout van Woudenberg, for the work accomplished. He also thanked the members of the Bureau, the members of the Committee, the Member States of UNESCO, the observers and the UNESCO Secretariat and declared the seventh ordinary meeting of the Committee closed.

70. After the meeting, the Chairperson immediately convened a meeting of the Bureau in order to follow up the decisions of the Committee and establish the lines of work.