



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/Report
Paris, 17 March 2016
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

FINAL REPORT

I. Opening of the Meeting

1. The Sixth Meeting of the Parties to the Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict (the “Second Protocol”) was held at UNESCO Headquarters on 8 (p.m.) and 9 December 2015, immediately after the Eleventh Meeting of the High Contracting Parties to the Hague Convention, which was held on the morning of 8 December. Of the 68 States Parties to the Second Protocol, 53 attended the meeting: Argentina, Armenia, Austria, Azerbaijan, Bahrain, Belarus, Belgium, Benin, Bosnia and Herzegovina, Brazil, Bulgaria, Cambodia, Canada, Chile, Costa Rica, Croatia, Cyprus, Czech Republic, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Estonia, Finland, Gabon, Georgia, Germany, Greece, Guatemala, Honduras, Hungary, Iran (Islamic Republic of), Italy, Japan, Jordan, Libya, Lithuania, Montenegro, Mexico, Morocco, the Netherlands, Niger, Palestine, Paraguay, Poland, Qatar, Romania, Serbia, Slovakia, Spain, Switzerland and Uruguay. 16 observers who are party to the Hague Convention but not to the 1999 Second Protocol were in attendance: Bolivia, Burkina Faso, Cuba, Denmark, France, Holy See, Iraq, Israel, Kuwait, Monaco, Norway, Senegal, Sweden, Syrian Arab Republic, Turkey and Ukraine. Four observers who are not party to the Hague Convention or the Second Protocol were in attendance: Afghanistan, Djibouti, Ireland and Togo. In addition, 2 intergovernmental organizations (Islamic Educational, Scientific and Cultural Organization (ISESCO) and the International Centre for the Study of the Preservation and Restoration of Cultural Property (ICCROM)) and 4 non-governmental organizations (the International Committee of the Red Cross (ICRC), the International Committee of the Blue Shield, the International Council of Museums (ICOM), the Traditions for Tomorrow) attended as observers. The documents of the Meeting are available on the website of the Convention at the following address:

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

2. The Meeting was opened by the Director of the Division for Heritage, Dr Mechtild Rössler, who encouraged participants to continue strengthening the protection of cultural heritage through wider ratification and implementation of the Second Protocol, as well as promoting international cooperation and assistance, both in peacetime and in the event of armed conflict. She emphasized several key issues that would be discussed at the Meeting: the election of six members of the Committee for the Protection of Cultural Property in the Event of Armed Conflict, the creation of a distinctive emblem for cultural property under enhanced protection and the establishment of a special account for human resources of the Secretariat of the Hague Convention and its two Protocols.

II. Election of the Bureau

3. The Director then proceeded to the election of the Bureau. She first reminded participants that the Chairpersons of the regional electoral groups had been requested to consult within their respective electoral groups to come to a consensus about their nominations for the Bureau of this Meeting. The representative of Japan nominated H. Exc. Mr Sophann Ket, Ambassador and Permanent Delegate of Cambodia to UNESCO, as Chairperson. As there was no objection, Mr Ket was unanimously elected and was invited to take his seat at the podium. The Chairperson expressed his thanks and proceeded to the next item, the election of the remaining positions of the Bureau of the Meeting (the four Vice-Chairpersons and the Rapporteur).
4. The Chairperson announced that Electoral Group II (Eastern European States) sent an e-mail on 27 November 2015 to the Secretariat nominating Armenia as Vice-Chairperson. The Chairperson further announced that Electoral Group V(b) (Arab States) nominated Morocco as Vice-Chairperson. The representative of Belgium nominated Mali and the Netherlands as Vice-Chairpersons. The Chairperson then requested a nomination for the Rapporteur of the Meeting. The representative of Ecuador nominated Ms Rosa Ester Moreira De Lemoine (El Salvador) as Rapporteur. Ms De Lemoine accepted and took her position at the podium. The Chairperson declared the four Vice-Chairpersons and the Rapporteur elected.

III. Adoption of the agenda

5. Following the election, the Chairperson moved to the adoption of the agenda. As there was no amendment or proposal to the provisional agenda, the Chairperson declared the agenda adopted as proposed.

IV. Report of the Secretariat on its activities

6. The Chairperson then proceeded to item 3 of the agenda, the Report of the Secretariat on its activities. He proposed moving directly to the next item on the agenda because the Secretariat had already provided the relevant information in its written report, available on the website of the Hague Convention, and an oral update earlier that morning during the Eleventh Meeting of the High Contracting Parties.
7. The Director for the Division of Heritage expressed thanks to Saudi Arabia for its financial contribution to enable the meeting of the Chairpersons of the six cultural conventions in June 2015, in Bonn, Germany.

V. Report of the Chairperson of the Committee for the Protection of Cultural Property in the Event of Armed Conflict to the Meeting of the Parties

8. The Chairperson then moved to the item 5 of the agenda, the Report of the Chairperson of the Committee for the Protection of Cultural Property in the Event of Armed Conflict, Ms Artemis Papathanassiou, to the Meeting of the Parties. Ms Papathanassiou took the floor and reported on activities undertaken by the Committee since the last report to the Meeting of the Parties.
9. She covered numerous issues, including the status of properties under enhanced protection. She stated that the Secretariat had received several requests from Bosnia and Herzegovina, the Czech Republic, Egypt and Mali. These requests were either incomplete and would be considered in the future after completion or submitted after the statutory deadline of 1 March 2015 and therefore would be considered at the next Committee Meeting. Ms Papathanassiou encouraged States to contribute to or submit requests for international or other forms of assistance where appropriate. She also encouraged more States to ratify the Second Protocol in order to provide adequate protection for cultural heritage.
10. Ms Papathanassiou also recalled the Statements made by the Committee and its Chairperson on behalf of the Committee on the recent deliberate attacks against cultural property in areas of armed conflict in December 2014, March 2015, May 2015 and September 2015. These statements condemned deliberate attacks against cultural property around the world and invited States Parties to ratify the Second Protocol, as well as parties to a conflict which are not Parties to the Second Protocol to request international assistance under Article 32 of the Second Protocol at their earliest convenience.

VI. Election of six members of the Committee for the Protection of Cultural Property in the Event of Armed Conflict

11. The Chairperson then moved to item 6 of the agenda, the election of the six members of the Committee for a four-year term until 2019. The Chairperson recalled the procedural rules for the voting process and reminded participants that, of the current twelve Members of the Committee, the four-year mandate of Azerbaijan, Belgium, Croatia, El Salvador, Japan and the Netherlands would expire in 2015.
12. The Chairperson then recalled the letter sent on 17 September 2015 by the Assistant Director-General for Culture a.i., which invited Parties to express their intent to stand for election to the Committee. The Chairperson listed the nine States that presented their candidature by the deadline (48 hours before the opening of the Meeting): Argentina, Azerbaijan, Belgium, Cyprus, the Czech Republic, El Salvador, Estonia, Libya and Morocco.
13. The Chairperson then announced that two tellers would need to be chosen. After the selection of Mr Abdulaziz Alsaleh from Saudi Arabia and Ms Flora van Regteren Altena from the Netherlands, the Chairperson invited them to come to the front of the podium.

14. The Chairperson then asked the Secretariat to distribute the voting ballots and instructed each Party to circle the names of up to six candidates. The Secretariat read the list of the Parties, at which point the head of each delegation come to the podium to place the voting paper in the voting box.
15. The Chairperson then announced that the Meeting would adjourn for half an hour to count the votes.
16. After the votes were counted, the Chairperson resumed the Meeting to announce the results of the election. The Chairperson thanked the tellers from Saudi Arabia and the Netherlands. Then the Chairperson announced that, with eight Parties absent, there were 60 voting parties and no null votes. The results were as follows: Argentina – 45 votes, Azerbaijan – 45 votes, Belgium – 39 votes, Cyprus – 44 votes, Czech Republic – 43 votes, El Salvador – 35 votes, Estonia – 31 votes, Libya – 19 votes, Morocco – 49 votes. The following six candidates were therefore declared elected: Argentina, Azerbaijan, Belgium, Cyprus, Czech Republic and Morocco.
17. The Chairperson then adjourned the meeting for the day, and announced that it would resume the following morning.

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

18. The Chairperson opened discussion on item 7 of the agenda, the creation of a distinctive emblem for cultural property under enhanced protection and establishment of the modalities for its use. The Secretariat presented and briefly summarized the working document on this issue. The Secretariat reminded participants that the Committee, at its 9th Meeting, adopted Decision 9.COM 4 which, among others, recommended that the Sixth Meeting of the Parties endorse proposals to establish the emblem through modifications of the Guidelines for the Implementation of the Second Protocol with necessary linguistic adjustments by the Secretariat to ensure consistency with the current Guidelines. The Secretariat drew the participants' attention to the Austrian position paper on different aspects of the adoption of the distinctive emblem and modalities of its legal protection, which was posted on the website of the Secretariat.
19. Following this presentation, the Chairperson opened the floor to the delegates for discussion.
20. The representative of Germany took the floor and expressed that Germany was not convinced of the added value of the creation of a distinctive emblem since any such emblem would not be a constitutive but rather declaratory. Moreover, Germany added that in accordance with the Guidelines for the Implementation of the 1999 Second Protocol, cultural property under enhanced protection could be marked by the blue shield emblem. Thus, adoption of the new distinctive emblem may downgrade the blue shield emblem to a third rank emblem. Germany stated that in its opinion States Parties should be focusing their efforts on making GPS positioning data for cultural property under enhanced protection available or marking such property on military maps. Nevertheless, Germany did not see a fundamental reason to oppose its adoption.
21. Then, Austria took the floor and stated that it is not against of the adoption of the new distinctive emblem in principle. However, it had questions on procedural aspects of the adoption of the new distinctive emblem. In particular, the adoption of the distinctive emblem by amending the Guidelines would not create legal certainty. Therefore, any such adoption needed to be established by international treaty law for the following reasons: (i) since the 1954 Hague Convention and its two (1954 and 1999) Protocols are the part of International Humanitarian Law (IHL), the adoption of the new distinctive emblem should follow the practice of the establishment of emblems under IHL which stipulated amendments of IHL instruments, (ii) establishment of the distinctive emblem for cultural property under enhanced protection was not a matter of the implementation of the Second Protocol, simply because the Second Protocol does not contain any provision on distinctive emblem for cultural property under enhanced protection. In addition, Austria added that there is neither any urgency in adopting

the emblem, since very few cultural property were inscribed into the List, nor were there any legal requirement since the enhanced protection was solely granted by the decision of the Committee not by marking.

22. The Czech Republic expressed its support for marking cultural property under enhanced protection and stressed the need for the military to recognize such property. The Czech position was supported by Peru. Canada pointed out that the new emblem would have only a declaratory meaning and serve for information purposes because its use would have different legal ramifications than those of other emblems. Mexico expressed its agreement with Canada and underlined the importance of the new emblem when implementing the Second Protocol. Greece shared comments, referring to legal precedents related to the adoption of distinctive emblems of the 1972 and 2003 Conventions. While a distinctive emblem could be adopted through the amendment of the Second Protocol, this would be a time-consuming process. Thus, the decision to adopt it through the decision of the Meeting of the Parties would be sufficient.
23. Poland supported the adoption of the distinctive emblem by the Meeting of the Parties and called for its promotion within the framework of IHL. Columbia pointed out that the use of such emblems may endanger cultural property and asked for an assessment of the vulnerability of cultural property marked with a distinctive emblem. Japan stressed the need for a distinctive emblem but asked for a legal opinion as to the possibility of amending the Second Protocol.
24. The Director of the Division for Heritage, explained the utilization of the logos of other Conventions in terms of their individual as well as linked use (i.e. the logo of the specific Convention together with the logo of UNESCO).
25. The representative of Palestine requested a formal description of the emblem. The following formal description was prepared by the Secretariat and will be proposed for inclusion in the Guidelines for the Implementation of the 1999 Second Protocol:

“Formal Description of the Distinctive Emblem for Property under Enhanced Protection: The distinctive emblem shall take the form of a shield, pointed below, persaltire blue and white (a shield consisting of a royal-blue square, one of the angles of which forms the point of the shield, and of a royal-blue triangle above the square, the space on either side being taken up by a white triangle), which is outlined by an external red band that is detached from the Blue Shield.”
26. The Legal Adviser took the floor to explain that any amendment to the Second Protocol must be done in accordance with Article 39 of the Hague Convention. The Legal Adviser stressed that amendments shall enter into force only after they have been **unanimously adopted** by the High Contracting Parties, as provided for in paragraph 5 of Article 39 of the Hague Convention.
27. The representative of Austria proposed to create the distinctive emblem by amending the Second Protocol. He added that since there was no specific provision in the Second Protocol concerning amendment, Article 39 of the Hague Convention could be applied to the Second Protocol *mutatis mutandis*.
28. Belgium called the attention of the participants to a drawback of the adoption of the emblem through the amendment of the Second Protocol which would result in the creation of two different legal regimes. Cambodia concurred with this position.
29. Palestine and Morocco were in favour of the adoption of the emblem by the Meeting of the Parties.
30. Greece proposed a compromise: the Meeting of Parties may adopt the distinctive emblem through amendments to the Guidelines and in the future examine the possibility of amending the Second Protocol.
31. The Chairperson added that considering no fundamental objection to the adoption of the emblem was raised the Meeting could proceed to the discussion of the draft decision of the

distinctive emblem, Decision 6.SP 2, which endorsed the distinctive emblem and amendments to the Guidelines, as proposed in Annexes I and II, was adopted.

VIII. Approval of Amendments to the Guidelines for the Implementation of the Second Protocol to the Hague Convention: Immediate Surroundings

32. The Chairperson then led the discussion on item 8 of the agenda, on the approval of amendments to the Guidelines and asked the Secretariat to present the working document on this issue.
33. The document concerned the fulfilment of a criterion of Article 10(c) of the Second Protocol, regarding the references to “immediate surroundings” in paragraphs 55, 59 and 77 of the Guidelines. The proposed draft decision of document CLT-15/6.SP/CONF.202/3 welcomed the revisions to the Guidelines, which foresees the deletion of the references to “immediate surroundings” in those paragraphs.
34. After the presentation, the Chairperson opened the floor for discussions. At this point, the representatives of Hungary, Argentina, Saudi Arabia, Cyprus, Greece, Libya, Brazil and Ecuador stated that they were in favour of retaining references to “immediate surroundings” in paragraphs 55, 59 and 77 of the Guidelines, while the representatives of Belgium, Canada, Japan and Czech Republic stated that they should be deleted to ensure consistency with the language used in the corresponding provisions of the Second Protocol.
35. The representative of El Salvador, supported by the representative of Morocco, proposed the production of a formal definition of “immediate surroundings” to be considered in the future. However, in reviewing Annex I of Draft Decision 6.SP 3, the representative of Austria stated that the term “immediate surroundings” was not a static concept; instead, it could vary depending on the type of cultural property concerned. To this end, the representative of Belgium proposed adding the term “as appropriate [its immediate surroundings]” to allow for a more flexible interpretation of the phrase.
36. The Chairperson then moved to the adoption of decision 6.SP 3. The States Parties decided to resubmit the issue to the Committee for further examination, and to include the item on the agenda of its Seventh Meeting.

IX. Creation of a Special Account for Enhancing the Human Resources of the Secretariat of the 1954 Hague Convention and its two Protocols

37. The Chairperson proceeded to item 9 of the Agenda: the Creation of a Special Account for Enhancing the Human Resources of the Secretariat of the 1954 Hague Convention and its two Protocols. He gave the floor to the Secretariat to present the working document on this issue.
38. Following the presentation, the Chairperson opened the discussion. The Secretariat recalled a recent meeting with the representative of the Netherlands. The Netherlands was in favour of the creation of a single Special Account for Human Resources of all six cultural conventions, which would benefit the synergies among the conventions. Canada, while recognizing the problem of the lack of human resources, addressed a question to the Secretariat on the relationship between the Fund that will be created for the implementation of the Strategy on Reinforcement of UNESCO’s action on Protection of Culture and the proposed Special Account. The Secretariat stated that the Strategy primarily aims to address actions on the ground rather than recruiting personnel. The Secretariat also underlined that was not in favour of creating a single Special Account for all six cultural conventions for several reasons: 1) not all States Parties to the Second Protocol were also party to the other cultural conventions; 2) it may discourage States which were not party to all six cultural conventions from contributing to the single Special Account; and 3) the management and supervision of a single Special Account would add unnecessary complications. The Chief of BFM/FAS, also confirmed the difficulties of the establishment of a single account.
39. The Chairperson then proceeded to the adoption of the decision of this item. Bearing in mind the general consensus to establish a separate Special Account for the 1954 Hague Convention and its two Protocols, the States Parties included in its decision a recommendation to the

Director-General to establish such an account, and invited the State Parties and potential donors to make voluntary financial contributions to strengthen the work of the Secretariat.

X. Report on the implementation of the strategy for encouraging ratifications of the Second Protocol to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict

40. The Chairperson then moved to the agenda item 10, the Report on the implementation of the strategy for encouraging ratifications of the Second Protocol to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict. He gave the floor to the Secretariat to deliver a presentation on this issue.
41. Following the presentation, the Chairperson opened the discussion to the delegates. Cambodia pointed out that in order to encourage the States of Asia Pacific region which are not Party to the 1954 Hague Convention and its two (1954 and 1999) Protocols, it organized the Asian regional seminar on September 2015. No other interventions were made.

XI. Miscellaneous

42. Following this discussion, the Chairperson proceeded to miscellaneous matters. He pointed out that the Meeting of Parties had to examine the draft recommendations proposed by the Secretariat and subsequently opened a paragraph-by-paragraph discussion of the document.
43. El Salvador proposed adding a new paragraph to the draft recommendation on the inclusion of the item related to the paragraph 5, item 5.8 of the decision of the General Conference, “Governance, procedures and working methods of the governing bodies of UNESCO” (38 C/Res.101), to the provisional agenda of the Eleventh Meeting of the Committee. No objection was expressed.
44. Belgium suggested a new paragraph on encouraging States Parties to submit requests for the granting of enhanced protection for their cultural property. No objections were raised. Thus the draft recommendations were adopted as amended.

XII. Closure of the Meeting

45. The Chairperson thanked all participants and observers, as well as the Secretariat, for contributing to the success of the Meeting, and gave the floor to the Director of the Division for Heritage for her closing speech. In the closing speech, the Director congratulated the six elected Members for ensuring the continuity of the important work of the Committee. She then noted the adoption of the distinctive emblem for cultural property under enhanced protection which would contribute to wider recognition and identification of properties, particularly during the conduct of hostilities, and would ensure legal certainty with regard to criminal responsibility of combatants. Finally, the Director took note of States Parties’ concerns related to the issue of immediate surroundings, as well as their wish to strictly apply only the three criteria provided for in Article 10 of the Second Protocol when evaluating requests for the granting of enhanced protection. She recalled that, as discussed, the Secretariat would seek the opinions of the Parties and submit a working document for the Eleventh Meeting of the Committee in 2016. She thanked the Chairperson and the Rapporteur and all present for the excellent collaboration. The meeting was then declared closed.