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

**CONVENTION CONCERNING THE PROTECTION OF THE
WORLD CULTURAL AND NATURAL HERITAGE**

WORLD HERITAGE COMMITTEE

**Twentieth session
Merida, Yucatan, Mexico**

2-7 December 1996

Item 16 of the Provisional Agenda: Use of the World Heritage Emblem

SUMMARY

At the request of the Chairperson of the World Heritage Committee during the twentieth session of the Bureau of the World Heritage Committee, the Legal Advisor of UNESCO and the Secretariat of the Convention have prepared an analysis of the legal aspects concerning the use of the emblem as well as proposals as to the manner in which to guide its appropriate use. The Committee is requested to approve the proposed action submitted in paragraph 11 of the text.

Use of the World Heritage Emblem

1. During its twentieth session, (24-29 June 1996), the Bureau of the World Heritage Committee, under the item on the agenda concerning the decentralization policy of UNESCO, discussed the creation of the Nordic World Heritage Office in Oslo (NWHO).
2. The agreement signed between UNESCO and the Norwegian Government on 27 June 1995 regarding the creation of the NWHO stipulates that UNESCO authorizes the NWHO to use the emblems of UNESCO and the World Heritage
3. The Bureau of the Committee requested a legal analysis concerning the use of the emblem of the Convention to be submitted to the Committee at its twentieth session.
4. The emblem of the Convention is the work of an artist, Mr Olyff, who under contract to UNESCO, designed it. Under the terms of the contract, the design would be submitted to the World Heritage Committee. The contract stipulated that, once concluded the work was the property of UNESCO. Presented before the World Heritage Committee at its second session (1978) the Committee decided to adopt it as the emblem of the Convention.
5. The determination from the above is that although UNESCO is the owner of the design., nevertheless, it was the World Heritage Committee which adopted the artwork as the emblem of the Convention. Contrary for example, to the Convention for the Protection of Cultural Heritage in the Event of Armed Conflict (The Hague Convention 1954), the Convention for the Protection of World Heritage does not have an emblem, or any distinctive sign. Therefore, it is perfectly natural for the Committee which, other than the specific functions assigned to it by the Convention, has in general terms the responsibility to further and administer the guidelines for its implementation. These "Guidelines", other than the questions relating to the establishment of the World Heritage and World Heritage in Danger Lists, as well as for international assistance and the World Heritage Fund, also deal with other questions which are not specifically assigned by the Convention. This is the case with regard to the use of the emblem.
6. Consequently, if UNESCO as the assignee of all intellectual property rights of the work of Mr Olyff, is legally the owner of the design and can, on these grounds, dispose of it, the decision to make the design the emblem of the Convention could only be taken by the Committee, and UNESCO can only dispose of it through the Committee. This is reflected in Chapter VII of the Guidelines.
7. As to the States Parties, the Bureau of the Committee, during its last session in June 1996, was confronted with a proposal which requested that the States Parties wishing to use the emblem should address their request to the Chairperson of the Committee, who would consult the members by correspondence. Whereas, if it is true that the emblem of the Convention was not established by

it, and that the emblem's use by States Parties does not fall within the prerogatives ascribed to it, it still remains that the Committee has in the "Guidelines", sometimes explicitly, sometimes implicitly decided that States Parties could, according to the situation, use the emblem, permit its use, or again prevent it. Thus, paragraph 123 of the "Guidelines" foresees that "Properties included in the World Heritage List should be marked with the World Heritage emblem.....". On the other hand, paragraph 124 indicates States Parties "should take all possible measures to prevent the use of the emblem of the Convention.....by any group or for any purpose not explicitly recognized and approved by the Committee. The World Heritage emblem should, in particular, not be used for any commercial purposes unless specific authorization is obtained from the Committee."

8. These dispositions, which deserve more explanation, disclose that the Committee considers that the States Parties have the right and sometimes the duty to use and or regulate the use of the emblem, and with reason. Does not each State Party, under the terms of Article 4 of the Convention, have the obligation "to ensure the identification, protection, conservation, presentation and transmission to future generations of the cultural and natural heritage.....situated on its territory". Thus, the emblem contributes to the promotion of the Convention and its corresponding obligations. Without doubt, the Committee might provide in the Guidelines more precise conditions under which they would approve use by States Parties and, should the occasion arise, use by a third party if under the control of the State, while still reserving the exclusivity of authorization - for example, for commercial or other use. This issue is dealt with in paragraph 11 below.

9. Finally, the Committee could come to an agreement with its Secretariat, the World Heritage Centre, upon the categories of cases where it would remain with the latter to grant authorization.

10. It is up to each State to undertake the necessary legal measures to control the use of the emblem. Canada and the United States of America have taken such means and measures, and perhaps other States as well. The Guidelines strongly urge them to do so. Protection agreements can also be drawn up from the Protocols in Annexes 2 of the Universal Copyright Convention and/or the Universal Copyright Convention revised in Paris, on 24 July 1971, with regard to the application of the Convention to the works of certain international organizations, such as UNESCO, or the Convention of Berne for the Protection of Literary and Artistic Works, or eventually that of the Convention of Paris for the Protection of Industrial Property.

11. To render measures related to the use of the emblem of the Convention, and in particular those indicated in paragraphs 122 to 125 of the "Guidelines" more operational, a consultation procedure should be established. To this end, the Secretariat will present to the session in June 1997 of the Bureau the results of a study which is proposed to be carried out in concert with the members of the Committee who indicate their wish to be associated with this effort. This study will in particular be concerned with:

a) the establishment of a consultation procedure with the Chairperson, the Bureau and the Committee;

b) a grid of case categories and uses where the use of the emblem is recognized and/or accepted with the corresponding criteria;

At the same time and in conformity with paragraphs 124 and 125 of the ‘Guidelines’, the States Parties to the Convention which have not yet done so should prepare the legal measures to regulate, protect and authorize the use of the emblem on their territory, and inform the Secretariat for future communication to the Committee.