

DRAFT

4 DISSEMINATION¹

[The text for the whole Chapter was proposed by Finland].

1. The Second Protocol stipulates dissemination of the Protocol under time of peace and in time of armed conflict. Parties are obliged by appropriate means strengthen appreciation and respect for cultural property by their entire population. Particular attention should be paid at national level by education and information programme. Article 30 of the Second Protocol

2. Any military or civilian authorities who, in time of armed conflict, assume responsibilities with respect to the application of this Protocol, shall be fully acquainted with the text thereof. The Parties shall as appropriate:
 - incorporate guidelines and instructions on the protection of cultural property in their military regulations,
 - develop and implement, in cooperation with UNESCO and relevant governmental and non-governmental organizations, peacetime training and educational programmes,
 - communicate to one another, through the Director-General of UNESCO, information on laws, administrative provisions and measures taken under the preceding paragraphs,
 - communicate to one another, as soon as possible, through the Director-General, the laws and administrative provisions which they may adopt to ensure the application of the Protocol.

5. MONITORING ON THE IMPLEMENTATION OF THE SECOND PROTOCOL²

¹ This proposal was not considered by the informal meeting of the Bureau of the Committee for the Protection of Cultural Property in the Event of Armed Conflict (Paris, 23 October 2007).

[The text for the whole Chapter was proposed by Finland].

3. The Second Protocol strengthens the protection of cultural property by establishing a monitoring mechanism for the implementation of the Second Protocol. According to the Protocol Parties are obliged to report periodically on their implementation measures to the Committee. The Committee shall in turn review these reports and prepare its own report to the Meeting of the State Parties.

Article 37(2) of the Second Protocol

Article 27(1)(d) of the Second Protocol

5.1 Periodic Reports of the State Parties for the Committee

4. State Parties to the Convention and Parties to the Second protocol are obliged to report every four year on the implementation of named instruments. The Parties to the Second Protocol may follow the same four years reporting period as for the Convention. Reports concerning the implementation of the Convention are addressed to the Director-General while periodic reports on the Second Protocol are addressed to the Committee.

Article 26(2) of the Convention and Article 37(2) of the Second Protocol
5. In order to facilitate the Parties to fulfil the provisions of the Second Protocol, the Committee recommends/ encourages Parties to supply their reports concerning the implementation of the Convention by following information concerning the Protocol. The periodic reports must duly inform on the legal, administrative, military and practical implementation measures adopted by the Parties.
6. The Committee requests Parties to cover following items in their periodic reports on the implementation of the Second

² This proposal was not considered by the informal meeting of the Bureau of the Committee for the Protection of Cultural Property in the Event of Armed Conflict (Paris, 23 October 2007).

Protocol:

7. Implementation of general provisions regarding protection

(Chapter 2)

– To inform on measures undertaken, in the process of being undertaken or envisaged concerning preparatory measures during peacetime for safeguarding cultural property.

8. Implementation of provisions regarding enhanced protection (Chapter 3)

– To inform, whether your respective country intends to ask for Enhanced protections of the cultural property? If yes, inform on the Declaration concerning no military use, the request, etc.

– Does your respective state mark or plan to mark the cultural property with the distinctive emblem of the Convention? If not, why?

9. Implementation of provisions regarding criminal responsibility (Chapter 4)

– Does your national criminal legislation have the provisions concerning the criminal or other sanctions to the persons, who violated the provisions of the Protocol?

10. Implementation of provisions regarding dissemination and international assistance (Chapter 7)

- How does your respective state implement and by what means the provisions of Article 30 of the Protocol concerning the dissemination?

- Inform whether the services according to Article 7(2) of the Hague Convention are established in the armed forces of your respective state.

11. Implementation of the other provisions

– To present to the Director-General the official translation of the Protocol

– If your respective State is an occupying power or executes a

Article 37 of the
Second Protocol

Article 9(a) of the

military mission in the territory of the other states, to inform whether the provisions of the Protocol concerning the prohibition to export the cultural property from the occupied territory or conflict zone (state) are complied

Second Protocol

12. Parties of the Second Protocol should also provide the Secretariat of UNESCO the names and addresses of the governmental organization(s) primarily responsible as national focal point(s) for the implementation of the Second Protocol, so that copies of all official correspondence and documents can be sent by the Secretariat to these national focal points as appropriate.
13. The Secretariat shall make available a list of these addresses at its web site. States Parties are encouraged to publicize this information nationally and to ensure that it is up to date.
14. State Parties shall address their periodic reports for the Committee through the Secretariat.

5.2 Reports of the Committee for the Meeting of the State Parties

15. An important function of the Committee is to monitor and supervise the implementation of the Protocol and to promote identification of cultural property under enhanced protection. The Committee is also obliged to consider and comment on the reports of the Parties, to seek clarification as required, and prepare its own report on the implementation of the Protocol to the Meeting of the Parties.

Article 27(c) of the Second Protocol

Article 27(d) of the Second Protocol
16. The Committee will, with the assistance of the Secretariat, keep under review all aspects of the implementation of the Second

Protocol making full use, to the extent possible, of the periodic reports of States Parties, representations and other communications from States Parties and others, and of the information and documentation services of UNESCO, the Committee's advisory and consultative bodies and others.³

17. In the following is listed the subjects that the Committee *must* take into account in its report:

- State Parties request on granting enhanced protection
- State Parties request for International Assistance
- International Cooperation
- The Fund for the Protection of Cultural Property in the Event of Armed Conflict

18. The Committee shall perform its functions in co-operation with the Director-General. Therefore the Committee shall address its reports also to the Director-General. Article 27(2) of the Second Protocol

6. INTERNATIONAL ASSISTANCE⁴

[The text for the whole Chapter was proposed by Secretariat].

19. The Committee is also to receive and consider requests for international assistance. This assistance is regulated as follows under the Second Protocol: Article 27(1)(e) of the Second Protocol

i) A State Party may request from the Committee international assistance for cultural property under enhanced protection as well as assistance with respect to the preparation, development or Article 32 of the Second Protocol

³ Report to UNESCO, *Draft procedures and documentation for the implementation of the Second Protocol, 1999, of the Hague Convention on the Protection of Cultural Property in the Event of armed conflict. Part 3: Operational Guidelines for the Implementation of the Second Protocol*. Professor Patrick, J. Boylan. UNESCO Contract No. 4500003685. March 2003. Para 7.2.

⁴ This proposal was not considered by the informal meeting of the Bureau of the Committee for the Protection of Cultural Property in the Event of Armed Conflict (Paris, 23 October 2007).

implementation of the laws, administrative provisions and measures referred to in Article 10.

- ii) As an exception to the principle that the Second Protocol applies only to States Parties, if a party to the conflict, which is not a State Party to this Protocol but accepts and applies its provisions, may request appropriate international assistance from the Committee.

Article 3(2) of the
Second Protocol

- 20. Outside international assistance granted by the Committee, States Parties are encouraged to give technical assistance of all kinds through the Committee to those States Parties or parties to the conflict who request it.
- 21. Among its functions, the Committee shall adopt rules for the submission of requests for international assistance and shall define the forms the international assistance may take.
- 22. In this regard, the Committee may wish to consider and, as appropriate, amend and/or approve the following:

6.1 Forms of International Assistance

Emergency assistance

- 23. States Parties may request emergency assistance for work in connection with cultural property, which has suffered severe damage due to armed conflict or which is in imminent danger of such war damage. Such assistance may be made available for the following purposes:
 - i) prepare urgent nominations of properties for the enhanced protection under the Second Protocol;

- ii) to draw up an emergency plan to safeguard cultural property;
- iii) to undertake emergency measures for the safeguarding of cultural property during or in anticipation of an imminent armed conflict, including the creation of temporary refuges or other protection, the transport of cultural property to a place of safety under Articles 12 and 13 of the 1954 Hague Convention;
- iv) to assist with measures in relation to the provisions for the prevention of exportation of cultural property during an armed conflict, and the return of such property at the close of hostilities, under the provisions of 1954 (First) Protocol; and
- v) to assist with the supply or loan of necessary specialized equipment which the State concerned does not possess or is not in a position to acquire.

Preparatory assistance

- 24** Preparatory assistance may be in the form of grants or the provision of expert assistance (or a combination of both) for the purpose of safeguarding cultural property in peacetime in conformity with Article 3 of the 1954 Convention and Article 5 of the Second Protocol.
- 25.** Such preparatory measures taken in peacetime for the safeguarding of cultural property against the foreseeable effects of an armed conflict pursuant to the above-mentioned Articles may include, as appropriate:
 - i) the preparation of inventories, surveys, maps, schedules of geographical co-ordinates, official marks, publications,

web sites and other data required for the effective identification of cultural property;

- ii) the planning of emergency measures for protection against fire or structural collapse, or other possible structural consequences of attack or collateral damage; and
- iii) preparation for the removal of movable cultural property to refuges or other places of safety, or the provision for adequate *in situ* protection of such property.

Preparation of submissions for the granting of enhanced protection to cultural property under Articles 10 and 11 of the Second Protocol

- 26. Such assistance may be in the form of grants or the provision of expert assistance (or combination of both) for the purposes of:
 - i) preparing lists and detailed dossiers of cultural properties with a view to their submission to the Committee for the granting of enhanced protection; and
 - ii) preparing requests for technical co-operation, including requests relating to the organisation of training courses.

- 27. In the case of cultural property already inscribed on the World Heritage List, which a State Party is considering proposing for enhanced protection, the review and adaptation of the World Heritage List inscription data, including assessments of separation distances between the cultural property and any potential legitimate military objective, and any necessary improvements to identification maps, schedules of geographical co-ordinates and other data required for the

effective identification of the cultural property as well as information on eventual use of such property for military purposes or to shield military sites will be necessary.

28. In the case of cultural property already inscribed on the International Register of Cultural Property under Special Protection under Article 8 of the 1954 Convention, which a State Party is also considering proposing for enhanced protection, the review and adaptation for this purpose of the existing special protection registration data to meet the requirements of the Guidelines of the Committee will be necessary.
29. In the case of important archive repositories, libraries, museums and refuges for movable cultural property (which are not eligible for the World Heritage List), and of cultural monuments and sites which are not currently inscribed on the World Heritage List, the preparation of statements of justification for the granting of enhanced protection together with the necessary detailed identifications, descriptions and, surveys, maps, schedules of geographical co-ordinates and other data for the effective identification of the cultural property will be necessary.

Specialised Training

30. States Parties may request support for the training of specialised staff at all levels in the field of assessment and evaluation, and emergency protection of the cultural property, providing this training is related to the protection of cultural property in the event of armed conflict. Priority will be given to group training at the local or regional levels and involving the joint training of different specialists, including cultural heritage,

military and emergency planning and response services. The training of individual persons will normally be limited to short term refresher programmes and exchanges of experience.

31. Proposals for support for training should include:

- i) details on the training course concerned (courses offered, level of instruction, teaching staff, number of students and country of origin, date, place and duration, etc.) and, when applicable, the functional responsibility of each participant with respect to designated enhanced protection locations;
- ii) type of assistance requested (financial contribution to costs of training, provision of specialised teaching staff, provision of equipment, books and educational materials for training courses);
- iii) approximate cost of support requested, including as appropriate, tuition fees, daily subsistence allowance, allocation for purchase of educational material, travel costs to and from training centre, etc.
- iv) other contributions received or anticipated, including national financing, multilateral or bilateral contributions, and assistance from foundations, sponsorship, etc.; and
- v) for recurring training courses, an in-depth report of the results obtained in each previous course or session shall be submitted by the recipient government or organisation. The report shall be forwarded by the Secretariat to any appropriate advisory body or bodies of the Committee for

review and comment in connection with additional funding requests, as appropriate.

Technical co-operation

32. States Parties may request technical co-operation for work foreseen in safeguarding cultural property in the event of armed conflict, such as measures to protection cultural property whether *in situ* or through the establishment of emergency refuges and similar protection, or for the marking and other identification of cultural property. The following information should be provided in requests for technical co-operation:

i) Details of property

- (a) description of property and of dangers to property, and
- (b) legal status of property;

ii) Details of request

- (a) scientific and technical information on the work to be undertaken,
- (d) detailed description of equipment requested, and of required personnel,
- (e) if appropriate, details on the "training" component of the project, and
- (f) schedule indicating when the project activities will take place;

iii) Cost of proposed activities (indicating how each contribution will be used):

- (a) paid nationally,
- (b) other multilateral, bilateral contributions

received or expected,

(c) assistance from foundations or other voluntary bodies, and

(d) financial assistance requested under the Second Protocol; and

iv) National body responsible for the project and details of the administration of the project.

Assistance for educational, information and promotional activities

33. At the regional or international levels, support may be offered for programmes, activities and the holding of meetings relating to educational, information and promotional activities that could:

i) help to create interest in the 1954 Convention and its 1954 and 1999 Protocols within the countries of a given region, in particular by translating those agreements into national language(s);

ii) create a greater awareness of the different issues related to the implementation of the Convention and its Protocols in order to promote more active involvement in its application;

iii) be a means of the international exchange of experiences; and

iv) stimulate joint education, information and promotional programmes and activities.

34. Educational, information and promotional activities at the national level only will only be considered in exceptional circumstances relating to the particular circumstances and

problems of the State concerned.

Assistance with respect to the preparation, development or implementation of the laws, administrative provisions and measures recognizing the exceptional cultural and historic value of cultural property nominated for enhanced protection and ensuring the highest level of protection of such property

35. Such assistance may be in the form of an evaluation and subsequent review of the relevant laws, administrative provisions and national measures with a view to fulfilling the criterion of Article 10(b) of the Second Protocol or their elaboration and subsequent adoption if such laws, administrative provisions and national measures either do not exist or are not sufficient.
36. In consequence, it is recommended that each State party to the Second Protocol undertake a national review of the relevant laws, administrative provisions and national measures which may be relevant to cultural property nominated for enhanced protection and then decide on their pertinence and eventual need for amendment(s) or elaboration and adoption of new instruments or measures.
37. The national review of instruments and measures mentioned in the previous paragraph should take into account the implementation of other obligations under the Second Protocol such as the implementation of Article 5 or of the relevant provisions of Chapter 4 of the Second Protocol.

6.2 Consideration of Applications for International Assistance

38. The Secretariat, if necessary, will request the State Party

concerned to provide further information. The Secretariat can also ask for expert advice from the Committee's official advisory bodies and other appropriate organisations and specialists.

39. Requests for international assistance, including financial assistance from the Fund for the Protection of Cultural Property in the Event of Armed Conflict, will be considered in accordance with the below deadlines and procedure.

Deadlines

40. Requests for emergency assistance from the Fund may be submitted at any time if the State Party is involved in an armed conflict, whether international or non-international, or if there is appears to be an imminent threat of such a conflict.
41. On the recommendation of the Secretariat in the name of the Director-General of UNESCO and following appropriate consultations, the Chairperson of the Committee may authorise assistance of up to US\$ [50,000] in any one case of emergency assistance, or a maximum of US\$ [100,000] with the support of not less than two-thirds of the Committee following written or electronic consultation. In the case of request for more substantial emergency assistance, consideration would be given to calling an extra-ordinary meeting of the Committee in accordance with Article 24 (2) of the Second Protocol.
42. All other requests for assistance must be submitted to the Director-General of UNESCO to the attention of the Second Protocol Secretariat at least six months in advance before the next regular annual meeting of the Committee.

- 43.** With respect to the procedure for requesting international assistance, the State Party must in all cases present a written request in accordance with the present Guidelines and on official application forms established with the approval of the Committee for each eligible type of international assistance. The Second Protocol Secretariat will then examine and consult on the request and transmit the application to the next annual or extra-ordinary meeting of the Committee (as the case may be) for decision.
- 44.** Representatives of a State Party making an application, whether or not a member of the Committee, may attend the session of the Committee that considers the application. They may speak to deal with a point of information in answer to a question but may not speak to advocate the approval of an assistance request submitted by that State.
- 45.** In considering applications, the Committee shall give special consideration to those from least developed countries and then other developing countries. Within these overall priorities, the Committee should give special attention to the level of partnership funding or assistance-in-kind that has been obtained. Only in very exceptional circumstances will the whole of the cost of assistance be met by the Committee.
- 46.** The Director-General shall communicate the Committee's decisions without delay to the States Parties, and the Secretariat will proceed to implement approved projects.

FINLAND'S MOTIVATIONS

3.1.3 Decision of the Committee

Article 26(2) includes the general rule on how the decisions of the Committee shall be taken. According to the article the Committee shall take decisions by a majority of two-thirds of its members voting. We consider that as long as the provisions of the Second Protocol do not provide an exception to this provision all the decision of the Committee are to be taken by the majority of two-thirds. Also in the Provisional Rules of Procedure in the rule 35.2 it is considered that all decisions of the Committee shall be taken by a majority of two-thirds of its members present and voting with the exception of article 11(5) and article 11(9), when the Committee takes a decision by a majority of four-fifths. We consider that also in the rule 35.2 the exception of article 11(5) should be noticed. In granting of enhanced protection the provisions of article 11 provides two exceptions in which the decisions of the Committee shall be taken by a majority of four-fifths. In other cases we assume that the general rule of article 26(2) should be applied.

According to article 11(5) the Committee shall inform all Parties of a request for inclusion in the List. The Parties may submit a representation to the Committee regarding such a request. In such a case when representations are before the Committee the decision for inclusion in the List (granting enhanced protection) will be taken by a majority of four-fifths of its members present and voting.

Our interpretation is that if the other Parties do not submit a representation concerning/ on a Party's request for inclusion in the List the Committee takes the decision by a majority of two-thirds of its members voting. However the Protocol does not oblige the Parties to submit a representation regarding other Parties request for inclusion in the List the general rule for granting enhanced protection can not be based on an exception.

The other exception when the Committee takes a decision by a majority of four-fifths majority is when the provisional enhanced protection shall be granted. According to article 11(9) a party to the conflict may request upon the outbreak of hostilities on an emergency

basis enhanced protection. The decision to grant provisional enhanced protection shall be taken by a majority of four-fifths of its members present and voting.

Our interpretation is that the Committee shall take its decision on suspension and cancellation of enhanced protection also by the majority of two-thirds. The general rule on article 26(2) shall be applied if not the provisions of the Second Protocol provide detailed provisions for other interpretation. We consider that an exception can not be applied as a general rule/ expanded as a general rule. Therefore we consider that the Committee shall take its decision by a majority of two-thirds of its members voting in all other cases than in the exceptions provided in articles 11(5) and 11(9).

Draft (Tuesday, 21 August 2007 pm)

**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**

Outcome of the Informal Working Meeting of the Bureau

Vienna, 20 / 21 August 2007

DRAFT COMMENTED BY FINLAND

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1 Introduction

1.1 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

The main purpose of the present document (hereinafter “the Guidelines”) is to provide a concise and practical tool to facilitate the implementation of the Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict (hereinafter “the Second Protocol”) by its Parties and to provide [*guidance*] to the Committee for the Protection of Cultural Property in the Event of Armed Conflict (hereinafter “the Committee”) and the Secretariat of UNESCO ~~with a guidance~~ for the fulfilment of their functions as established by the Second Protocol.

The present Guidelines attempt to embody the best practices in the implementation of the Second Protocol.

In accordance with Article 27 (1) (a) of the Second Protocol, the Guidelines were developed by the Committee at its ... session(s) (Paris, ...). Following Article 23 (3) (b) of the Second Protocol, they were subsequently endorsed by the ... Meeting of the Parties (Paris, ...). The Guidelines may be revised to reflect the decisions and recommendations adopted by [*the Meeting of the Parties and*] the Committee.

1.2 Scope of application of the Second Protocol

The Second Protocol, which entered into force on 9 March 2004, is an international agreement supplementing the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict (hereinafter “the Convention”) in relations between the Parties¹. It aims ~~at improving~~ [*to improve*] the protection of cultural property in the event of armed conflict as defined by the Convention. Thus, for the purposes of the Second Protocol, the term “cultural property” covers, irrespective of origin or ownership²:

- a. Movable or immovable property of great importance to the cultural heritage of every people, such as monuments of architecture, art or history, whether religious or

¹ Art. 2 of the Second Protocol.

² Art. 1.b of the Second Protocol.

secular; archaeological sites; groups of buildings which, as a whole, are of historical or artistic interest; works of art; manuscripts, books and other objects of artistic, historical or archaeological interest; as well as scientific collections and important collections of books or archives or of reproductions of the property defined above.

- b. Buildings whose main and effective purpose is to preserve or exhibit the movable cultural property defined in sub-paragraph a) such as museums, large libraries and depositories of archives, and refuges intended to shelter, in the event of armed conflict, the movable cultural property defined in sub-paragraph a).
- c. Centres containing a large amount of cultural property as defined in sub-paragraphs a) and b), to be known as “centres containing monuments”.

In addition to the provisions which shall be implemented in time of peace the Second Protocol applies

- a. In the event of declared war or of any other armed conflict which may arise between two or more of the Parties, even if the state of war is not recognized by one or more of them.
- b. To all cases of partial or total occupation of the territory of a Party, even if the said occupation meets with no armed resistance.
- c. In the event of an armed conflict not of an international character, occurring within the territory of one of the Parties.³

[The Second Protocol supplements the Convention by reinforcing the provisions related to the safeguarding of and respect for cultural property in the event of armed conflict.]

[The Protocol introduces a regime of enhanced protection.] The Second Protocol stipulates that cultural property of the greatest importance for humanity can be placed under “Enhanced Protection”. Enhanced Protection is granted to the cultural property from the moment of its entry in the List of Cultural Property under Enhanced Protection (hereinafter “the List”), as decided by the Committee⁴.

~~The Second Protocol supplements the Convention by reinforcing the provisions related to the safeguarding of and respect for cultural property in the event of armed conflict.~~⁵

³ Article 3 (1) of the Second Protocol.

⁴ Art. 10 to 14 of the Second Protocol.

⁵ ~~Art. 15 to 21 of the Second Protocol.~~

Deleted: ¶

The Second Protocol defines serious violations and obliges Parties to adopt appropriate legislation to make these violations to the Second Protocol criminal offences under their national law, notwithstanding the responsibility of States under international law. It also covers other obligations of Parties related to criminal responsibility and jurisdiction⁶.

The Second Protocol establishes the Committee composed of twelve Parties which is essentially responsible for the management of enhanced protection, the monitoring and supervision of the implementation of the Second Protocol and the granting of international assistance. It also sets up the Fund for the Protection of Cultural Property in the Event of Armed Conflict (hereinafter "the Fund"). Finally, the Second Protocol provides for periodic meetings of the Parties.⁷

1.3 Relationship between the Convention and the Second Protocol

Only the High Contracting Parties to the Convention may become Parties to the Second Protocol. The Second Protocol supplements the Convention in mutual relations between the Parties. ~~However~~ [As an exception however], in case that the cultural property has been granted both special protection⁸ as defined in the Convention and enhanced protection the provisions of special protection will be replaced by the provisions of enhanced protection.

The Second Protocol does not affect the rights and obligations of the High Contracting Parties to the Convention.⁹ In mutual relations between the High Contracting Parties to the Convention the Parties remain bound by the Convention alone.¹⁰ In mutual relations between States Parties to the Convention and the Second Protocol, they are bound by both instruments. In mutual relations between a State Party to the Convention and the Second Protocol and a High Contracting Party to the Convention, they are bound only by the provisions of the Convention.¹¹

1.4 Key actors of the Second Protocol

The key actors of the Second Protocol are:

⁷ Chapter 6 of the Second Protocol.

⁸ Chapter 2 of the Convention.

⁹ Final Act of the Diplomatic Conference on the Second Protocol to the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, Summary report, Annex 1, Hague 15-23.3.1999, para. 11.
http://www.unesco.org/culture/legalprotection/war/html_eng/act.shtml

¹⁰ The 1969 Vienna Convention on the Law of Treaties, Art. 34.

¹¹ The 1969 Vienna Convention on the Law of Treaties, Art. 30(4) b.

- a. Parties to the Second Protocol;
- b. the Meeting of the Parties;
- c. the Committee; and
- d. UNESCO.

Parties to the Second Protocol are encouraged to ensure the participation of a wide variety of stakeholders, including international and national governmental and non-governmental organizations having objectives similar to those of the Convention and its two Protocols.

1.4.1 Parties to the Second Protocol

The High Contracting Parties to the Convention are encouraged to become Parties to the Second Protocol by depositing an instrument of ratification, acceptance or approval, or accession, with the Director General of UNESCO¹². Model instruments for that are provided by the Secretariat of UNESCO.

The Second Protocol enters into force for each new Party three months after the deposit of its instrument of ratification, acceptance, approval or accession. As an exception to the three-month rule, situations of armed conflict, both of an international or non-international character, give immediate effect to ratifications, acceptances or approvals or accessions to the Second Protocol deposited by the Parties to the conflict either before or after the beginning of hostilities or occupation¹³.

The list of Parties is available online at the following address: www.unesco.org.

1.4.2 Meeting of the Parties to the Second Protocol¹⁴

The Meeting of the Parties is the highest body established by the Second Protocol in order to promote its implementation. Its functions are:

- a. to elect the Members of the Committee;
- b. to endorse the Guidelines developed by the Committee;
- c. to provide guidelines for and supervise the use of the Fund by the Committee;
- d. to consider the reports submitted by the Committee;

¹² Art. 41 and 42 of the Second Protocol.

¹³ Art. 43 and 44 of the Second Protocol.

¹⁴ Art. 23 of the Second Protocol.

- e. to discuss any problem related to the application of the Second Protocol, and make recommendations, as appropriate; and
- f. to assign to the Committee functions other than those mentioned in Article 27 (1) (a-f) of the Second Protocol.

The Meeting of the Parties is convened at the same time as the General Conference of UNESCO, and in co-ordination with the Meeting of the High Contracting Parties to the Convention, if such a meeting has been called by the Director-General of UNESCO. At the request of at least one-fifth of the Parties, the Director-General of UNESCO convenes an Extraordinary Meeting of the Parties.

1.4.3 The Committee¹⁵

The Committee is the intergovernmental executive body entitled by the Second Protocol to perform, in co-operation with the Director-General, the following main functions:

- a. to develop Guidelines for the implementation of the Second Protocol;
- b. to grant, suspend or cancel enhanced protection for cultural property and to establish, maintain and promote the List;
- c. to monitor and supervise the implementation of the Second Protocol and to promote the identification of cultural property under enhanced protection;
- d. to consider and comment on reports of the Parties, to seek clarifications as required, and to prepare its own report on the implementation of the Second Protocol for the Meeting of the Parties;
- e. to receive and consider requests for international assistance from Parties as provided by the Second Protocol;
- f. to determine the use of the Fund; and
- g. to execute other functions assigned to it by the Meeting of the Parties.

In addition to its main functions the Committee adopts rules for the submission of the requests for international assistance as well as defines the forms the international assistance may take.¹⁶ [*The Committee may give international assistance for cultural property under enhanced protection and in fulfilment of the provisions of Article 10(b). The Committee also conveys technical assistance provided by Parties or parties to a given conflict.*¹⁷]

¹⁵ Art. 24 to 27 of the Second Protocol.

¹⁶ Article 32 (3) of the Second Protocol.

¹⁷ Article 32(4) of the Second Protocol.

The Committee is composed of twelve Parties which are elected by the Meeting of the Parties for four years terms. Immediate re-election of a Party is possible only once. Parties members of the Committee choose as their representatives persons qualified in the fields of cultural heritage, defence or international law, and they endeavour, in consultation with one another, to ensure that the Committee as a whole contains adequate expertise in all these fields.

The Committee meets once a year in ordinary session and in extra-ordinary sessions whenever it deems necessary. The Committee conducts its business in accordance with its Rules of Procedure.

[The Committee updates and adopts its own Rules of Procedure. The Committee may define its internal annual working schedule as well provide other relevant guidance concerning the practical conduct of Business within the frame of these rules. Guidance provided by the Rules of Procedure and concerning Parties will be distributed through the Secretariat and made available on-line.]

The Committee also co-operates with international and national governmental and non-governmental organizations having objectives similar to those of the Convention and its two Protocols. To assist in the implementation of its functions, the Committee may invite to its meetings, and consult within the framework of granting enhanced protection, in an advisory capacity, eminent professional organizations such as those which have formal relations with UNESCO, including the International Committee of the Blue Shield (ICBS) and its constituent bodies.¹⁸ Representatives of the International Centre for the Study of the Preservation and Restoration of Cultural Property (Rome Centre) (ICCROM) and of the International Committee of the Red Cross (ICRC) are also invited to attend in an advisory capacity.¹⁹

1.4.4 Assistance of UNESCO

The Committee is assisted by the Secretariat of UNESCO which prepares the Committee's documentation and the agenda for its meetings and has the responsibility for the implementation of its decisions.²⁰*[The Secretariat shall receive, translate and distribute all official documents of the Committee and shall arrange interpretation as needed. The*

¹⁸ ICA, ICOM, ICOMOS and IFLA.

¹⁹ [Article 11 (6)] and Article 27 (3) of the Second Protocol.

²⁰ Art. 28 of the Second Protocol.

Secretariat shall also perform other necessary functions so that the Committee may perform its work properly.^{21]}

A Party may call upon UNESCO for technical assistance in organizing the protection of its cultural property. UNESCO accords such assistance within the limits fixed by its programme and by its resources. The Second Protocol authorizes UNESCO to make, on its own initiative, proposals on these matters to the Parties.²²

2 General Provisions Regarding Protection

2.1 Safeguarding of Cultural Property

The Convention obliges the High Contracting Parties to take peacetime safeguarding measures related to cultural property situated within their own territory against the foreseeable effects of armed conflict. This obligation is complemented by the Second Protocol which provides certain measures to be taken by the Parties.²³

The Committee encourages the Parties to cooperate both at international and national level with the competent non-governmental organisations as well as to exchange information on national safeguarding policies and practices. In order to harmonise the documentation of cultural property under general protection the Committee encourages the Parties to apply the relevant provisions of the present Guidelines to the documentation on cultural property under enhanced protection.

2.2 Precautions against the effects of hostilities

The Parties are obliged to the extent feasible either to remove cultural property from the vicinity of military objectives or to provide adequate in situ protection. The Parties should also avoid locating military objectives near cultural property.²⁴

²¹ Rules 37(5), 33(2) and 37(6) of the Provisional rules of procedure.

²² Art. 33 of the Second Protocol.

²³ Article 5 of the Second Protocol.

²⁴ Article 8 of the Second Protocol.

3 Enhanced protection

3.1 The granting of enhanced protection

3.1.1 Conditions ~~(Art. 10)~~

The Committee may place cultural property under enhanced protection provided that it meets the three conditions laid down in ~~Article 10 of~~ the Second Protocol.^[25]

3.1.1.1 *Greatest importance for humanity* ~~(Art. 10 a)~~

The Committee considers cultural property to be of greatest importance for humanity if it meets at least one of the following criteria:

- a. it is of outstanding universal value;
- b. it represents a unique object; or
- c. its destruction would lead to an irretrievable loss for humanity.

Outstanding universal value

Outstanding universal value means cultural significance which is so exceptional as to transcend national boundaries and to be of common importance for present and future generations of all humanity.

Immovable and movable cultural property is considered to be of outstanding universal value if it meets, *inter alia*, at least one of the following criteria:

- It represents a masterpiece of human creative genius;
- it bears an exceptional testimony to a cultural tradition or to a civilization which is living or which has disappeared;
- it exhibits an important interchange of human values, over a span of time or within a cultural area of the world, on developments in architecture, technology, monumental arts, town-planning, painting, sculpture or another form of representational art;
- it is an outstanding example of a type of building, architectural or technological ensemble, an archaeological site, a movable work of art or another kind of cultural property which illustrates (a) significant stage(s) in human history;

²⁵ Article 10 of the Second Protocol.

- it is an exceptional library, collection of works of art, museum inventory, archive or another collection of objects bearing a testimony of one or more periods of the development of humankind at the national, regional or global level.

The Second Protocol does not include any provisions or reference to the 1972 Convention for the Protection of the World Culture and Natural Heritage. However, immovable cultural properties inscribed on the World Heritage List provided for by the UNESCO Convention for the Protection of the World Cultural and Natural Heritage as well as movable property inscribed on UNESCO's Memory of the World Register are considered in principle to meet the criteria of outstanding universal value.

Unique object

Cultural property is considered to be unique if there is no other comparable cultural property that is of the same cultural significance. The unique character may be deduced from a variety of criteria including

- age;
- history;
- community;
- representativity;
- location;
- size and dimension;
- shape and design;
- purity and authenticity in style;
- integrity; or
- context.

Irretrievable loss for humanity in case of destruction

This criterion is met if the loss of the cultural property in question results in a loss for the cultural heritage of humankind as a whole and an impoverishment of cultural diversity.

3.1.1.2 Adequate domestic legal and administrative measures of protection (~~Art. 10b~~)

The cultural property is protected by adequate domestic legal and administrative measures recognizing its exceptional cultural and historic value and ensuring the highest level of protection. [²⁶]

²⁶ Article 10(b) of the Second Protocol.

At the domestic level the protection accorded to cultural property of exceptional value is equivalent to the immunity provided for in Article 12 of the Second Protocol. This means that the property is protected adequately against any kind of negligence, decay or destruction even in time of peace.

A Party may request international assistance from the Committee in preparation, development or implementation of the laws, administrative provisions and other measures to be fulfilled. ~~(Article 32.1).~~ ^[27]

The domestic legal and administrative measures of protection are only adequate if they are effective in practice. The Committee therefore examines, *inter alia*, whether they are based on a coherent system of protection and achieve the expected results.

3.1.1.3 No military use ~~(Art. 10 c)~~

The cultural property itself must not be used for military purposes or to shield military sites. The Party which has control over the cultural property has to make a declaration confirming that it will not be used that way.^[28]

The guarding of cultural property by armed personnel specially empowered to do so, or their presence, in the vicinity of such cultural property, is not deemed to be used for military purposes.²⁹

The Party which applies for enhanced protection has to address to the Committee a declaration, which confirms that the cultural property is not and will not be used for military purposes nor to shield military sites.^[30]

3.1.2 Procedure for granting enhanced protection

The Parties are entitled and encouraged to submit to the Committee requests for granting of enhanced protection to cultural property under their jurisdiction or control. The Committee, which establishes and maintains the List, decides in each particular case whether the criteria set out above are met.

²⁷ Article 32(1) of the Second Protocol.

²⁸ Article 10(c) of the Second Protocol.

²⁹ Article 8(4) of the Convention.

³⁰ Article 10(c) of the Second Protocol.

The request for granting of enhanced protection is sent to the Committee through the Secretariat.

The Secretariat acknowledges the receipt, checks for completeness and registers the request. The Secretariat requests any additional information from the Party, as appropriate. The Secretariat forwards complete requests to the Bureau *[of the Committee]*.

The Bureau may consult organisations with relevant expertise for evaluation of the request. The Bureau will forward the request (including the evaluation) to the Committee and may propose a decision.

[Once the Committee has received requests it shall inform all Parties of the request on inclusion for the List. Parties may submit a representation concerning the request to the Committee within 60 days. These representations may only be of the criteria mentioned in Article 10.

The Committee shall consider the representations, providing the Party requesting with a reasonable opportunity to respond before taking the decision.]

In exceptional cases, ~~if the cultural property does not meet the criterion laid down in Art. 10(b), the Committee may ask the Party to submit a request for international assistance under Art. 32.~~ *[The Committee may decide to grant enhanced protection even if/though the requesting Party can not fulfil /does not meet the criterion laid down in Art. 10(b). In such a case the Committee may ask the Party to submit a request for international assistance to fulfil adequate domestic legal and administrative measures of protection.]* Such a request will only be admitted if the information about the protection of the property provided in the request certifies that the situation is beyond the control of the Party concerned, the clear intention and the ability of the Party to establish the protection required by Art. 10(b).^[31]

[Another exception in the procedure of granting the enhanced protection occurs upon the outbreak of hostilities. A Party to the conflict may request, on an emergency basis, enhanced protection of cultural property under its jurisdiction or control by communicating the request to the Committee. The Committee shall transmit the request immediately to all Parties to the

³¹ Article 11(8) of the Second Protocol, Article 32(1) of the Second Protocol.

Conflict. In such a case the Committee will consider representations from the Parties concerned on an expedited basis.³²]

The Committee may decide to invite a Party to request inclusion of cultural property in the List. Other Parties as well as ICBS and other NGO's with relevant expertise may recommend cultural property to the Committee for inclusion in the List. In such cases, the Committee may decide to invite the Party concerned to request inclusion of that property in the List.

3.1.2.1 Tentative lists

For the purposes of these Guidelines the term "tentative list" means a list of cultural property for which a Party intends to request the granting of enhanced protection.³³ Parties are encouraged to submit tentative lists in order to facilitate the Committee's maintenance and update of the List as well as the management of requests for international assistance. Parties may amend their tentative lists as appropriate. However, the fact that cultural property has not been included in the tentative list does not prevent the Party from requesting the granting of enhanced protection for such property.

The tentative list which contains a brief description of the cultural property is submitted by the Party to the Committee through its Secretariat.

3.1.2.2 Content of a request (~~Art. 11 paragraph 2~~)

A request submitted by a Party meets the following requirements in order to be considered by the Committee³⁴:

a. Identification of the cultural property

The boundaries of an immovable property and its immediate surroundings are clearly defined. Maps are sufficiently detailed to determine precisely which area of land and/or building(s) are nominated. Movable property is identified by its detailed description and sufficient images.

Location of the property (including shelters or other storage for movable cultural property) should be indicated by reference to its geographical location. As a minimum the approximate central point of each property should be indicated by a pair of coordinates in UTM system.

³² Article 11(9) of the Second Protocol.

³³ Article 11 (1) of the Second Protocol.

³⁴ Article 11(2) of the Second Protocol.

Boundaries of a wider property could be indicated by providing a list of coordinates indicating the ~~nodal points~~ [course] of the property boundary. *[In case of movable cultural property this information shall refer to the location where this property is stored or intended to be stored].*

b. Description of the property

The Party provides the relevant information and documentation on the property concerned, including those on the present state of conservation and appearance of the property as well as its history and development. This includes a description on how the property has reached its present form and the significant changes that it has undergone. The information provides the facts needed to support and substantiates the argument that the property meets the criterion of being of greatest importance for humanity (~~Art. 10(a)~~) *[in Article 10(a)]*.

c. Protection of the property

The Party includes a list of the legal and administrative measures regarding the adequate protection and maintenance of the property. It provides a detailed analysis with regard to the practical implementation of the protection measures and the safeguarding of the highest level of protection. Legislative, regulatory, and/or institutional texts, or an abstract of the texts, are attached to the request. The information provides the facts needed to support and substantiate the argument that the property meets the criterion of being adequately protected (~~Art. 10(b)~~) *[in Article 10(b)]*

d. Use of the property

The Party describes the use of the property. The declaration confirming that the cultural property and its immediate surroundings are not and will not be used for military purposes or to shield military sites is attached to the request. The information provides the facts needed to support and substantiate the argument that the property meets the criterion laid down in Art[icle] 10(c).

e. Information regarding responsible authorities

Detailed contact information of responsible authorities is provided in the request.

f. Signature on behalf of the Party

The request is duly signed by the Party.

g. ~~Paper and electronic format~~ [Format of the request]

Parties are invited to submit their requests ~~also in an~~ *[both in paper and electronic format. Standard for]* electronic ~~standard~~ format is provided by the Secretariat.

3.1.2.3 Emergency request (~~Art. 11 paragraph 9~~)

If a Party submits a request upon the outbreak of hostilities the request is to be considered as an “emergency request” under Article 11(9). The emergency request has to meet only the requirements a., b., d., e. , f. and [g.] as set forth in 3.1.2.2 (minimum requirements). [³⁵]

3.1.2.4 Withdrawal of a request

A Party may withdraw in writing a request it has submitted at any time prior to the Committee’s session at which it is scheduled to be examined. The Party can resubmit a request for the property, which will be considered as a new request.

3.1.2.5 Information about a change of situation

The Party informs forthwith the Committee of any change affecting the cultural property concerned to meet the requirements set out in Article 10 in order to allow an up-date and, where appropriate, a reconsideration of the status of enhanced protection and/or a new decision by the Committee.

3.1.3 Decision of the Committee

~~The Committee decides by a majority of four-fifths of its members present and voting whether a property shall be granted or denied enhanced protection or wheter the request should ne referred or deferred. [The Committee takes its decisions by a majority of two-thirds of its members present and voting whether a property shall be granted or denied enhanced protection or whether the request should be referred or deferred.~~^{36]}

[However in two exceptional cases a majority of four-fifths of the members of the Committee voting is needed:³⁷

*i) When Parties make a representation to the Committee on the basis of another Parties request for inclusion in the List. When a representation is before the Committee, the decision shall be taken by a majority of four-fifths of its members present and voting.*³⁸

³⁵ Article 11(9) of the Second Protocol.

³⁶ Article 26(2) of the Second Protocol, Rule 35.2 of the Provisional rules of procedure.

³⁷ Article 11(5), article 11(9) of the Second Protocol.

³⁸ Article 11(5) of the Second Protocol.

ii) When a Party requests enhanced protection on an emergency basis. In such a case the decision to grant provisional enhanced shall be taken by the Committee by a majority of four-fifths of its members present and voting.^{39]}

When deciding to grant enhanced protection to a property, the Committee adopts a "Statement on Enhanced Protection" (hereinafter "the Statement"). The Statement confirms that all criteria laid down in Article 10 are met. Therefore, a summary of the Committee's reasoning regarding the questions whether the property is of greatest importance for humanity, including the assessments of its adequate domestic protection and its non-military use, are included. The Statement is the basis for the further protection of the property. At the time of decision, the Committee may also make other recommendations concerning the protection of the property. The enhanced protection is granted from the moment of the entry of the property in the List.

If the Committee decides to deny enhanced protection to a property, generally it will not consider an identical request.

Requests which the Committee decides to refer back to the Party for additional information and/or documentation may be resubmitted to the Committee for examination. A referred request which is not presented to the Committee within three years following the original decision of the Committee will be considered as a new request when it is resubmitted for examination, following the regular procedure.

The Committee may decide to defer a request for more in-depth assessment, study or a substantial revision by the Party. The Party may decide to resubmit the revised request. This request will then be reevaluated according to the regular procedure.

3.1.3.1 Decision on enhanced protection in exceptional cases (~~Art. 11 paragraph 8~~)

[As considered in part 3.1.2] the Committee may grant enhanced protection in exceptional cases to a property which [even if the Party] does not meet the criterion laid down in Article 10(b)). provided [However the Committee provides] that the Party submits a request for international assistance under Article 32 [When deciding for fulfilment of the provisions of Article 10(b). The Committee may set terms on how and when the criterion of Article 10 (b) shall be met by the Party.] to grant enhanced protection in such cases, the Committee follows the above-mentioned procedure. However, the Statement points out that the criteria

³⁹ Article 11(9) of the Second Protocol. See 3.1.3.2

laid down in Article 10(a) and 10(c) are met and that the Party has already submitted a request under Article 32 [for the Committee on international assistance⁴⁰].

If the criterion set forth in Article 10(b) is not met within a given period of time by the Party, the enhanced protection may be suspended or cancelled by the Committee.

3.1.3.2 Decision on provisional enhanced protection (~~Art. 11 paragraph 9~~)

Upon the outbreak of hostilities, the decision on provisional enhanced protection on an emergency basis is taken by the Committee as soon as possible. Such decision can only grant provisional enhanced protection pending the outcome of the regular procedure. The provisional enhanced protection will only be granted if the criteria laid down in Article 10(a) and 10(c) are met. When deciding to grant provisional enhanced protection to a property, the Committee adopts a "Statement on Provisional Enhanced Protection". This statement summarizes the Committee's reasoning regarding the question whether the outbreak of hostilities does not allow for a regular procedure and whether the property meets the criteria of Article 10(a) and 10(c). The provisional enhanced protection is granted from the moment of the entry of the property in the List.^[41]

3.2 The List

The Committee establishes, maintains and promotes the List. It consists of two divisions:

- a. Division 1: Cultural property under enhanced protection; and
- b. Division 2: Cultural property under provisional enhanced protection.

Each cultural property is inscribed in one of the two divisions. Information about the property and the scope of its protection is provided as follows:

- a. Name and identification of the property;
- b. Description of the property;
- c. Location, boundaries and immediate surroundings of the property;
- d. Other relevant information.

⁴⁰ Article 11(8) of the Second Protocol.

⁴¹ Article 11(9) of the Second Protocol.

The information provided for in the above-mentioned paragraph d includes, *inter alia*, the date of entry in the List, descriptions of an exceptional or emergency situation, decisions and recommendations made by the Committee, conditions set forth by the Committee such as time periods, as well as suspensions or cancellations.

The List is made available by the Secretariat through appropriate media. [*The Committee shall immediately inform the Director-General on the decision to include cultural property to the List. The Director-General shall in turn without delay notify the Secretary-General of the United Nation and all Parties to the Second Protocol on the decision of the Committee.*⁴²]

3.3 The loss of enhanced protection

According to Article 13[(a)] cultural property loses its enhanced protection under any of the three below mentioned conditions:

- a. the enhanced protection is suspended by the Committee (Art. 13 paragraph 1, sub-paragraph (a), first alternative);
- b. the enhanced protection is cancelled by the Committee (Art. 13 paragraph 1, sub-paragraph (a), second alternative);
- c. the cultural property has become, by its use, a military objective (Art. 13 paragraph 1, sub-paragraph (b)).

While the third condition does not need any further clarification, since the notion of “military objective” is defined in Article 1(f), the conditions of suspension and cancellation are to be set forth by the Committee.

3.3.1 Suspension

The suspension is a provisional measure which does not result in a permanent loss of the enhanced protection but in an interruption of the protection when the conditions for granting it are no longer met. When the conditions are met again, the Committee will decide on the resumption of enhanced protection.

According to Article 14 (1) and (2) the Committee may suspend the enhanced protection under two conditions:

⁴² Article 11(11) of the Second Protocol.

- a. if the cultural property does no longer meet any of the conditions laid down in Article 10 (Article 14 (1), first alternative); or
- b. if there is a serious violation of Article 12 in relation to cultural property under enhanced protection arising from its use in support of military action (Article 14 (2), first alternative).

[The Committee shall take its decision on suspension by a majority of two-thirds of its members voting.]

3.3.1.1 Article 14 (1), first alternative

Since the suspension is a provisional measure, the Committee may only suspend the enhanced protection, if the condition laid down in Article 10, which is no longer met at the time of decision, may be fulfilled again at a later date. This applies to the conditions laid down in Articles 10(b) and (c), since both the adequate domestic protection and the non-military use may not be established for a certain period of time but may be re-established at a later stage.

3.3.1.2 Article 14 (2), first alternative

The Committee may suspend the enhanced protection if the cultural property or its immediate surroundings are used in support of military action.

3.3.2 Cancellation

The cancellation is a definitive measure. It leads to the permanent loss of the enhanced protection. According to Articles 14(1) and (2) the Committee may cancel the enhanced protection under two conditions:

- a. if the cultural property does no longer meet any of the conditions laid down in Article 10 (Article 14 (1), second alternative), or
- b. if there is a continuous and serious violation of Article 12 in relation to cultural property under enhanced protection arising from its use in support of military action (Article 14 (2), second alternative).

[The Committee shall take its decision on cancellation by a majority of two-thirds of its members voting.]

3.3.2.1 Article 14 (1), second alternative

Since the cancellation is a definitive measure, the Committee may only cancel the enhanced protection, if the condition laid down in Article 10, which is no longer met, can neither be fulfilled at a later date. This applies only to the condition laid down in Article 10(a). The condition of being of greatest importance for humanity cannot be recovered once it has been lost.

3.3.2.2 Article 14 (2), second alternative

The Committee may exceptionally cancel the enhanced protection if the cultural property is continuously used in support of military action. The criterion of “continuity” is met if the use exceeds the time period of six months and if there is no evidence that the use will stop.

3.4 Procedure on suspension and cancellation

Before suspending or cancelling the enhanced protection the Committee informs the Party about its intention to suspend or cancel the enhanced protection and provides its reasons. The Committee sets forth a time period for the reply of the Party. This period does not exceed three months. *[The Committee shall inform immediately the Director-General on its decision to suspend or cancel the enhanced protection of cultural protection. It is the duty of the Director-General to inform, without any delay, the Secretary-General of the United Nations and all Parties to the Protocol on Committee's decision to suspend or cancel the enhanced protection of cultural property.⁴³]*

3.4.1 Suspension

If the Committee suspends the enhanced protection, the cultural property is not removed from the List. However, the suspension is duly noted in the List.

The Committee will re-establish the enhanced protection if the Party proves that the criteria laid down in Articles 10(b) or (c) are met again or that the cultural property is no longer used in support of military action. The re-establishment of the enhanced protection is duly noted in the List.

⁴³ Article 14(3) of the Second Protocol.

3.4.2 Cancellation

If the Committee cancels the enhanced protection, the cultural property is deleted from the List. It is not possible to re-establish the enhanced protection once it has been cancelled. The Party may only submit a new request for enhanced protection following the regular procedure. A new request is only possible if the enhanced protection has been cancelled due to the continuous use of the cultural property in support for military action.

~~[3.5]~~4. Distinctive Emblem ~~[Use of the Emblem]~~

~~[The provisions of the Convention define the use of the Emblem to mark cultural property under general and special protection. The Second Protocol does not include any provisions on how to mark cultural property under enhanced protection with the Emblem. However, the Committee recommends that Parties mark cultural property under enhanced protection with a single Emblem unless a different understanding is reached by the Parties.]~~

[The Second Protocol does not include any reference concerning the distinctive emblem of protected cultural property nor does it provide any provisions concerning its use. The use of the Blue Shield emblem is therefore based on provisions of the Convention.

According to the Convention cultural property may bear a distinctive emblem so as to facilitate its recognition. The distinctive emblem of the Convention 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). This emblem is widely known as the Blue Shield.

1. The distinctive emblem repeated three times may be used only as a means of identification of:

(a) immovable cultural property under special protection;

(b) the transport of cultural property under the conditions provided for in Articles 12 and 13;

(c) improvised refuges, under the conditions provided for in the Regulations for the execution of the Convention.

2. The distinctive emblem may be used alone only as a means of identification of:

(a) cultural property not under special protection;

(b) the persons responsible for the duties of control in accordance with the Regulations for the execution of the Convention;

(c) the personnel engaged in the protection of cultural property;

(d) the identity cards mentioned in the Regulations for the execution of the Convention.

3. During an armed conflict, the use of the distinctive emblem in any other cases than those mentioned in the preceding paragraphs of the present Article, and the use for any purpose whatever of a sign resembling the distinctive emblem, shall be forbidden.

4. The distinctive emblem may not be placed on any immovable cultural property unless at the same time there is displayed an authorization duly dated and signed by the competent authority of the High Contracting Party.

The Parties should make an effort to reinforce the position of the Emblem at national and international level.

(The graphical image of the Emblem will be inserted in the final version of the Guidelines)

⁴⁴]

⁴⁴ Article 17(2) of the Hague Convention.

4 [Dissemination]

The Second Protocol stipulates dissemination of the Protocol under time of peace and in time of armed conflict. Parties are obliged by appropriate means strengthen appreciation and respect for cultural property by their entire population. Particular attention should be paid at national level to education and information programmes.

Any military or civilian authorities, who, in time of armed conflict, assume responsibilities with respect to the application of this Protocol, shall be fully acquainted with the text of the Protocol. The Parties shall as appropriate:

- incorporate guidelines and instructions on the protection of cultural property in their military regulations,*
- develop and implement, in cooperation with UNESCO and relevant governmental and non-governmental organizations, peacetime training and educational programmes,*
- communicate to one another, through the Director-General, information on laws, administrative provisions and measures taken under the preceding paragraphs,*
- communicate to one another, as soon as possible, through the Director-General, the laws and administrative provisions which they may adopt to ensure the application of the Protocol.⁴⁵*

5 [Monitoring on the Implementation of the Second Protocol]

The Second Protocol strengthens the protection of cultural property by establishing a monitoring mechanism for the implementation of the Second Protocol. According to the Protocol Parties are obliged to report periodically on their implementation measures to the Committee. The Committee shall in turn review these reports and prepare its own report to the Meeting of the State Parties.

5.1 [Periodic Reports of the State Parties for the Committee]

State Parties to the Convention and Parties to the Second protocol are obliged to report every four year on the implementation of named instruments. The Parties to the Second Protocol may follow the same four years reporting period as for the Convention. Reports concerning the implementation of the Convention are addressed to the Director-General while periodic reports on the Second Protocol are addressed to the Committee.

⁴⁵ Article 30 of the Second Protocol.

In order to facilitate the Parties to fulfil the provisions of the Second Protocol, the Committee recommends/ encourages Parties to supply their reports concerning the implementation of the Convention by following information concerning the Protocol. The periodic reports must duly inform on the legal, administrative, military and practical implementation measures adopted by the Parties.

The Committee requests Parties to cover following items in their periodic reports on the implementation of the Second Protocol:

- ***Implementation of general provisions regarding protection (Chapter 2)***
 - *To inform on measures undertaken, in the process of being undertaken or envisaged concerning preparatory measures during peacetime for safeguarding cultural property.*
- ***Implementation of provisions regarding enhanced protection (Chapter 3)***
 - *To inform, whether your respective country intends to ask for Enhanced protections of the cultural property? If yes, inform on the Declaration concerning no military use, the request, etc.*
 - *Does your respective state plan or plan to mark the cultural property with the distinctive emblem of the Convention? If not, why?*
- ***Implementation of provisions regarding criminal responsibility (Chapter 4)***
 - *Does your national criminal legislation have the provisions concerning for violation of the provisions of the Protocol?*
- ***Implementation of provisions regarding dissemination and international assistance (Chapter 7)***
 - *How does your respective state implement and by what means the provisions of Article 30 of the Protocol concerning the dissemination?*
 - *Inform whether the services according to Article (3) (a) of the Protocol are established in the armed forces of your respective state*
- ***Implementation of the other provisions***
 - *To present to the Director-General the official translation of the Protocol⁴⁶*

⁴⁶ Article 37 of the Second Protocol.

– If your respective State is an occupying power or executes a military mission in the territory of the other states, to inform whether the provisions of the Protocol concerning the prohibition to export the cultural property from the occupied territory or conflict zone (state) are complied⁴⁷

Parties to the Second Protocol should also provide the Secretariat of UNESCO the names and addresses of the governmental organization(s) primarily responsible as national focal point(s) for the implementation of the Second Protocol, so that copies of all official correspondence and documents can be sent by the Secretariat to these national focal points as appropriate.

The Secretariat shall make available a list of these addresses at its web site. States Parties are encouraged to publicize this information nationally and to ensure that it is up to date.

State Parties shall address their periodic reports for the Committee through the Secretariat.

5.2 [Reports of the Committee for the Meeting of the State Parties]

An important function of the Committee is to monitor and supervise the implementation of the Protocol and to promote identification of cultural property under enhanced protection.⁴⁸ The Committee is also obliged to consider and comment on the reports of the Parties, to seek clarification as required, and prepare its own report on the implementation of the Protocol to the Meeting of the Parties.⁴⁹

The Committee will, with the assistance of the Secretariat, keep under review all aspects of the implementation of the Second Protocol making full use, to the extent possible, of the periodic reports of States Parties, representations and other communications from States Parties and others, and of the information and documentation services of UNESCO, the Committee's advisory and consultative bodies and others.⁵⁰

In the following is listed the subjects that the Committee must take into account in its report:

⁴⁷ Article 9(a) of the Second Protocol.

⁴⁸ Article 27(c) of the Second Protocol.

⁴⁹ Article 27(d) of the Second Protocol. See also Provisional Rules of Procedure, Rule 38.

⁵⁰ Report to UNESCO, Draft procedures and documentation for the implementation of the Second Protocol, 1999, of the Hague Convention on the Protection of Cultural Property in the Event of armed conflict. Part 3: Operational Guidelines for the Implementation of the Second Protocol. Professor Patrick, J. Boylan. UNESCO Contract No. 4500003685. March 2003. Para 7.2.

- *Parties request for enhanced protection*
- *Parties request for International Assistance*
- *International Cooperation*
- *The Fund for the Protection of Cultural Property in the Event of Armed Conflict*

The Committee shall perform its functions in co-operation with the Director-General.⁵¹

Therefore the Committee shall address its reports also to the Director-General.]

⁵¹ Article 27 (2) of the Second Protocol.