



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

CLT-07/CONF/212/3 Rev.2

Paris, 20 December 2007

Original: English

DRAFT

**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
Developed by the Committee for the Protection of Cultural Property in the Event of
Armed Conflict at its Second Meeting (UNESCO, 17 - 19 December 2007)**

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

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



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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

1. 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 for the fulfilment of their functions as established by the Second Protocol.
 2. The present Guidelines attempt to embody the best practices in the implementation of the Second Protocol.
 3. 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.
- Article 27(1)(a) of the Second Protocol
Article 23 (3) (b) of the Second Protocol

1.2 Scope of application of the Second Protocol

4. 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 Parties. It aims 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 ownership:
 - 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 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”.
5. 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.

Article 2 of the
Second Protocol

Article 1(b) of the
Second Protocol and
Article 1 of the
Convention

Article 3(1) of the
Second Protocol

6. 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. Articles 5 - 9 of the Second Protocol
7. The Second Protocol introduces a regime of enhanced protection. It 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 Committee. Articles 10 – 14 of the Second Protocol
8. 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 jurisdiction. Articles 15 - 21 of the Second Protocol
9. 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. Chapter 6 of the Second Protocol
- 1.3 Relationship between the Convention and the Second Protocol**
10. 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. As an exception however, in case that the cultural property has been granted both special protection as defined in the Convention and enhanced protection the provisions of special protection will be replaced by the provisions of enhanced protection. Article 2 of the Second Protocol
Article 4(b) of the Second Protocol
11. The Second Protocol does not affect the rights and obligations of the High Contracting Parties to the

Convention.¹ In mutual relations between the High Contracting Parties to the Convention the Parties remain bound by the Convention alone. 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.

Article 34 of the 1969 Vienna Convention on the Law of Treaties

Article 30(4) of the 1969 Vienna Convention on the Law of Treaties

1.4 Key actors of the Second Protocol

12. The key actors of the Second Protocol are:

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

13. The key actors of 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. In particular, such participation may address, amongst other issues related to the Second Protocol, the national implementation, awareness-raising and dissemination of the Second Protocol both within target groups and the general public, offering technical advice related to safeguarding of cultural property or, in case of the constituent bodies of the International Committee of the Blue Shield, on providing advice with regard to the granting of enhanced protection.

1.4.1 Parties to the Second Protocol

14. 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

Articles 41 and 42 of the Second Protocol

¹ 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

UNESCO. Model instruments for that are provided by the Secretariat of UNESCO.

15. 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 occupation. Articles 43 and 44 of the Second Protocol
16. The list of Parties is available online at the following address: www.unesco.org.

1.4.2 Meeting of the Parties to the Second Protocol

Article 23 of the Second Protocol

17. 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;
 - 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.
18. 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 Committee

Articles 24 - 27 of the
Second Protocol

19. 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.

20. In addition to its main functions the Committee adopts rules for the submission of requests for international assistance. It also defines the forms this international assistance may take. The Committee may give international assistance for cultural property under enhanced protection and in fulfilment of the provisions of Article 10(b). A copy of the form to request international assistance for cultural property under enhanced protection in accordance with Article 32 of the Second Protocol may be found in Annex... The Committee also conveys technical assistance provided by Parties or parties to a given conflict.

Article 32 (3) of the
Second Protocol

Article 32(4) of the
Second Protocol

21. The Committee is composed of twelve Parties which, paying due regard to equitable geographical distribution, 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.

22. 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.
23. The Committee adopts and updates its own Rules of Procedure. The Committee may define its internal annual working schedule as well as 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. Article 26(1) of the Second Protocol
24. 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 (the Co-ordinating Council of Audiovisual Archives Associations (CCAAA), the International Council on Archives (ICA), the International Council of Museums (ICOM), the International Council on Monuments and Sites (ICOMOS) and the International Federation of Library Associations and Institutions (IFLA)). 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) may also be invited to attend in an advisory capacity. Article 27(3) of the Second Protocol

1.4.4 Assistance of UNESCO

25. 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. The Secretariat receives, translates and distributes all official documents of the Committee and arranges interpretation as needed. The Secretariat also performs other necessary functions so that the Committee may perform its work properly.
- Article 28 of the Second Protocol
Rules 37(5) and 37(6) of the Rules of Procedure
26. A Party may call upon UNESCO for technical assistance in organizing the protection of its cultural property. Requests for such assistance are addressed directly to UNESCO, Sector for Culture. 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.
- Article 33 of the Second Protocol

2. GENERAL PROVISIONS REGARDING PROTECTION

2.1 Safeguarding of Cultural Property

27. Preparatory measures taken in time of peace for the safeguarding of cultural property against the foreseeable effects of an armed conflict pursuant to Article 3 of the Convention include as appropriate: Article 5 of the Second Protocol
- the preparation of inventories;
 - the planning of emergency measures for protection against fire or structural collapse;
 - the preparation for the removal of movable cultural property or the provision for adequate *in situ* protection of such property; and
 - the designation of competent authorities responsible for the safeguarding of cultural property.

As the above list of preparatory measures is not exhaustive, Parties are also encouraged to consider other appropriate preparatory measures consistent with the purposes of the Second Protocol.

28. 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.
29. In order to harmonise the documentation related to cultural property under enhanced protection with those related to cultural property under general protection, the Committee encourages the Parties to apply, as appropriate, the relevant provisions of the present Guidelines regarding the nomination dossier for enhanced protection to documentation of cultural property under general protection.

2.2 Precautions against the effects of hostilities

30. The Parties are obliged, to the maximum extent feasible: Article 8 of the Second Protocol
- to remove movable cultural property from the vicinity of military objectives or to provide adequate *in situ* protection; and,
 - to avoid locating military objectives near cultural property.

3 ENHANCED PROTECTION

3.1 The granting of enhanced protection

3.1.1 Conditions

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

3.1.1.1 Greatest importance for humanity

32. While considering whether cultural property is of greatest importance for humanity the Committee will evaluate, case by case, its exceptional cultural significance, and/or its uniqueness, and/or if its destruction would lead to irretrievable loss for humanity. Article 10 (a) of the Second Protocol
33. Cultural property of national, regional or universal value may have exceptional cultural significance. This significance may be deduced from the following indicative criteria:
- it is an exceptional cultural property bearing a testimony of one or more periods of the development of humankind at the national, regional or global level;
 - it represents a masterpiece of human creativity;
 - 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

achievements, over a span of time or within a cultural area of the world on developments in arts and sciences;

- it has a central significance to the cultural identity of societies concerned.

34. 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 indicative criteria including
- a. age;
 - b. history;
 - c. community;
 - d. representativity;
 - e. location;
 - f. size and dimension;
 - g. shape and design;
 - h. purity and authenticity in style;
 - i. integrity;
 - j. context;
 - k. artistic craftsmanship;
 - l. aesthetic value;
 - m. scientific value.
35. The criterion of irretrievable loss for humanity is met if the damage or destruction of the cultural property in question would result in the impoverishment of the cultural diversity or cultural heritage of humankind.
36. It is presumed that the Committee, subject to other relevant considerations, will consider that immovable cultural property inscribed on the World Heritage List satisfies the condition of greatest importance for humanity.
37. In the case of documentary heritage, the Committee will consider the fact that the cultural property is inscribed on UNESCO's Memory of the World Register.

3.1.1.2 Adequate domestic legal and administrative measures of protection

38. The cultural property is protected by adequate domestic legal Article 10 (b) of the

and administrative measures recognizing its exceptional cultural and historic value and ensuring the highest level of protection. Second Protocol

39. 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. In evaluating whether 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, the Committee considers in particular national measures intended for:

- the identification and safeguarding of cultural property proposed for enhanced protection in accordance with Article 5 of the Second Protocol;
- due consideration for the protection of the cultural property proposed for enhanced protection in military planning and military training programs; and
- appropriate criminal legislation providing for the repression of, and jurisdiction over, offenses committed against cultural property under enhanced protection in the meaning of, and in accordance with, Chapter 4 of the Second Protocol.

The Committee may also, as appropriate, take into consideration whether the cultural property proposed for enhanced protection is marked with the distinctive emblem provided for under Article 6 of the 1954 Hague Convention.

40. 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) of the Second Protocol

41. 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

42. 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. In accordance with Article 3 of the Second Protocol, these provisions also apply in times of peace. Article 10 (c) of the Second Protocol
43. The guarding of cultural property by armed custodians specially empowered to do so, or the presence, in the vicinity of such cultural property, of police forces normally responsible for the maintenance of public order, is not deemed to be used for military purposes. Article 8(4) of the Convention

3.1.2 Procedure for granting enhanced protection

44. 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.
45. The request for granting of enhanced protection is sent to the Committee through the Secretariat.
46. 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.
47. 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.
48. Once the Committee has received requests it informs all Parties of the request on inclusion in 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 and will be specific and related to facts.

49. The Committee considers the representations, providing the requesting Party with a reasonable opportunity to respond before taking a decision.
50. In exceptional cases, if the cultural property does not meet the criterion laid down in Article 10(b), the Committee may ask the Party which has control or jurisdiction to submit a request for international assistance under Article 32. Articles 11(2) and (8) of the Second Protocol, Article 32(1) of the Second Protocol
51. 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

52. 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. 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. Article 11(1) of the Second Protocol
53. 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

- 54.** A request submitted by a Party meets the following requirements in order to be considered by the Committee: Article 11(2) of the Second Protocol

a. Identification of the cultural property

- 55.** 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.
- 56.** 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 Universal Transverse Mercator system. Boundaries of a wider property could be indicated by providing a list of coordinates indicating the course of the property boundary. In case of movable cultural property this information refers to the location where this property is stored or intended to be stored.

b. Description of the property

- 57.** 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 in Article 10(a).

c. Protection of the property

- 58.** 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 in Article 10(b).

d. Use of the property

59. 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 Article 10(c).

e. Information regarding responsible authorities

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

f. Signature on behalf of the Party

61. The request is duly signed by the Party's competent authorities.

g. Format of the request

62. Parties are invited to submit their requests both in paper and electronic format provided by the Secretariat.

3.1.2.3 Emergency request

63. 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). Article 11(9) of the Second Protocol

3.1.2.4 Withdrawal of a request

- 64.** 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

- 65.** 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 update and, where appropriate, a reconsideration of the status of enhanced protection and/or a new decision by the Committee.

3.1.3 Decisions of the Committee on Enhanced Protection

- 66.** The Committee decides 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. In two exceptional cases, a majority of four-fifths of the members of the Committee present and voting is needed:
- Article 26(2) of the Second Protocol, Rule 35(2) of the Rules of Procedure
Article 11(5) and 11(9) of the Second Protocol
- i) when Parties make a representation to the Committee on the basis of another Party's request for inclusion in the List; and
 - ii) when a Party requests enhanced protection on an emergency basis.
- 67.** Members of the Committee may not participate in the voting on any decisions relating to cultural property affected by an armed conflict to which they are parties.
- Article 26(3) of the Second Protocol
- 68.** When deciding to grant enhanced protection to a property, the

Committee adopts a “Statement of Inclusion of the Property on the List of Cultural Property under 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.

- 69.** The Committee immediately informs the Director-General on the decision to include cultural property on the List. The Director-General in turn notifies without delay the Secretary-General of the United Nations and all Parties to the Second Protocol on the decision of the Committee. Article 11(11) of the Second Protocol
- 70.** If the Committee decides to deny enhanced protection to a property, generally it will not accept an identical request.
- 71.** 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.
- 72.** 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

- 73.** The Committee may grant enhanced protection in exceptional cases to a property which does not meet the criterion laid Article 11(8) of the Second Protocol

down in Article 10(b) provided that the Party submits a request for international assistance under Article 32. The Committee may advise the Party concerned with regard to the compliance with Article 10(b). To grant enhanced protection in such cases, the Committee follows the above-mentioned procedure. However, the Statement points out that the criteria laid down in Article 10(a) and 10(c) are met and that the Party has already submitted a request.

74. 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 by the Committee.

3.1.3.2 Decision on provisional enhanced protection

75. 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 of Provisional Inclusion of the Property on the List of Cultural Property under 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. Article 11(9) of the Second Protocol

3.2 The List

76. The Committee establishes, maintains and promotes the List. It consists of two divisions: Article 27(1)(b) of the Second Protocol
- a. Division 1: Cultural property under enhanced protection; and
 - b. Division 2: Cultural property under provisional enhanced

protection.

77. 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.
78. 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.
79. The List is made available by the Secretariat through appropriate media.

3.3 The loss of enhanced protection

80. According to Article 13 a cultural property loses its enhanced protection under any of the three below mentioned conditions: Article 13 of the Second Protocol
- a. the enhanced protection is suspended by the Committee with reference to Article 13 paragraph 1, sub-paragraph (a), first alternative;
 - b. the enhanced protection is cancelled by the Committee with reference to Article 13, paragraph 1, sub-paragraph (a), second alternative;
 - c. the cultural property has become, by its use, a military objective with reference to Article 13 paragraph 1, sub-paragraph (b).
81. 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. Article 1(f) of the Second Protocol

3.3.1 Suspension

- 82.** 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. Article 14 of the Second Protocol
- 83.** According to Article 14 (1) and (2) the Committee may suspend 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), 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).

3.3.1.1 Article 14 (1), first alternative

- 84.** Since the suspension is a provisional measure, the Committee may only suspend the enhanced protection, if the conditions laid down in Article 10, which are 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

- 85.** 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

86. 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:

Article 14 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), 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).

3.3.2.1 Article 14 (1), second alternative

87. Since the cancellation is a definitive measure, the Committee may only cancel the enhanced protection, if the conditions laid down in Article 10, which are no longer met, can neither be fulfilled at a later date. This applies only to the condition laid down in Article 10(a).

3.3.2.2 Article 14 (2), second alternative

88. 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

89. 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.

90. The Committee informs immediately the Director-General on its decision to suspend or cancel the enhanced protection of cultural property. The Director-General informs, 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. Article 14(3) of the Second Protocol

3.4.1 Suspension

91. 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.
92. 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.

3.4.2 Cancellation

93. If the Committee cancels the enhanced protection, the cultural property is deleted from the List. The Party may only submit a new request for enhanced protection following the regular procedure.

3.5 Use of the Emblem

94. 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. Articles 6, 16 and 17 of the Convention and Article 20 of the Regulations for its Execution
95. As cultural property under enhanced protection is by definition cultural property, Parties are entitled to mark such property in accordance with Article 6 of the Convention.
96. The Parties should make an effort to increase awareness and Article 16(1) of the

enhance respect for the Emblem at national and international Convention levels.