

Hundred and sixty-ninth Session

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**CULTURAL DIVERSITY: SUMMARY OF PRELIMINARY WORK
AND CATEGORY VI MEETINGS OF EXPERTS, AND PROSPECTS**

**Progress report on the preparation
of a preliminary draft convention on the protection
of the diversity of cultural contents and artistic expressions**

SUMMARY

This item has been included in the provisional agenda of the 169th session of the Executive Board at the request of the 15 Member States¹ which presented document 169 EX/11. The document is submitted by the Director-General to provide information about the points raised in document 169 EX/11.

Furthermore, in accordance with Article 21 of the Regulations for the general classification of the various categories of meetings convened by UNESCO, the Director-General herewith submits to the Executive Board at its 169th session proposals concerning the decision to be taken by the Board regarding invitations to meetings of governmental experts (category II) on a preliminary draft convention on the protection of the diversity of cultural contents and artistic expressions.

Decision proposed: paragraph 16.

¹ Algeria, Burkina Faso, Cambodia, Canada, Congo, Czech Republic, France, Hungary, Japan, Mauritius, Morocco, Senegal, Switzerland, Uruguay and Viet Nam.

I. INTRODUCTION

1. Pursuant to 166 EX/Decision 3.4.3, the Director-General submitted to the General Conference at its 32nd session document 32 C/52, containing a preliminary study on the technical and legal aspects relating to the desirability of a standard-setting instrument on cultural diversity (166 EX/28). By means of 32 C/Resolution 34, which it adopted by consensus, the General Conference invited the Director-General to submit to it at its 33rd session a preliminary report together with a preliminary draft convention on the protection of the diversity of cultural contents and artistic expressions.

2. The resolution emphasized the need to undertake formal consultations with the international bodies concerned (United Nations Conference on Trade and Development (UNCTAD), World Trade Organization (WTO) and World Intellectual Property Organization (WIPO)) and acknowledged that cultural diversity represented a major human challenge of global relevance. During the debates of the 32nd session of the General Conference, Member States stressed that they took responsibility for the wealth that such diversity constituted for their present and their future, as guarantors of an ongoing dialogue within nations and in their relations with others. More specifically, they unanimously agreed that the often recent recognition of cultural diversity within States had been a source of openness and reconciliation among societies, a foundation for democracy and stability, and a guarantee of lasting peace and sustainable development. Most developing countries, in particular, recalled the importance of acknowledging their cultural diversity at a time when globalization processes threatened to marginalize them. Lastly, broad agreement was reached to stress that the democratic framework alone could enable cultural diversity to renew itself and, equally, that the promotion of cultural diversity was essential for democratic progress.

3. Some Member States, while adhering to the reaffirmed consensus on the need to promote cultural diversity, nevertheless expressed doubts as to whether a convention was the most suitable means of doing so. Their concerns were related to the possible effect of such an instrument on the exercise of human rights and individual freedoms, and on other international instruments in force in the same field, particularly those developed by WTO and WIPO. Their fears about the predominant role of the State in cultural life led them to stress that UNESCO's role was to encourage openness between peoples and cultures, and not to erect new barriers.

4. At the end of the debate, 32 C/Resolution 34 was adopted by consensus. The General Conference decided that the most appropriate approach for dealing with the issue of cultural diversity in an international convention should be that regarding the protection of the diversity of cultural contents and artistic expressions.

II. ACTIVITIES CARRIED OUT

5. In pursuance of 32 C/Resolution 34 of the General Conference, and in particular with a view to preparing a preliminary report together with a preliminary draft convention to be sent to Member States 14 months at least before the opening of the 33rd session of the General Conference (see Part III below), the Director-General has taken the following initiatives about which he wishes to inform the Executive Board.

6. Firstly, in line with the methods followed at UNESCO for the elaboration of new standard-setting instruments, the Director-General set up a category VI international group of 15 experts, representing a broad range of disciplinary approaches (anthropology, law, economics of culture,

philosophy) and sitting in a personal capacity. In conformity with the rules, he asked them to make suggestions to him and to give him opinions on the elaboration of the outline of a convention on the protection of the diversity of cultural contents and artistic expressions. The first category VI meeting of experts was held at the Organization's Headquarters in Paris, from 17 to 20 December 2003. The report of that meeting, available from the Secretariat under document code CLT/CPD/2003-608/01, was distributed in February 2004 to Member States and the organizations concerned, in particular WTO, WIPO and UNCTAD, which had been informed by the Director-General of the General Conference resolution immediately after the 32nd session. The same report was transmitted to the Members of the Executive Board by the Director-General on 22 January 2004, highlighting a number of questions that remained to be clarified, in particular definitions, scope, and the rights and obligations of States Parties.

7. The Director-General therefore decided to convene a second meeting from 30 March to 3 April 2004. In this context, he asked the experts present at the first meeting to prepare preliminary proposals for the wording of key articles of a possible preliminary draft convention, divided into five sections: purposes of the convention; its scope; rights and obligations of States Parties; international cooperation; and mechanisms for the application of the convention. The purpose of the meeting was to work on specific proposals enabling the experts to move forward in their discussions. The results of the second meeting will be the subject of a report to be sent to all Member States and to all intergovernmental and non-governmental organizations maintaining formal relations with UNESCO. The document will also be available from the Secretariat. In addition, the Director-General will hold an information meeting for Permanent Delegates on 7 April 2004 to report to them on the outcome of the two meetings and the next stages. The text of his statement will be available from the Secretariat.

III. TIMETABLE

8. With regard to the future timetable of work, the Director-General will convene a third meeting of experts (category VI) at the end of May 2004, in order that the experts may re-examine and finalize their proposals regarding an outline preliminary draft convention drawn up at the second session. At the same time, the Director-General will continue to conduct other consultations with representatives of civil society and the academic world and with other specialists on questions relating to cultural diversity in order to gather the widest possible range of views, opinions and concerns and, insofar as possible, to accommodate them in the preliminary draft convention.

9. In order to respect the applicable Rules,² the Director-General will draft a preliminary report together with a preliminary draft convention. These documents will reach Member States 14 months before the opening of the 33rd session of the General Conference, that is, in mid-July 2004, to enable them to provide comments and observations at least 10 months before the opening of the General Conference session. He will also make a formal request to WTO, WIPO and UNCTAD for their views and comments on the issue, in accordance with 32 C/Resolution 34 of the General Conference.

10. The preliminary report by the Director-General, taking into account these comments and together with a preliminary draft convention, will be communicated to Member States at least seven months before the opening of the General Conference session – in March 2005. Finally, in October 2005, this report will be submitted to the General Conference at its 33rd session.

² Article 10, paragraphs 2 and 3, of the Rules of Procedure concerning recommendations to Member States and international conventions (covered by the terms of Article IV, paragraph 4, of the Constitution).

IV. INVITATIONS TO MEETINGS OF GOVERNMENT EXPERTS

11. Subject to adoption by the Executive Board at its 169th session of a decision inviting the Director-General to convene one or more intergovernmental meetings of experts (category II) on the preliminary draft convention on the protection of the diversity of cultural contents and artistic expressions, the Director-General presents his proposals concerning invitations to these meetings, as an annex.

Purpose of the meetings

12. The purpose of these meetings is to define the scope and to take forward the preparation of the preliminary report and the preliminary draft of an international convention.

Category of the meetings

13. Pursuant to the Regulations for the general classification of the various categories of meetings convened by UNESCO, these meetings fall within the category of “intergovernmental meetings other than international conferences of states” (category II), at which the chief participants represent their governments.

Participants

14. In accordance with the provisions of the said Regulations, it is for the Executive Board to decide on the invitations to these meetings on the basis of the list submitted to it in the annex to this document.

V. CONCLUSION

15. Pursuant to 32 C/Resolution 34 adopted by the General Conference at its 32nd session, with a view to preparing a report and arriving at a preliminary draft international convention to be submitted to the General Conference at its 33rd session, the Director-General considers that the best way to proceed in order to draw up an international standard-setting instrument on the protection of the diversity of cultural contents and artistic expressions would be to continue the reflection process initiated at the first category VI meeting of experts held in December 2003.

Proposed draft decision

16. Having examined this document and its annex, the Executive Board may wish to adopt the following draft decision:

The Executive Board,

1. Recalling 32 C/Resolution 34,
2. Having taken note of document 169 EX/11,
3. Having examined document 169 EX/40,
4. Having been informed of the results of the first two category VI meetings of experts concerning the preliminary draft convention on the protection of the diversity of cultural contents and artistic expressions, held in Paris from 17 to 20 December 2003 and from 30 March to 3 April 2004,

5. Takes note of the timetable proposed by the Director-General and requests him to continue his efforts to ensure the preparation, in accordance with Article 10 of the Rules of Procedure concerning recommendations to Member States and international conventions, of a preliminary report together with a preliminary draft international convention;
6. Invites the Director-General to convene meetings of government experts (category II) aimed at taking forward the preparation of the preliminary draft convention in order to report to the General Conference at its 33rd session;
7. Decides:
 - (a) that invitations to participate with the right to vote in one or more intergovernmental meetings (category II) to draw up an international convention on the protection of the diversity of cultural contents and artistic expressions will be sent to all Member States and Associate Members of UNESCO;
 - (b) that invitations to send observers to one or more meetings, as defined above, will be sent to the States mentioned in the annex to document 169 EX/40;
 - (c) that an invitation to send observers to one or more meetings, as defined above, will be sent to Palestine, as mentioned in paragraph (c) of the annex to document 169 EX/40;
 - (d) that invitations to send representatives to one or more meetings, as defined above, will be sent to the organizations of the United Nations system with which UNESCO has concluded mutual representation agreements and which are listed in paragraph (d) of the annex to document 169 EX/40;
 - (e) that invitations to send observers to one or more meetings, as defined above, will be sent to the organizations, foundations and institutions listed in paragraphs (e) (i), (ii), (iii), (f) and (g) of the annex to document 169 EX/40;
 - (f) that the Director-General is authorized to send out any other invitations he may deem useful for the work of the above-mentioned intergovernmental meeting or meetings (category II), notifying the Executive Board thereof.

ANNEX

The Director-General's proposals concerning invitations to intergovernmental meetings (category II)

(a) Member States and Associate Members

1. In accordance with the existing Regulations (Article 21), the Executive Board shall, on the Director-General's proposal, decide on the Member States and Associate Members whose governments are to be invited to this category of meetings (category II).
2. In accordance with Regulations (Article 23), the governments of the Member States and Associate Members which are invited to participate have the right to vote.

(b) Non-Member States

3. Under Article 21, paragraph 3, of the Regulations, the Executive Board may designate non-Member States to be invited to send observers to the meeting.
4. The Director-General proposes that States that are not members of UNESCO but are members of at least one other organization of the United Nations system be invited to send observers to the meetings. At the time of writing, the list of such States was as follows: Brunei Darussalam, Holy See, Liechtenstein and Singapore. In addition, the Director-General proposes to the Executive Board that those States which become members of any United Nations system organization before the opening of the meetings be invited to attend the meetings as observers.

(c) Palestine (Article 7B of the Regulations)

5. Under Article 7B of the Regulations, the Executive Board shall invite Palestine to send observers to one or more intergovernmental meetings (category II) convened to draw up an international convention on the protection of the diversity of cultural contents and artistic expressions.

(d) International organizations (Articles 21.4 and 21.5 of the Regulations)

6. The Director-General reminds the Board that under Article 21, paragraph 4, of the Regulations, organizations of the United Nations system with which UNESCO has concluded reciprocal representation agreements may send representatives to the meeting.
7. Pursuant to Article 21, paragraph 5, of the Regulations, the Director-General proposes that the following organizations be invited to send observers to the meetings:

(e) Other intergovernmental organizations

(i) Regional organizations

African Intellectual Property Organization
African Union
Amazonian Parliament
Andean Community
Andean Parliament
Arab Inter-Parliamentary Union
ASEAN Inter-Parliamentary Organization

Asia-Pacific Economic Cooperation
Parliamentary Assembly of the Council of Europe
Association of South-East Asian Nations
Caribbean Community Secretariat
Central American Parliament
International Centre for the Bantu Civilizations
European Commission
Commonwealth of Independent States
Commonwealth Parliamentary Association
Council of Europe
Council of The Baltic Sea States
Economic Community of West African States
Executive Secretariat of the Andrés Bello Convention
Intergovernmental Television and Radio Corporation
International Centre for Promotion of Enterprises
Latin American Economic System
Latin American Faculty of Social Sciences
Latin American Parliament
Nordic Council
Arab League Educational, Cultural and Scientific Organization
Organisation for Economic Co-operation and Development
Organization of American States
Organization of Ibero-American States for Education, Science and Culture
Pan-African Telecommunications Union
European Parliament
Permanent Secretariat of the General Treaty on Central American Economic Integration
Regional Center for Book Development in Latin America and the Caribbean
Secretariat of Ibero-American Cooperation
Secretariat of the Pacific Community
Southern African Development Community
Arab States Broadcasting Union
Union of African Parliaments
Latin Union

(ii) Interregional organizations

Intergovernmental Agency of the Francophonie
Parliamentary Assembly of the Francophonie
Commonwealth Secretariat
African, Caribbean and Pacific Group of States
International Centre for the Study of the Preservation and Restoration of Cultural Property
International Organization for Standardization
Inter-Parliamentary Union
Islamic States Broadcasting Organization
Islamic Educational, Scientific and Cultural Organization (ISESCO)
International Organization of the Francophonie
World Customs Organization
Research Centre for Islamic History, Art and Culture (IRCICA)

(iii) International organizations

World Intellectual Property Organization
United Nations Conference on Trade and Development
World Tourism Organization
World Trade Organization

(f) International non-governmental organizations maintaining official relations with UNESCO

European Academy of Arts, Sciences and Humanities
African Council on Communication Education
Arab Lawyers' Union
General Arab Women's Federation
Asian Media Information and Communication Centre
Asia-Pacific Broadcasting Union
Association for the Promotion of the International Circulation of the Press
International Association of Art
International Association of Art Critics
International Association of Literary Critics
International Association of Democratic Lawyers
International Association for the Development of Cross-Cultural Communication
International Literary and Artistic Association
World Association of Newspapers
World Association of Community Radio Broadcasters
Association of European Journalists
European Bureau for Lesser Used Languages
Canadian Centre for International Studies and Cooperation
International Liaison Centre for Film and Television Schools
Club of Rome
Committee to Protect Journalists
Commonwealth Press Union
International Confederation of Societies of Authors and Composers
European Council for Social Research on Latin America
International Dance Council
International Music Council
International Council on Archives
International Council of Women
International Council on Monuments and Sites
International Council of Museums
International Council of Organizations for Folklore Festivals and Folk Art
International Council of French-Speaking Radio and Television
International Social Science Council
International Council for Film, Television and Audiovisual Communication
Consumers International
International Federation of Photographic Art
International Federation of Film Archives
International Federation of Women in Legal Careers
International Federation of Journalists
International Booksellers' Federation
International Federation of Human Rights
Ibero-American Television Organization

International Theatre Institute
Inter-American Press Association
International Alliance of Women
International Association for Media and Communication Research
International Association of Broadcasting
International Association of Sound and Audiovisual Archives
International Commission of Jurists
International Council for Educational Media
International Council for Traditional Music
International Federation of Actors
International Federation of Television Archives
International Federation of the Periodical Press
International Federation of the Phonographic Industry
International Federation of Women Lawyers
International Organization of Folk Art
International Pen
International Press Institute
International Press Telecommunications Council
International Public Television
International Publishers Association
Human Rights Information and Documentation Systems – International
International Statistical Institute
International Union of Local Authorities
Internet Society
Latin American Social Sciences Council
MEDIACULT-International Research Institute for Media, Communication
and Cultural Development
International Movement ATD Fourth World
North American National Broadcasters' Association
International Organization for Standardization
Organization of African Trade Union Unity
European Network of Cultural Administration Training Centres
Society for International Development
South-East Asia Pacific Audiovisual Archive Association
South-North Network Cultures and Development
Traditions for Tomorrow
Union of National Radio and Television Organizations of Africa
European Broadcasting Union
World Academy of Art and Science
World Association for Small and Medium Enterprises
World Association of Publishers, Manufacturers and Distributors of Educational Materials
World Crafts Council

(g) International non-governmental organizations not maintaining official relations with UNESCO

International Liaison Committee of Coalitions for Cultural Diversity
International Network for Cultural Diversity (INCD)-request for admission to operational relations under consideration)