



**Meeting of experts on audiovisual services:
improving the participation of developing countries**

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SUMMARY

How can developing countries become more involved and profit more from developments in the audiovisual industries, services in particular, than they do at present? That question has to be framed within the context of globalisation characterised both by trade liberalisation and rapid advances in information and communication technologies. Culturally and economically, the potential benefits and drawbacks of liberalising audiovisual industries will continue to give rise to debate, especially in WTO negotiations. UNESCO's reflection, based on the conviction that "cultural goods and services are not goods like any other", have led it to emphasise the notion of "cultural diversity" considering that this concept is of great importance today, with implications for the very future of humanity.

UNESCO's work in this area has produced a Universal Declaration on Cultural Diversity and, in the area of cultural goods and services, in particular, the search for new tools with which countries can develop their potential and have access to different markets while safeguarding their own identities. While all are agreed on the need for cultural policies, the form that particular policy instruments may take will probably differ significantly from one country to another, due to often sharp differences in views on public intervention. International co-operation also encompasses many varied possibilities, but there is increasing emphasis on the coming together of public authorities, the private sector and civil society. Such a convergence produces different types of partnerships, seen by UNESCO as part of a "Global Alliance for Cultural Diversity" and forming part of sustainable economic, social and cultural development.

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SUMMARY

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I. THE CURRENT SITUATION

Globalisation and its challenges

1. Globalisation is at the moment the greatest factor for change known to this planet. In the virtual absence of regulation, it has become a constant in all social activity. The possibilities that it opens up are considerable, principally because of the gigantic scientific and technological advances that accompany it. The development of **new information technologies** combined with the **growing opening of markets** create new perspectives for development, which could contribute to new forms of dialogue, in cultural as in other contexts. Among individuals, people, communities, cultures and civilisations, globalisation can give rise to hitherto unknown forms of co-operation, exchange and partnership likely to favour understanding, solidarity and peace at all levels. In this sense it brings new opportunities. One can even identify, in step with globalisation, an inverse tendency towards localisation, whose effects can be positive for the participation of all.

2. But the principal challenge is precisely **to ensure that globalisation can benefit all**. For, the unprecedented wealth and well being it has created have so far essentially benefited only rich countries and favoured classes, leaving out the poor- countries or individuals- who thus find themselves marginalised. From the point of view not only of geopolitical planetary balance, but above all of ethics, the future course of globalisation requires another idea, one that inspires UNESCO as also the whole United Nations system: **universality**. It is in terms of values, that a “globalisation with a human face” should henceforth be best envisaged. That implies that the conditions for a genuine dialogue must be created. For that to happen, it is necessary to extend the use of new technologies, notably to benefit developing countries, and, more generally, to create a flow in cultural goods and services of all types, which is fair, equitable and multipolar. From this point of view, the major aim must be to avoid a situation where **economic and social asymmetries** grow between industrialised countries and developing ones or where **social fracture** grows inside states, endangering the cohesion of societies that are more and more cultural and ethnically mixed.

3. Today, different factors are cause for concern: the coming of a global market of free exchange, quickened by technological convergence, which is leading to the concentration of businesses whose size and power are overtaking the powers of states to act on them; a kind of “commodification” of human societies, which is tending to damage the preservation of cultures’ intangible heritage; the growth of a “virtual world”, in itself a rich source of creativity but which is developing outside any legal framework, at the point where spatial, temporal and cultural frontiers become confused. In addition, the appearance of commercial blocs - with some of them already consolidated, such as the European Union, others on the way to consolidation, such as the Association of South East Asian Nations (ASEAN), the North America Free Trade Agreement (NAFTA) or the Southern Cone Common Market (MERCOSUR)- is being accompanied by a strong tendency towards the decentralisation of political power, while demands for identity are becoming more loudly heard everywhere, leading sometimes to armed conflict. All these trends, acting in combination, tend to weaken the role of the nation state and to reduce public space; they explain also the emergence of a “global civil society”, which, through movements more or less

structured, more or less independent, more or less vocal, has quickly learned to profit from the Internet in order to express a social unrest that must be taken into account.

4. It is also important to observe that the influence of globalisation has naturally extended itself to the world of **cultural industries**, which is particularly sensitive to convergence of supports and whose **cultural and economic duality is its trademark**. For UNESCO's purposes, cultural industries include the creation, production and commercialisation of works of human creativity that are reproduced in multiple quantities by industrial processes and distributed on a mass scale. The products (both goods and services) of cultural industries are characterised by the intangible nature of their contents, generally protected by copyright and including *inter alia*, books, publishing, design, crafts and audiovisual products: CDs, cassettes, film, video, games, multimedia...

5. The **audiovisual sector** carries important **economic and financial stakes**. Today it is a market in full expansion and a factor for economic and social development as much at the regional as at the national and international level. In fact, all available indicators show that activities linked to the production and distribution of audiovisual content are responsible for a growing proportion of employment and that production attributed to this sector is growing equally strongly. Similarly, throughout the 90s, there was exponential growth in international circulation and commerce in audiovisual services, a trend that is becoming more and more marked with the information technology revolution and technological "convergence". Audiovisual industries are the industries of the future, carrying more and more weight in terms of jobs and economic growth.

6. The entry into the knowledge society and the driving force of new technologies make these economic dimensions more and more evident. A related issue is that the audiovisual sector has experienced an important restructuring during the last few years, owing in large part to technological developments. The digital revolution has allowed new processes of content creation, which tend to lower the cost of production margins while at the same time increasing the total volume of content produced and distributed. It has equally resulted in the creation of new distribution networks based on the use of the Internet. For all the above, the eventual liberalisation of audiovisual services, being discussed within the context of on-going WTO and FTAA¹ negotiations, has considerable economic and financial stakes.²

7. But **the audiovisual sector also requires a social and cultural approach**: Audiovisual services play a key role in the preservation of peoples' identity and social bonds. As the prime means of communication, radio, television and cinema as well as, more and more, the new electronic media, occupy what is obviously a central place in the development of ways of life, in the workings of democratic societies, the protection and moulding of regional and national cultural identities, the promotion of exchanges between different cultures, the future of linguistic diversity and in the development of creative potential; they make substantial contributions to education and social integration. They matter because they are vehicles for ideas, understood as values essential to freedom

¹ Free Trade Area of the Americas.

² Notably for the United States where these services are its most important export, whereas the EU has identified in its area a large deficit, ceaselessly growing, valued at \$US 6 billion in 1998.

of expression: the freedom and pluralism of the media, respect for and promotion of the diversity of regional and national cultures, equality and solidarity.

8. At a time when culture is in the process of being transformed into a real motor of economies, the development and promotion of really competitive cultural industries in all countries is imperative if we are to avoid the risk of a “monoculture” that would extinguish diversity: that global capital that the international community is charged with developing not only for economic reasons but also for ethical imperatives of equity and justice. Cultural diversity is basically essential for humanity in the shaping of its future: “As a source of exchange, innovation and creativity, cultural diversity is as necessary for humankind as biodiversity is for nature”.³ The adoption of global rules of the game **that take into account the basic principles of fair trade** as it relates to access, diversity and the competition of products, would engineer an environment favourable to the flowering of creative diversity, to liberty of choice among a plural supply of cultural products and to the development of critical thought; it would allow the creation of the conditions in which a plural and fertile debate on the future of societies and cultures can take place, a debate at the root of democratic pluralism.

Trade agreements: towards the recognition of cultural diversity

9. The **nature of cultural goods and services** is currently being debated in national as well as international contexts. Cultural diversity, the protection of intangible heritage or the possibility of liberalising commerce in audiovisual services are subject to discussion and reflection in numerous national, regional and international centres, including UNESCO, but equally in other intergovernmental organisations whose mandate is not primarily concerned with the preservation and promotion of culture, such as WIPO, OECD or the WTO. If such diverse organisations are interested, from such different starting points, in cultural products, it is because such goods and services have a double character: they are a dynamic and wide ranging sector of economic activity while at the same time they carry out cultural, democratic and social functions of fundamental importance to every society.

10. Audiovisual services, which are cultural services and therefore share these features, have found themselves in the last years at the forefront of international debates. Their possible liberalisation and the implications that might have for the relation between culture and trade have given rise to controversial discussions and to the taking up of often very striking positions on the part of different states or groups of states, especially in the context of the negotiations during the Uruguay Round, which resulted in the adoption of the Marrakech Declaration giving birth to the WTO in 1995. This new structure for the regulation of international commerce and its workings has a direct bearing on the audiovisual sector. Among the agreements administered by the WTO, the TRIPS (Trade-Related Aspects of Intellectual Property Rights) and to a lesser extent, the ITA (Information Technology Agreement) have implications for audiovisual services, even if they are principally targeted at the GATS framework. In point of fact, all services other than public ones recognised as such⁴ and, thus audiovisual services, are included in the

³ UNESCO Universal Declaration on Cultural Diversity, Article 1 “Cultural diversity: the common heritage of humanity”, http://www.unesco.org/culture/pluralism/diversity/html_eng/index_en.shtml

⁴ Namely those services for which the State takes charge of- to different degrees- (health, education, environment, public security, defence, justice).

GATS and can therefore be the subject of liberalisation engagements. Yet the engagements taken in the audiovisual services sector are very limited⁵, because a large number of member states have rallied round the so-called “cultural exception” doctrine⁶ according to which no engagements are to be made for cultural and, in particular, audiovisual services and when required, exceptions to the agreement be made. At the origin of this doctrine, two strands of argument come together: the first emphasises the specific nature of cultural goods and services that come from the spirit and cannot accordingly be treated in the same way as other products of consumption; the second underlines the fragility of the sectors concerned, in particular in developing countries, and accordingly their inability to face up to, in their current state, the demands of globalisation rules. This thesis has been the subject of objections from those who do not think that holding cultural industries apart from free market exchange helps them to grow and expand.

11. From 1992, UNESCO focused on some of the challenges raised by the relationship between economics and culture through the work of the World Commission on Culture and Development, (UN/UNESCO) chaired by Mr. Javier Pérez de Cuéllar. Its report “*Our Creative Diversity*”⁷ addressed the relations between culture, creativity and economics and prioritised the need to preserve the variety of cultures and their ways and means of expression.

12. In 1998, the Intergovernmental Conference on Cultural Policies for Development (Stockholm, Sweden), in applying one of the recommendations of the Report of the World Commission, significantly included in its Action Plan the expression: “cultural goods and services should be fully recognized and treated as being not like other forms of merchandise”. This point of agreement gave rise to further explanatory work at a symposium of experts, also organised by UNESCO with the support of France and Canada and the participation of specialists of all schools of thought, in June 1999.⁸ From this meeting came the idea that it would be particularly desirable to highlight the centrality of the concept of “cultural diversity” and to explore its bearing on goods and services, sector by sector and region by region. Once a resolution of the next General Conference, in October of the same year, had confirmed the conclusions of the experts, as the 1st Round Table of Ministers of Culture also did, UNESCO undertook to carry out this task, notably by organising a series of regional meetings. Furthermore, as he

⁵ Only 19 states have made engagements in the audiovisual sector.

⁶ Which was legally translated into the provisional refusal to be bound, in the context of GATS, by specific obligations concerning audiovisual services. A large number of countries, including all EU member states and 32 other members, therefore apply exemptions to the most favoured nation -MNF rule concerning audiovisual services. 8 other exemptions concern all service sectors and thus potentially the audiovisual. These exemptions most often cover co-production agreements for film and television programmes and stipulate that they should receive the same treatment as national ones when it comes to the distribution of financial help and fiscal advantages and simplified conditions of entry for natural persons. These exemptions aim to ensure the possibility to establish and maintain certain agreements like those endeavouring to promote European, Latin American and Arab audiovisual works (i.e. co-operative programmes such as MEDIA+ and IBERMEDIA). On the other hand, these exemptions are only provisional since, according to the 3rd paragraph of the Annexe concerning Article II of GATS, 5 years after concession, these exemptions are to be re-examined by the Council for Trade and Services, which is to check that the conditions justifying the exemption still exist or not, and decide upon its extension. . Furthermore, it stems from Paragraph 6 that these exemptions will not in principle be able to last longer than 10 years. In any case, audiovisual services are now *de facto* up for negotiation and several WTO member states, including the United States, Japan, Brazil and Switzerland have put down more or less extended liberalisation proposals concerning them.

⁷ UNESCO Publishing, 1995. <http://upo.unesco.org/>

⁸ *Symposium of experts on Culture, the Market and Globalization*. www.unesco.org/culture/industries/html_eng/reunion1.shtml

had already been given a mandate to do, the Director-General assembled a Committee of Intergovernmental Experts, which considered that one of the best ways of helping countries in future negotiations would be to prepare a flexible instrument, such as a declaration on this issue of cultural diversity.

13. After this idea had been examined by the UNESCO Executive Board and by the 2nd Round Table of Ministers of Culture, in 2000, it was decided that a Draft Declaration would be submitted for the approval of the 2001 General Conference but that, insofar as it concerned UNESCO's engagement, this document should aim to fully cover all aspects of the problem of cultural diversity and not only the issue of cultural industries. The work that followed brought numerous exchanges with member states and their representatives. The General Conference approved the final draft by acclamation. This text, with its very wide implications, is thus the expression of an agreement obtained through unanimity quite rare at the level of international organisations. It should be pointed out that the same year had seen, sometime before, other Declarations on cultural diversity meet with approval, notably by the Council of Europe and by the Intergovernmental Agency for the Francophonie. UNESCO's Declaration on Cultural Diversity contains in annexe form the essential lines of a plan of action⁹ which, in its first article, states that it would be useful to take "forward notably consideration of the opportunity of an international legal instrument on cultural diversity". Other forums shared this approach and different drafts for Conventions have already been put into circulation by NGOs like the International Network for Cultural Diversity (INCD), which has produced a working document turning around cultural goods and services. Other intergovernmental organisations that have adopted declarations on cultural diversity, like the International Network on Cultural Policies (INCP) are, starting from their own ideas, developing different prototypes for instruments.

14. The work undertaken by UNESCO has also given rise to the conviction that advances in economic, social and cultural development in countries of the South necessitates the creation or reinforcement of cultural industries- whose importance is ever growing on the world market. This demands more operational measures such as new forms of partnership and of co-operation. Such concerns, also present in other institutions, have taken shape at UNESCO through the Global Alliance for Cultural Diversity, which seeks to associate public authorities, the private and professional sectors and civil society in, both industrialised and developing countries to implement sustainable projects in the creative industry sector (books, publishing, cinema, music, the audiovisual in general and crafts). The UNESCO Universal Declaration on Cultural Diversity itself underlines the need to "forge new partnerships" of this kind and to respect copyright, while insisting on the cardinal role of cultural policies.

15. The present working document focuses on audiovisual services, which is the main topic of the 13-15 November 2002 UNCTAD Experts' Meeting. It will first attempt to identify the different tools available for public intervention aiming at supporting and developing a vibrant domestic audiovisual sector. It will then evoke possible methods of partnership and co-operation, which are their indispensable accompaniment.

⁹ http://www.unesco.org/culture/pluralism/diversity/html_eng/index_en.shtml

II. INSTRUMENTS OF PUBLIC INTERVENTION

16. Given the nature of the cultural, social, financial and economic challenges there is a clear need for cultural and audiovisual policies aimed at levelling the playing field and correcting the existing unbalances in the production and trade in cultural and audiovisual services.¹⁰

17. As we will see, cultural policies and sectoral policies of support for cultural industries in particular often use tools of intervention that traditionally belong to commercial policies. They can be considered to fall into a whole group of measures that benefit the economy of a country as a whole and contribute to its overall development- like cultural industries themselves. At the same time, whatever the notions that guide their elaboration, they retain a specific objective, namely cultural development, which takes precedence over any other.

18. If the ability of local audiovisual industries to succeed relies above all on the creativity and talent of creators, artists and producers, it is also owing, at least in part, to regional and national policies and programmes for the promotion of culture. It is up to the creative community and cultural industries sector themselves to assure the dynamism of a culture and the originality and diversity of the cultural offer produced in a society. However, it is clear that public policies, both local and national, can play a crucial role in supporting, encouraging, promoting and regulating. Now, the actual modalities and degree of intervention obviously vary, according to policy models and conceptions on which they are based. The case of audiovisual services is not an exceptional one. It shares with other sectors a strategic potential to have a large economic, social and cultural impact, explaining why in practice the audiovisual sector has been heavily regulated in a large number of countries¹¹ Many states have therefore developed diverse methods of intervention and public regulation in the name of cultural concerns, while others prefer to use less specific modalities.

19. Public intervention tools identified and developed in the present document have essentially a bearing on cinema and on television productions. Other issues relating to the “audiovisual landscape” (such as rules of frequency distribution, public chains financing practices, rules of product market entry¹², set intervals before films can be broadcast on television¹³, content regulation to protect children, good morals, regulation relating to the time devoted to news, to sporting events, to advertising, to games and to teletext and to TV shopping), although they correspond to important aspects of public policies, will

¹⁰ UNESCO Universal Declaration on Cultural Diversity, Article 11- Forging partnerships between public sector, private sector and civil society: “Market forces alone cannot guarantee the preservation and promotion of cultural diversity, which is the key to sustainable human development. From this perspective, the pre-eminence of public policy, in partnership with the private sector and civil society, must be reaffirmed.” http://www.unesco.org/culture/pluralism/diversity/html_eng/index_en.shtml

¹¹ As the OECD has observed: “Most countries promote domestic audiovisual content production through a variety of policy measures and institutions. But the most comprehensive policy frameworks are usually contained in legislation concerning broadcasting markets, content ownership and programming” OECD, *Policy and Regulatory Issues for Network-Based Content Services*, DSTI/ICCP/IE(96)9/REV1, 4 August 1997, page 5.

¹² Such as the chronology of film screening (theatres, encrypted channels, video, open channels) established by regulatory practice in France and agreements in Canada.

¹³ In Germany for instance, films financed with public support cannot be produced on video in national territory or shown in a German version abroad, until 6 months after they have been shown in German cinemas.

not be discussed in detail, except when they have an impact on the support of production and diffusion of audiovisual works.

20. Public interest in the activities of the audiovisual industry is a given. But it is important to note that the kinds of cultural policies and the instruments that states use to facilitate the creation and development of their cultural industries in the audiovisual sector vary considerably according to countries, time periods and context. A number of considerations in this regard seem important are worth noting:

- In a certain number of countries, the tools of public intervention loom large, ranging as they do from subsidies for the production of a given product to regulatory or fiscal measures and including also support to particular businesses, help for individual or collective promotion on external markets or policies to facilitate access to banking finance.¹⁴ It is generally recognized that, in order to be really effective, all these measures, including subsidies and direct aid, need to make up an integrated approach: they must be part of a cultural policy that focuses on all modes of audiovisual expression and that tends to favour developments in local businesses, including encouraging and facilitating their emergence.
- In other countries that traditionally consider the audiovisual sector as “entertainment”, the most useful thing that governments do for creative industries is to make sure that they have access to the strategic information they need to be competitive in world markets. Such competitiveness is best brought about not by prioritising measures like quotas or direct subsidy, but by making sure that these industries enjoy the best possible environment. The government brings strategic and organisational resources that such industries would otherwise lack. In this view, culture is seen as a market, which to be effective must be properly structured. Government does not consider itself to be an actor or participant but more as a kind of management consultant or as a promoter. This approach looks outside, focuses on export potential and is wary of protectionism. Concerning regulation, government’s approach is flexible: good regulation needs to be guided by the needs of the industry so as not to hamper its prospects for development; a good policy is one which works to create an environment favourable to the development of cultural industries;
 - Countries have also different approaches in relation to “liberalisation”. The advocates of a policy of active public support for cultural industries consider that it imposes on local industries an uphill struggle if they are to be sufficiently strong to survive and prosper in a newly liberalized environment but, for those who would not go that far, the key issue is to determine what kind of government intervention is needed to promote domestic industries. To take the liberalisation of audiovisual services, the governments of these countries act for the promotion of creative industries as for other industries: foreign relations, action for the reinforcement of legal regimes (namely copyright and related rights), development of strategic knowledge, checking that educational policies correspond to the human resource and other needs identified for the industries. The fact that policy does not necessarily have to be based on subsidy is important when it is considered that

¹⁴ Saadi Lalhoul, Joselle Meffre et Philippe Moati, *Régulations des marchés culturels : le rôle et la passion*, CREDOC, for le Département des études, French Ministry of Culture, Paris, 1991.

audiovisual products are becoming more and more expensive and the contribution of a set amount of public money towards their production accordingly less and less significant. The model of active support for cultural industries is judged by those opposed to it to be much too demanding for developing countries' finances.¹⁵ They prioritise instead close co-operation and a sharing of information between governments and those who are engaged in the cultural industries industries.

With the purpose of informing on some of the available options, a review of different mechanisms for government intervention is provided below. A mix of different formulas can help states to establish their own specific form of intervention.

Priorities recognised by all

21. The **creation of a national council of Cinema** is a structural formula that fits well, from case to case, with other methods of intervention. It could be argued that it makes up an important element of any policy. A public organisation in origin, it can have varying degrees of autonomy and play varied roles: management of financial aid, bringing together of partners, observation of the economic situation.¹⁶ On the other hand, the **setting up of structures for access to methods of funding** for creative industries is a practice that without being specific to cultural industries is avowedly necessary for them. It is a question for instance of measures to encourage investment. Because small and medium sized enterprises make up an important part of the cultural industry sector, government supports research and projects to increase the flow of capital towards them. Such measures might for instance include educating the financial sector to the needs of creative industries or the setting up of regional development agencies.

22. **Support for the training of young people (particularly young film makers) and encouragement for young talent** are considered to be priorities by all. If the major schools and university courses of advanced countries are well known, it is worthy of note that developing countries are more and more emphasising this need that they are feeling for themselves. One of the formulas best adapted to their needs is undoubtedly the sharing of tasks here through regional or sub-regional co-operation.

Mechanisms of financial support

23. As already indicated, the industries supplying audiovisual services require the investment of large sums of money while at the same time making a final return on investment extremely uncertain. Public intervention to help meet funding needs as well as a sharing of risk taking, without necessarily eliminating it, appear to be forms of public intervention that are often effective in this sector.

24. The mechanisms that can be employed are many:

¹⁵ In France \$57 per capita is spent for the support of cultural policies.

¹⁶ In France the *Conseil national du cinema* (CNC) is the prime instance of public policy. In the United Kingdom, the Cinema Council is an organisation independent of government, which makes strategic recommendations for the improvement of unfavourable situations.

- When it comes to direct financial aid, **subsidies** take many diverse forms: selective aid, aid for products, structural subsidies, subsidies for the production of content, support for cinema theatres. To take the case of industrialised countries, financial payments taking the form of subsidies appear to be particularly effective when used to support audiovisual and cinema enterprises when it comes to production, distribution and exhibition.¹⁷ In this case, sums paid out pro rata with sale receipts can be reinvested in new productions, the improvement of cinema theatres and so on, so that this type of obligation takes its place in the line of support traditionally available to businesses (an automatic aid indexed on the success of productions of other activities).
- **Financial aid to be reimbursed by the receipts generated by the funded product**, often interest free, is very similar to subsidy: if there is not complete reimbursement this is because the receipts have not even been able to cover the original sum advanced (which therefore becomes a subsidy for loss making productions).
- **Interest free loans, or at a low rate of interest, advanced by public authorities** facilitate the funding of enterprises in the audiovisual sector at affordable rates and, if possible, preferential rates in order to offer them what is often the only means of obtaining a loan to develop their activities. In this case, reimbursement is compulsory though in general there is certain flexibility.¹⁸
- **Mechanisms for guaranteeing loans** aim to facilitate the funding by banks of audiovisual industries by assuring the loaning organisation that the state will substitute itself for a defaulting cultural enterprise through a guaranteed fund set up for this purpose.¹⁹ Such a fund must be expanded anew in case of the development of the mechanism or of an increase in the rate of business failure but not to the same extent as a line of loans that has to be able to face the simultaneous breakdown of many of the enterprises supported.²⁰ Unlike with full public loans, the emphasis here is on the role of the banking sector. The state's role is to strike the right balance- rather than to be an alternative- according to the degree of solidity enterprises have, the structures existing in the different strands of the audiovisual industry and the professionalism of the banking sector. This mechanism also has the special advantage of making the banking sector more aware of the needs of the cultural sector.

¹⁷ France, and French Belgium Community

¹⁸ The similarity of these measures to subsidies explains why certain aid or aid programmes have recourse to several of these means of support at once. Thus help for production from the Fund for the support of long works from Téléfilm Canada operates both through capital participation, guaranteed and interest free advances; in France, selective aid for films' distribution costs is made as advances on receipts for editing costs and simultaneously as subsidies for the production of copies.

¹⁹ A formula put into practice in Québec through SODICC and in France through the IFCIC while in Switzerland the creation of a guarantee fund is currently being explored. In Belgium, for example, 75% of bank loans for cinema and audiovisual projects are guaranteed by a fund created for that purpose.

²⁰ Thus in France the IFCIC's own funds of FF 80 million allow it to guarantee FF 2 billion in loans.

- **The discounting of loans** can reduce their cost.
- Finally, **the taking of a direct stake**, through specialised financial structures- public or mixed- in enterprises in the audiovisual sector is rare in practice and requires in any case a great deal of expertise concerning the state and the potential of markets.²¹
- **Fiscal incentives**

25. From the fiscal point of view, the measures that states are likely to adopt are diverse and intervene along the whole length of the “life-cycle” of audiovisual projects.²² **At the level of capital formation** and as already mentioned, it should not be forgotten that, by its very nature, the audiovisual industry, brings with it great risks while also demanding very large investment.²³ Necessarily, this situation gives rise to the need for a distinct investment vector, limiting on the one hand the responsibility of investors and providing on the other an investment structure that will be fiscally effective.

MEANS OF INTERVENTION AT THE LEVEL OF ENTERPRISES’ CAPITAL FORMATION

States can:

- i) Establish an **obligatory tax exemption/holiday on advances of capital** to enterprises in the audiovisual industry.
- ii) **Revise both laws against under-capitalisation and differences in the ratio of debts/share stock.** Such regulations ought not, in general, to apply to audiovisual organisations provided that the organisation has a valid business objective and that funds obtained through indebtedness or issue of stock are effectively used for audiovisual activities).
- iii) **Allow statements of losses** by audiovisual enterprises **without time limits on future or past fiscal years**, it being understood that the activities of the audiovisual sector carry great financial risks and that, in consequence, numerous societies in this sector will experience considerable losses.²⁴

²¹ All the same, this mechanism does exist in certain countries such as Canada, with its Federal development bank. Similarly, a Fund for investment in cultural industries has been created by the Intergovernmental Agency of la Francophonie.

²² M. Gerrit Te-Spenke; *Report on Industrial Tax Issues Facing the European Audiovisual Industry* KPMG Meijburg & Co. for the European Audiovisual Observatory. (07/1997)

²³ Contrary to the situation that prevails for “ordinary” industries where a successful product can have a considerable economic life span, a successful product of an audiovisual industry normally only has a short life span and its chances of success are relatively weak. It could be said that in the cinema industry, only a small percentage of films are successful, while most are failures.

²⁴ In the EU, certain countries such as Belgium, Germany, the Netherlands and the United Kingdom have already put in place a system where losses can be reported in future fiscal years. However, only France, Germany, the Netherlands and the United Kingdom allow losses to be placed against a limited number of preceding fiscal years. In addition, certain countries, including Germany and the United Kingdom have adopted specific rules for enterprises that have been wound up. Thus a company will not be able to report its losses because its constituent parts will have been transferred to new shareholders. Rules of this kind constitute an obstacle for shareholders who wish to transfer their stake in an enterprise that has gone into receivership; the unlimited reporting of loss would allow them to obtain a higher price for their shares (in fact, reimbursement for the losses they have realised on their investment). For the sector that interests us here, it would certainly be easier to find funds if these restrictions and similar ones concerning the reporting of losses did not apply to companies with audiovisual activities.

- iv) **A writing off for one year of the costs incurred by audiovisual production as well as the non taxation of profits made by audiovisual products**, so that a percentage of profits can be placed in a special non taxable reserve, on condition that they are reinvested in new films, for example, or used in researching and developing new technologies or employed in the training and or recruitment of new artists and personnel. This mechanism²⁵ obviously only benefits enterprises that are already making profits.
- v) **Bring in a negative tax on the revenue of companies²⁶ or a system allowing an audiovisual company to transfer its losses onto another person (legal or moral, active or not) in return for a (fixed) remuneration.** In this case, the person onto whom the loss is transferred would be able to deduct it from tax returns and the remuneration provided by the audiovisual company would be non taxable, provided that it was reinvested, in new films, for example, or used in researching and developing new technologies or employed in the training and or recruitment of new artists and personnel. This mechanism would bring immediate improvement to the fiscal situation of societies experiencing losses.
- vi) **Tax relief for financial backers**, in establishing exemptions from tax or special rates for dividends and interest earned by backers (whether enterprises or individuals) who invest under certain conditions in industries in the audiovisual sector (which should be based in the same country or carry out a specific type of activity...²⁷).

26. **Concerning audiovisual industry production** the goal of the state in its fiscal policy should be to reduce to a minimum overspending in terms of time and money by helping enterprises overcome a whole range of obstacles. For that to happen production costs of projects in their initial phases could be calculated and estimated from the outset by comparing them to the receipts of other projects. Production costs would thus be immediately deductible and would not need to be capitalised and paid off. In addition, companies could deduct these expenses from another source of revenue.²⁸ Furthermore, changes could be made to VAT legislation so that the problems involved in audiovisual production could be better taken into account by giving it a preferential rate.²⁹ VAT tariffs ought to be reduced even to zero for audiovisual industries and reimbursement of VAT should be extended to all production costs (including hotel and meal costs).

27. **Concerning distribution and licences**, it would be desirable to help produce more sustainable development by fixing a rate of deduction at source on profits of 0%, or a reduced rate, for musical, cinema and television productions.

²⁵ Put into practice in Ireland.

²⁶ Namely a fiscal subsidy equal to the rate of taxation on such companies' revenue multiplied by the amount of the losses sustained by the company.

²⁷ Examples of this type of incentive can be found in Ireland or in the United Kingdom.

²⁸ This is the case in Germany.

²⁹ In recent years a movement has come into being aiming to secure VAT exemption or reduction on theatre and or cinema tickets in the UK. In France audiovisual works considered as immaterial property are exempted from VAT as are the products of co-productions. In Switzerland, all cultural services, including screenings in cinemas, are exempted from VAT.

Conditions of eligibility for beneficiaries and productions

28. In general, measures of aid and support, such as the ones described above, are based on criteria of eligibility, which stipulate what physical or moral persons can be their beneficiaries (automatic aid) or potential beneficiaries (selective aid). These conditions of eligibility, set by public authorities, vary from country to country but have in all cases a great deal of importance in public policy-making because their goal is to guarantee the effectiveness of the measure of support while encouraging entities that wish to benefit from them to conform to their conditions. They are also a direct expression of cultural will to focus on what is of all things the closest to national identity. These conditions usually involve technical and financial considerations but above all considerations that relate to nationality, territory or to language.³⁰ Behind these criteria, which can take very varied forms, can generally be found two fundamental cultural objectives: on the one hand, the desire that at least a minimal national audiovisual industry should exist, survive or come into being and on the other hand, the care to preserve for domestic productions a privileged place in the national markets as well as in international exchange.

Quotas

29. Encompassing programming and financing of production by radio and television chains, quotas have a great impact on the audiovisual media, currently undergoing a series of dramatic transformations with enormous financial and advertising stakes affecting directly the increasingly more powerful players.

30. Quotas concern above all broadcasting and more rarely production through its funding and are designed to respond to the cultural will to see national audiovisual products broadcast, either by imposing this state of affairs directly or by favouring it more indirectly.

- **Broadcasting quotas** imply that a predetermined part of programming by radio-broadcasters should be devoted to national productions (or European ones).³¹ Such a quota, implying different types of obligation for different chains (a maximum annual number of films, nationality quotas, a time tabling requirement) is a kind of quantitative restriction. Such

³⁰ In Canada for example, Téléfilm aid for cinema and the Canadian Fund for television are reserved for Canadian businesses. In Burkina Faso the criteria are more flexible and Burkina Faso nationality is not required for the producer provided that they meet restrictions on the nationality of technical personnel. Considerations of nationality sometimes have a bearing not on the nationality of the producer but of productions or even of the activity of professionals and cultural enterprises, which can create problems, especially for cinema and the audiovisual. As a general rule, eligibility criteria are based on the considerations of nationality or territoriality as it applies to the different human and material elements. Thus the criteria operated can be language, the filming location, the use of national technical resources, the payment of the majority of salaries to nationals, the editing and copying location....and often several of these criteria are combined as one can often see when it comes to co-productions, where conditions or eligibility can be very detailed.

³¹ Quotas of this kind exist in Canada, in Belgium, in France, in Switzerland and in Spain to different degrees. In France for example, the broadcasting of cinema films by non-encrypted or cable chains is accompanied by restrictions concerning the number of films, the interval after which they can be shown and the day and time in the week. Also, in the context of Community legislation, the Directive "Television without frontiers" was modified in 1997 in such a way as to strengthen the obligation on television chains, to broadcast mainly European productions. Finally, in India, as in many other countries, access to markets by foreign films is officially subject to an annual limitation.

quotas can therefore be found at the heart of debates relating to the liberalisation of trade in audiovisual services.

- **Production quotas or obligations to invest in production** impose on chains the obligation to devote a pre-determined part of their receipts to the funding of national productions or establish a control regarding the level or direction of its investments in production. These mechanisms take the form of conventions or of framework agreements negotiated by radio broadcasters both public and private with the audiovisual and cinema professions and include sums that can eventually be made up by the public authorities.³² It is also possible that it will be the public authorities themselves who impose on enterprises in radio-broadcasting distribution the obligation to give a portion of their receipts to a fund charged with the production and broadcasting of national programmes for television.³³ Other possibilities can equally be envisaged by states in order to encourage their audiovisual industries in this area. For instance, radio-broadcasters could have imposed on them the obligation to finance commissions of works of national expression for a determined percentage of their annual turn-over, while at the same time being obliged to broadcast a minimum volume of current or recent national productions or other stipulated productions.
- Finally there are what are called **acquisition quotas** through which states demand that certain private operators (such as subscriber channels, cable channels specialising in cinema, pay per view channels) devote a stipulated percentage of their turn over to the acquisition of cinema broadcasting rights while at the same time respecting broadcasting quotas- which means in practice that they are obliged to buy national or regional productions or ones made in a certain language.³⁴

31. In practice, public authorities combine these different quota systems, which are all close in form to each other, according to the needs of the local market, adapting them sometimes to new types of broadcasting (satellites, request services, or pay per view, as already mentioned).

Clauses on foreign investment

32. States can establish rules stipulating conditions of nationality for the ownership of enterprises that operate in the audiovisual area and can thus regulate access to the domestic cultural market without for all that discouraging or censoring foreign investment, which remains useful or even, in sectors like the audiovisual that need very high levels of investment, indispensable. The question at issue is the guaranteeing of the existence of local and independent enterprises through national production, by

³² As in Belgium, with the RTBF and in Canada, in the context of the FCT. More rarely, the sums can represent percentages of annual turnover as was the case with the chain RTL-Tvi in Belgium from 1994 to 1997.

³³ In Canada for example an obligation of this kind has existed since 1997, which imposes on selected enterprises the payment of at least 5% of their gross receipts to a Canadian Fund for television.

³⁴ This system applies in France where the subscriber channel Canal + is obliged to devote 25% of its turnover to acquiring cinema broadcasting rights to which the same quotas apply as for regular broadcasting: i.e. 120 hours per year of European or French speaking works in the early evening period.

facilitating the presence of national interests in an audiovisual industry local in character, so that it will henceforth “increase their potential to create, produce and present products of domestic content”.³⁵

Promotion of audiovisual services on foreign markets

33. Public intervention to promote audiovisual services on foreign markets is indispensable in order to encourage the industry and generally ranges from procedures of collaboration and especially of co-production, through the reception of productions coming from abroad, to the defence and maintenance of a free circulation of professionals and works. Many states support the appearance of their national audiovisual industries at **international exhibitions** through subsidies or aid for foreign promotion and for the sub-titling of films submitted to **festivals** etc.³⁶ On the other hand, given the major production costs and the complexity of conditions governing the creation of cinema and audiovisual material, co-productions can be not only desirable and enriching culturally but indispensable economically. Agreements and treaties of production between diverse states, which allow such productions to be considered as national, are numerous.³⁷ States are equally likely to adopt normative agreements favourable to the reception of works coming from abroad, for example by supporting film distributors from under-distributed schools of cinema by making an advance on receipts for costs of production or by subsidy for the costs of filming³⁸ or by taking on themselves hiring costs for the non-commercial distribution of contemporary films or finally by creating prizes for foreign films.³⁹

34. To ensure and promote free exchange states are recommended to sign up to the Florence Agreement⁴⁰ and its Nairobi Protocol⁴¹, which stipulate the removal of entrance tariffs and taxes on cultural goods or, at least, stipulate that taxes on the import of cultural goods (including blank cassettes and records, recorded cassettes and records, films, cinematographic material...) should be lowered.

35. Finally, the task of collecting **information on foreign markets**, which is seen to be indispensable by many countries, can be carried out by a public organisation or by working groups with a monitoring

³⁵ Thus in Canada the 1985 Law on Canada Investment forbids foreign capital to take control of cinema distributor businesses.

³⁶ This is what, among others, Canada does through Téléfilm Canada; Québec through Sodexport (SODEC) with in addition import credits for dubbing; Switzerland through the Federal office supporting film making, sub titling, and appearance at international festivals; France through Unifrance film and TV France International, which also offers help to distributors of French films and help for the promotion overseas of television programmes; or Spain through *El Instituto de la Cinematografía y de las Artes Audiovisuales*.

³⁷ This type of agreement exists between Belgium, Canada, France and Switzerland; between Belgium and Tunisia; between Canada and Algeria; between Canada and Morocco; between Spain and Germany, Austria, Cuba, France... The importance of the Convention on multilateral co-production of the Council of Europe should be underlined, as it defines what is European cinematographic work and harmonises conditions for the making of agreements.

³⁸ The French example of the Fund for under-distributed cinematography could be given here.

³⁹ This is the case of Belgium through the selective aid of the *Reseau d'Action Culturelle* Cinema and the “Discovery” Prize. Similarly, there exists in Canada support through a Fund to help dubbing and sub-titling for foreign as well as Canadian films; and through a Fund that helps the distribution of long films, run by Téléfilm Canada, which finances the acquisition of the Canadian rights for long foreign films as part of its efforts to develop the distributor business in Canada.

⁴⁰ *The Florence Agreement on the Importation of educational, scientific and cultural materials*. Adopted by UNESCO General Conference in 1950, it become effective on 21 may 1952. Today 96 Member States have ratified this Agreement.

⁴¹ Protocol to the Florence Agreement, adopted by the General Conference of UNESCO at Nairobi in 1976. Ratified by 40 Member States.

role.⁴² Furthermore, “cultural diplomacy” can be used to carry out an extended promotion of all creative industries, including the audiovisual. That includes not only co-ordinated action by government services and profiting from official visits, through which lists of priority markets for export can be drawn up, but also concerted action by organisations of varying degrees of autonomy but with sufficient capacity for action to play a recognised role in culture.⁴³

Copyright protection and the fight against piracy

36. States can also intervene to benefit their audiovisual industry locally by acting through **legislation relating to copyright and to neighbouring rights**, which deals with the modalities of retribution to the audiovisual sector as well as the protecting elements of products and services (CDs, films, CD-ROMs). These rights confer on creators, on artists and on content-industries the fundamental rights of intellectual property, which remunerates them for their work, increases receipts and makes more investment in new creation possible.

37. Copyright and neighbouring rights also help create trustworthy and reliable conditions-indispensable to all investment in this area- for creation and innovation. States ought to ensure that there exists a legal framework to protect copyright and neighbouring rights, in order to create an environment that stimulates creativity and innovation, while monitoring its adaptation to the new services and the new technologies of the knowledge society.

38. It is extremely important that the regulations concerning copyright should be effective. It is advisable that there should be training and capacity building programmes for specialists in intellectual property, stakeholders and partners as well as enlarging the groups benefiting by making contact with non-traditional partners such as research and development institutes, universities, chambers of commerce and civil society in general.

39. Collecting societies do a great service to creators. They represent an important link between creators and users of works protected by copyright, because ensure that creators, as rights holders, are remunerated for the use of their works. In order to encourage creators to contribute to the development of the audiovisual sector, to attract foreign investment and to allow the public to profit from a large selection of works, more generally to allow developing countries to exploit the potential of their creative industries, it is vital that collecting societies be created in countries where they have not hitherto existed and reinforced where they already exist. Specialists in the collection of rights also need to be trained. Taken together, these factors have undoubted repercussions for countries’ economies. Audiovisual

⁴² In the United Kingdom, this is currently the role of 4 permanent working groups. In addition, an information service for producers has been created and a large scale research project into the American market for the use of English producers was supported. An office was opened in America to spread information on English film making. At the same time, a statistical database was set up in the UK to assemble more reliable information on the state of the industry.

⁴³ In the United Kingdom, the *Creative Industries Export Promotion Group* was set up by the Department of Culture, Media and Sport to examine each industry, identify what would be needed to help it improve its export potential and to see what the government in particular could do. It has produced a plan whereby representatives of the British government abroad and the outposts of the British Council are called to work vigorously for the promotion of creative industries, by making contacts on the ground.

industries can make up a major part of a country's GNP and revenue from collecting societies for copyright and neighbouring rights constitute a substantial part of this share.

40. Finally, **compensatory mechanisms** are essentially concerned with the private copying of records, films or audiovisual works through the use of audio or video cassettes, blank CDs or the Internet as well as through library loans. These mechanisms need a regulatory system that initially aims to compensate for prejudiced prior rights. But above all such regulation should be understood as a direct application of copyright, which is an undoubted necessity if innovators are to be remunerated and their emergence facilitated. The resources it generates feed a system of collective support that can complete, or even compete with, the system of public aid.⁴⁴ Consequently, this mechanism has significant advantages for the industry, while demanding from the state nothing more than regulatory work.

41. But the protection of rights against commercial exploitation by third parties is constantly confronted with new problems, often linked to the rapid pace of technological advance. Such a problem is for instance posed by expressions of intangible heritage, very desirable to thematic television stations, which produce and broadcast more and more documentaries on them. The paradox is that the exceptionally rich intangible heritage of developing countries is considered as being in the public domain, where it does not currently benefit from any legal protection, while the recordings made of it, often produced by enterprises in industrialised countries, are protected by copyright. The true creators of traditional cultural expressions cannot therefore benefit from the sale of the commercialised audiovisual recordings made of them. This is equally the lot of museums that find themselves left out at the time of the negotiation of licence contracts for their digital exploitation.

42. Effective protection of copyright and neighbouring rights encompasses the strict application of international Conventions, the adoption of legislative or regulatory measures at the national level, the training and informing of the public about it, including the digital environment; without for all that excluding a search for consensus to fill stated gaps and thus improving positive right. The fight against piracy, particularly important in all the component parts of the audiovisual industry, is a priority for the sustainable development of the industry. Actions to suppress piracy would gain also in effectiveness if they were accompanied by an effort by rights holders to search for practical solutions and simplified methods aiming to facilitate authorisations for users. Other forms of promotion are also recommended, such as information portals on copyright intended for emerging cultural industries (Conventions, national laws in force, collecting societies, forms of contract, training etc...) or the setting up of organisations for the promotion of cultural industries that seek to boost their production and export.⁴⁵

⁴⁴ One could cite among other examples that of a Fund for musical creation, supported by the different companies and funds in the music industry and that acts to support Canadian record production. In Cinema, support through para-fiscal resources exists not only in industrialised countries like France but equally in Morocco or Burkina Faso.

⁴⁵ Like *The Institute of Intellectual Property Policy Development* in the United Kingdom.

III. REGIONAL AND INTERNATIONAL CO-OPERATION AND NEW PARTNERSHIPS

43. Measures taken at the national level -such as the ones enumerated above- have as a key policy concerns the need to support local production and ensure its access to world markets as well as to foreign publics. Their role is one of stimulation and encouragement. Yet, the development and promotion of cultural industries nowadays requires a parallel effort at the supranational level. This is particularly so in the case of small or non-producing countries. The international nature of the production and distribution of cultural products makes evident that national measures on support of cultural industries, although necessary for their development, are not sufficient for their consolidation. It is essential to find competitive ways of production, new audiences and, most crucially, to ensure the ability to distribute. This can only be accomplished through a mix of national, sub-regional and regional strategies to reach global markets (in terms of economies of scale and efficient distribution channels) that facilitate expansion beyond the borders of national markets. It is therefore necessary to define policies that encourage, promote and regulate the production and commercialisation of cultural industry products beyond national markets.⁴⁶

44. Concerning actions taken at a regional level, the degree of solidarity they imply can just as well correspond to a defensive attitude (the group of concerned countries) as to willingness for communal presence on the world market, through the improvement of the capacity of its members. International co-operation should be understood as systems of aid or inter-aid that involve two or more countries or other partners from different regions (often North-South but sometimes also South-South).

45. Whether sub regional or regional, common policies can be grouped under the following forms:

- (i) Establishing or implementing of specific agreements concerning customs taxes, intellectual property, foreign investment and multinationals. This can particularly benefit developing countries, since current multilateral treaties allow them to create special trade areas.
- (ii) Like in the national context, it is necessary to consider the specific needs of each sector and leverage the strengths not only of the public sector, but also of the private sector, including big corporations, small and medium size companies, and non-for-profit organisations. Policies should be based on the principle of negotiation and participation of all stakeholders.
- (iii) Co-ordinating investments based on specific sector research, diagnoses and strategic analysis of opportunities and needs in each area.
- (iv) Creating mixed funding schemes through funds contributed by member states and dedicated to supporting joint projects.
- (v) Defining common mechanisms to support and encourage export activities and developing new markets (by establishing permanent representative offices in preferential markets, mixed fund support agencies, common facilities for film and television program dubbing and subtitling, promotional campaigns, etc.)

⁴⁶ Major sections of part III rely the publication *Culture, Trade and Globalisation*, UNESCO Publishing 2000, <http://www.unesco.org/culture/industries/trade/index.shtml>

- (vi) Developing common policies, strategies and incentives for co-production and co-distribution of projects.
- (vii) Identifying and supporting the creation of alternative distribution channels (innovative strategies to enter saturated markets).
- (viii) Effective support to international initiatives concerning copyright protection, anti-piracy action, training, etc.
- (ix) Defining and supporting common positions for global negotiations on trade, copyright and related rights.

46. When regional integration processes reach a higher level, such as the case of European Union, co-operation often takes, at least, three dimensions: political (common position in major debates), economic and cultural. In developing countries, cinema co-productions that result in a lowering of costs and wider distribution are still too rare. Among other obstacles we can mention a diversity of languages and of practices for dealing with issues such as dubbing, sub-titles, a preference for films made in mainstream languages or in the languages that best express the local culture.

47. Another form of regional co-operation consists in the sharing of tasks between neighbouring countries- sub regional co-operation- in order to develop industries in given area like cinema: here a school for film makers will be created, there a production house, etc. Such a sharing of functions will allow local production to develop and eventually reach a critical mass.

48. In the context of support for distribution of audiovisual products, the role of festivals is important, above all when the tendency is toward regionalisation: one or two major festivals per continent to promote its works would seem to be a realistic objective. They may be complemented by festivals specialising in particular genres or for given audiences (like youth cinema). It is clear that co-operation between cinema and television is as fundamental for distribution as it is for production.

International co-operation

49. In the audiovisual field, **bilateral co-operation**, in particular between the North and the South, has been greatly advanced, allowing for the emergence of national cinema in developing countries and/or its technical improvement, owing notably to the training of professionals, to loans and to donation of equipment, as well as the making of studios available. This formula, while conducing to the appearance of several major names in contemporary cinema, notably from Africa, and allowing real policies to be started up, has not led, in general, to a situation where the cinema of the South has been able to really free itself and to penetrate into external markets. The competition that it faces from major distribution channels internally makes its local survival difficult, a phenomenon aggravated by the state of cinema theatres. The current trend is for national aid for the cinema of the South to be replaced by regional aid (as in schemes run by the European Union). Among the positive effects of bilateral co-operation, one should underline the increased number of festivals that are often more effective than distribution to cinema theatres in acquainting the audience of the North with the cinema of the South. In these areas, more generally, co-operation with associations is often effective. Another positive development is that

television stations either professedly cultural or with international selections of programmes are including programmes from the South in good broadcasting slots⁴⁷

50. At a **multilateral level**, making better use of international organisations is essential if asymmetries are to be corrected. International organisations can contribute to the construction of a transparent system for global trade that could offer opportunities to all- particularly to developing and less advanced countries- by facilitating access to world markets while at the same time respecting the needs of all citizens and all cultures. An important measure in this context is the development of global anti-trust regulations to address monopolistic practices in the area of cultural industries (...) Another possible approach is creating a global fund dedicated to the development of culture which are under-represented in the international scene. Such a global fund for culture would be similar to the Global Environment Fund, created in 1991 and which develops environmental protection projects and activities with an annual budget of 500 million US dollars (<http://www.gefweb.org/>). Whatever approach is adopted, it appears that the development and promotion of truly competitive cultural industries must include the adoption of global rules of the game that respect the fundamental principles of access, diversity and competition, and which will foster the development of new market areas for cultural products. UNESCO, the only United Nations organisation with responsibilities in the area of culture, gives priority to the safeguard and promotion of cultural diversity and the re-balancing of cultural exchanges. It also is active in ensuring that globalisation of products and messages result in richer exchanges between peoples.

New partnerships

51. The limitations in current forms of aid and co-operation and the tendency of the new century to see imbalances in a globalisation that ought to bring benefits to all mean that a new approach based on collaboration between public, private and sector partners in varied partnerships is emerging. This approach is notably apparent in initiatives such as the UN Global Compact and NEPAD⁴⁸ and at the international conference on the funding of development (UN Monterrey Summit)⁴⁹ and the World Summit for Sustainable Development.⁵⁰ The Secretary General of the United Nations, Mr. Kofi Annan defined its philosophy in these terms: *“Let us choose to unite the powers of markets with the authority of universal ideals. Let us choose to reconcile the creative forces of private entrepreneurship with the needs of the disadvantaged and the requirements of future generations.”*

52. UNESCO has, on its own account, developed this approach as it relates to cultural industries through the “Global Alliance for Cultural Diversity”, a six year initiative (2002-2007) for bilateral and multilateral, North-South partnerships, associating the world of business, public authorities, civil society and non-governmental bodies. Its aims are; to create new opportunities for cultural diversity, creativity and the plural expression of ideas; to develop domestic cultural industries for poverty reduction and

⁴⁷ Such as TV 5 International for French speaking countries and encrypted or thematic cable channels in different countries in the North and the South.

⁴⁸ <http://www.unglobalcompact.org> and New Partnerships for African Development, 1st meeting at Dakar, Senegal, 15-17th April 2002.

⁴⁹ Monterrey, Mexico, 18-22nd March 2002.

⁵⁰ Johannesburg, South Africa, 25th August-4th September 2002.

sustainable development; to encourage respect for international rules governing copyright and neighbouring rights, to promote mechanisms of piracy prevention; to build local capacity in order to make participation in national and international markets stronger and more competitive; to increase world-wide availability of cultural products both diverse and accessible to all; and, finally, to establish new modes of international co-operation based on solidarity and the win-win principle.

53. In the Global Alliance for Cultural Diversity, partnerships gain strength from an enhanced engagement with the private sector for sustainable development projects, from the recognition by public authorities of the need to come up with innovative development strategies, and from approaches that rally civil society to the cause of creative diversity. This initiative is being carried out in concert with other international organisations, in particular with those of the United Nations. It has an evolving and exploratory character. Its chief defining feature is probably that “it is designed to ensure that all partners share the benefits of multilateral co-operation, thereby setting it apart from traditional “one-way” assistance schemes” as was underlined by Mr Koichiro Matsuura, UNESCO’s Director-General. Furthermore, the Alliance makes a call for piracy prevention measures, seen as a pre-condition for successful enterprise in the creative industries. Within its first six months the Global Alliance has attracted more hundred partners whose backgrounds span creators and managers in the creative industries, multinational, foundations, NGOs, government bodies and individuals.⁵¹

54. The answer to the question: can liberalisation of trade be a significant factor for audiovisual services? is necessarily yes. Deciding whether this influence is a fortunate one or simply an additional difficulty is more problematic. From its inception, UNESCO has promoted the free circulation of cultural goods.⁵² It has analysed in a profound manner the implications of these goods and services, that is to say the whole range of cultural products. It does not think that globalisation represents the unavoidable destruction of culture and social progress but it does set conditions for it, which can be summed up in the idea of a globalisation “with a human face” promoting diversity and not homogenisation and which far from opposing culture to economics unites the two in prioritising the local as the foundation for building the universal. UNESCO does not plead the cause of any particular system, the choice here being made by individual states. It defends the need to respect and promote cultural diversity, which is key to sustainable development. It recommends action by states to help countries to promote their own development but also co-operation in all desirable forms, particularly partnerships: in an internal context as well as in an international one between public, private and civil society sectors; at sub regional, regional, inter regional and universal levels so that it becomes a part of the make up of the world. It is in favour of solidarity between peoples, fruitful dialogue between cultures and the free circulation of ideas by word and image, as its constitutive Act engages it to be.

* * *

⁵¹ www.unesco.org/culture/alliance.

⁵² *Agreement on importation of educational, scientific and cultural materials*, or Florence Agreement.

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