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PRELIMINARY STUDY ON THE TECHNICAL AND LEGAL ASPECTS RELATING TO THE DESIRABILITY OF A GLOBAL STANDARD-SETTING INSTRUMENT ON THE RECOGNITION OF HIGHER EDUCATION QUALIFICATIONS

OUTLINE

Background: Pursuant to 191 EX/Decision 42 and in accordance with *the Rules of Procedure concerning recommendations to Member States and international conventions covered by the terms of Article IV, paragraph 4 of the Constitution*, the Director-General submits the preliminary study on the technical and legal aspects of the desirability of a *global standard-setting instrument on the recognition of higher education qualifications*.

Purpose: This document contains the preliminary study on the technical and legal aspects of the desirability of a *global standard-setting instrument on the recognition of higher education qualifications* and the comments and observations of the Executive Board thereon.

Decision required: paragraph 7.

BACKGROUND

1. On the occasion of the International Conference of States (Tokyo, Japan, 2011) to adopt the revised Asia-Pacific regional convention on the recognition of qualifications in higher education, Member States expressed their support to UNESCO's conducting a feasibility study for a global convention on the recognition of higher education qualifications, recognizing that the existing regional conventions do not adequately address the new dynamics in higher education.
2. Pursuant to this request, UNESCO conducted a feasibility study in 2012. The results were discussed at the UNESCO international experts' meeting on the feasibility and desirability of a new standard-setting instrument on higher education (Nanjing, People's Republic of China, October 2012). The study concluded that a global normative instrument in the form of a convention was both feasible and desirable.
3. The preliminary study on the technical and legal aspects relating to the desirability of a new standard-setting instrument on the recognition of higher education qualifications was submitted to the 191st session of the Executive Board (document 191 EX/42), in accordance with *Article 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*. The full text of the preliminary study is reproduced in Annex I of this document.

COMMENTS FROM THE EXECUTIVE BOARD

4. Upon examining the preliminary study, the Executive Board supported the initiative to advance the international regulation of recognition of higher education qualifications by means of a new global standard-setting instrument. It recognized that such an instrument will improve academic and professional mobility across regions; enhance international cooperation in higher education; and be an important step towards global recognition and trust.
5. The Executive Board highlighted that the process of developing the instrument must be inclusive; take into account the diversity of systems and institutions; and build on the regional conventions. It recommended the Director-General to proceed with the consideration of this topic step-by-step in consultation with Member States and the various regions on the basis of regional conventions.
6. By 191 EX/Decision 42, the Executive Board invited the Director-General to transmit the preliminary study to the 37th session of the General Conference and recommended the General Conference to take a decision to continue action aimed at drawing up a new global standard-setting instrument. The full text of the Executive Board decision is reproduced in Annex II of the document.

PROPOSED RESOLUTION

7. In light of the foregoing, the General Conference may wish to adopt the following resolution:

The General Conference,

1. Taking note of 191 EX/Decision 42,
2. Also takes note of the support expressed by Member States and experts for the development of a global convention on the recognition of higher education qualifications through various international fora;

3. Having examined the preliminary study of the technical and legal aspects relating to the desirability of a global standard-setting instrument on the recognition of higher education qualifications (37 C/45),
4. Recognizes that a global convention will improve academic and professional mobility, enhance international cooperation in higher education, and will represent a significant step forward towards global recognition and trust and also recognizes that it will provide a mechanism for assisting Member States, in particular the small and less developed ones or those without qualifications frameworks or quality assurance mechanisms;
5. Decides that the recognition of higher education qualifications should be regulated by means of a global convention under the aegis of UNESCO;
6. Invites the Director-General to initiate the process of drawing up the global convention on the recognition of higher education qualifications, ensuring that its development builds upon the existing regional conventions that are successful and functional and to consult with Member States and with various regions on the basis of regional conventions;
7. Encourages the Director-General to undertake this work in line with *the Rules of Procedure concerning recommendations to Member States and international conventions covered by the terms of Article IV, paragraph 4 of the Constitution*;
8. Requests the Director-General to submit a plan of action on the development of the global convention on the recognition of higher education qualifications to the 194th session of the Executive Board for its consideration;
9. Further requests the Director-General to submit a report on the progress made in the development of the global convention on the recognition of higher education qualifications, including if appropriate a preliminary draft text of the Convention, to the 38th session of the General Conference.

ANNEX I

PRELIMINARY STUDY ON THE TECHNICAL AND LEGAL ASPECTS RELATING TO THE DESIRABILITY OF A GLOBAL STANDARD-SETTING INSTRUMENT ON THE RECOGNITION OF HIGHER EDUCATION QUALIFICATIONS

Introduction

1. In the context of rising academic mobility in a more globalized world, the international community has been giving increased attention to quality assurance and accreditation in higher education. Currently, the six UNESCO normative instruments on the recognition of studies and qualifications in higher education are mostly regional. In recent years, Member States' interest in the regional conventions has been declining due to the fact that the regional conventions from the 1970s and 1980s do not adequately address the new dynamics in higher education. An important number of Member States have expressed their support for a global convention on higher education, which will both complement and reinforce the existing conventions and recommendations, and strengthen UNESCO's leading position in this field.

2. In November 2011, on the occasion of the International Conference of States held to revise the Asia-Pacific regional convention on the recognition of qualifications in higher education, Member States expressed their support to UNESCO's conducting of a feasibility study for a global convention on the recognition of higher education qualifications. The study was conducted in 2012, followed by a UNESCO international experts' meeting on the feasibility and desirability of a new standard-setting instrument on higher education (Nanjing, People's Republic of China, 30-31 October 2012). The present study is prepared on the basis of the deliberations of the experts' meeting. It examines the technical and legal aspects of the desirability of a global standard-setting instrument on higher education, so as to enable the Executive Board to provide its observations thereon and to decide whether this matter should be included in the provisional agenda of the 37th session of the General Conference.

Existing international standard-setting instruments

3. UNESCO has adopted the following legal instruments, which set forth the principles and norms concerning the recognition of higher education qualifications at the regional and interregional levels: Regional Convention on the Recognition of Studies, Certificates, Diplomas and Degrees in Higher Education in Latin America and the Caribbean (1974); International Convention on the Recognition of Studies, Certificates, Diplomas and Degrees in Higher Education in the Arab and European States bordering on the Mediterranean (1976); Convention on the Recognition of Studies, Diplomas and Degrees in Higher Education in the Arab States (1978); Regional Convention on the Recognition of Studies, Certificates, Diplomas, Degrees and other Academic Qualifications in Higher Education in the African States (1981); Regional Convention on the Recognition of Studies, Diplomas and Degrees in Higher Education in Asia and the Pacific (1983); The Council of Europe/UNESCO Convention on the Recognition of Qualifications concerning Higher Education in the European Region (1997; known as "Lisbon Convention"); Asia-Pacific Regional Convention on the Recognition of Qualifications in Higher Education (2011; will enter into force one month after the 5th ratification instrument is deposited); and, Recommendation on the Recognition of Studies and Qualifications in Higher Education (1993).

4. The Conventions constitute a unique legal framework and have attracted altogether 140 ratifications from Member States with some having ratified, accessed or approved more than one Convention. They are aimed at contributing to preserving and strengthening the cultural identity and diversity of national educational systems. They acknowledge that the right to education is a human right, and that higher education represents an exceptionally rich cultural and scientific asset for both individuals and society. The conventions note that recognition is one of the necessary conditions for ensuring that a country's educational means are used as effectively as possible to promote lifelong education, the democratization of education, and the adoption and

application of educational policies, allowing for structural, economic, technological and social changes and suited to the cultural context of each country. The conventions are focused on allowing the recognition of qualifications in higher education between States Parties, subject to national legislation, for academic and professional purposes. At present, the conventions refer solely to the mutual recognition by States Parties of qualifications issued by institutions that are part of the educational system of a Member State.

5. There are differences among the existing conventions. The adoption of the Lisbon Convention (1997) marked a key paradigm shift as it gave greater rights to applicants; introduced the principle of “substantial differences”; stressed the importance of access to transparent and reliable information and networking at expert level; and, finally developed a number of subsidiary texts. The differences between the regional conventions were further accentuated by policy developments in higher education at the regional level, such as the establishment of regional higher education areas such as the Bologna Process in Europe and the African Union Harmonization Strategy leading to an African Higher Education and Research Space.

6. A new generation of conventions was inspired by the Lisbon Convention, which raised awareness of the importance of an instrument with more flexible and pragmatic approaches to recognition. The UNESCO 2002 Global Forum on Quality Assurance, Accreditation and the Recognition of Qualifications recommended such a revision in all regions. The World Trade Organization/General Agreement on Trade in Services (WTO/GATS) and its implications for cross-border higher education further emphasized the need to reinforce the conventions as a response to education being considered as a service to be liberalized and regulated by trade rules.

7. The move to revise the conventions also reflected the need to respond adequately to the new dynamics at play in higher education in a more globalized world and the knowledge society of the twenty-first century, as flagged by 2009 UNESCO World Conference on Higher Education.

Key new challenges

8. Since the adoption of the regional conventions on the recognition of higher education qualifications, new international challenges have emerged. They cross national and regional boundaries, and require a global response to enable societies to be more sustainable, resilient and adaptive.

9. Globalization, a key reality of the twenty-first century, has impacted profoundly on higher education. The increasingly integrated world economy, information and communication technologies, and the emergence of an international knowledge network all have a bearing on higher education. For some, the impact of globalization on higher education offers exciting new opportunities for study and research that is no longer limited by national boundaries. At the very least, with 2.5 million students enrolled in 2009 outside their home country, countless scholars, degrees and universities moving about the globe freely, there is a pressing need for international cooperation and agreements. International academic mobility will develop further, with an estimated 7 million international students by 2020. With the exception of the North America and Western Europe region, the majority of the outbound students are studying outside their region of origin.

10. In addition to interregional student mobility, there is also a significant increase in international labour mobility. Many international students remain in the host country to work rather than returning to their home country after completing their overseas studies. International migration from developing countries (the South) to developed countries (the North) represents 33% of the global total migrants. South-South migration among developing countries is almost the same proportion (32%), and North-North migration is only slightly less (28%). Most South-North migration is headed for Europe and the United States, while North-North migration takes place mainly within Europe and across the Atlantic.

11. Internationalization – defined as the variety of policies and programmes that universities and governments implement to respond to globalization, such as sending students to study abroad, setting up branch campuses overseas, and engaging in inter-institutional partnerships – is very prominent at the regional and international levels. The last decade has also seen an explosion in numbers of programmes and institutions that are operating internationally. Cross-border higher education has shown a steady increase in its different forms, which range from branch campuses and universities offering franchised courses abroad to eLearning across borders. Open and distance and eLearning is also diversifying; the Open Educational Resources movement has recently spawned the phenomenon of Mass Open Online Courses (MOOCs). Some consider that MOOCs are a powerful symbol of the new dynamics in higher education.

12. The internationalization of the recognition of qualifications and quality assurance must respond to the growing policy challenges facing higher education systems and institutions as a consequence of global trends and shifting paradigms in higher education. A global standard-setting instrument will provide an international framework for these new dynamics and play a leading role in sharing good practices across regions, to develop capacity for qualifications recognition and quality assurance.

13. The evidence presented demonstrates the pressing need for an international framework for the recognition of qualifications in higher education. This makes UNESCO's decision to explore the feasibility of a global standard-setting instrument for the recognition of higher education qualifications very timely.

Rationale, objectives, basic principles and challenges of a new standard-setting instrument

14. A great majority of the most recent ratifications of the regional conventions go back to the 1990s. With the exception of the Lisbon Convention, fewer than 10 Member States have ratified any of the conventions in the twenty-first century. This weakening engagement, awareness and interest in the recognition conventions outside Europe is also demonstrated by the low response rate (20 Member States, mainly from Europe) to UNESCO's questionnaire in 2010 as part of the monitoring of the 1993 Recommendation.¹

15. Notwithstanding their weakening engagement with the regional conventions of the 1970s and 1980s, Member States acknowledge the importance of mutual recognition of higher education qualifications. Its significance is, in fact, growing – especially as stronger links to quality assurance are made all over the world. As the 2009 UNESCO World Conference on Higher Education revealed, new dynamics are at play in higher education in the more globalized knowledge society of the twenty-first century. Changing trends and patterns in the ever-increasing academic and labour mobility require a range of new approaches to the mutual recognition of higher education qualifications. They are one of the main incentives for having a global framework for the mutual recognition of qualifications across regional borders. Recent changes require more updated tools for qualifications recognition, linking them to the emergence and strengthening of quality assurance, qualification frameworks and tools for transparency.

16. The feasibility of a global standard-setting instrument, in the form of a convention has been discussed by experts at regional and global level. It was discussed at regional meetings in Seoul,² Toledo³ and Abidjan.⁴ Experts from all five UNESCO regions discussed the next steps for the feasibility study for a global convention at the International Experts' Meeting on the Feasibility

¹ The implementation of the 1993 Recommendation is monitored through the implementation of the conventions.

² 11th session of the Regional Committee on the Recognition of Studies, Diplomas and Degrees in Higher Education in Asia and the Pacific and the Expert Seminar on National Information Centres (Republic of Korea, 23-24 May 2012).

³ 19th Joint Meeting of the ENIC and NARIC Networks; and Conference of the Committee of the Council of Europe/UNESCO Convention on the Recognition of Qualifications Concerning Higher Education in the European Region on the occasion of the Convention's 15th Anniversary, (Toledo, Spain, 17-20 June 2012).

⁴ 5th ICQAHEA and Capacity Building Workshop; and General Assembly of the African Quality Assurance Network, (Abidjan, Côte d'Ivoire, 10-14 September 2012).

Study for the Global Convention (Nanjing, People's Republic of China, 30-31 October 2012). They examined the regional inputs collected by means of a survey, identified outstanding issues, and provided a final recommendation to UNESCO.

17. Regional inputs collected for the China meeting confirm a high-level of support for a global standard-setting instrument in the form of a convention: 92% of respondents from Asia and the Pacific; 75% of respondents from Africa; 53% from the Arab Region; 21 out of the 31 European respondents support a global convention with provisos; and in Latin America and the Caribbean, the answers reflect strong support for a global convention.

18. The analysis of responses highlight that a global convention will respond to the challenges posed by the increasing internationalization of higher education and the growing mobility of students, graduates, faculty and professionals and the global labour market. It will address online learning, cross-border higher education, private higher education and virtual learning. Moreover, it will help develop fundamental recognition principles that will support developments at the national and regional levels, especially regarding the establishment of quality assurance mechanisms that are comparable and compatible with those in other parts of the world, which will in turn ease recognition procedures and facilitate access to transparent and reliable information.

19. In Europe and North America where the Lisbon Convention has almost 100% coverage, a global standard-setting instrument is perceived as a positive "political statement". It is recommended that implementation structures remain local/regional, and that the ratification of regional conventions constitute part of the commitment to a global standard-setting instrument. Latin America and the Caribbean also believe that regional and bilateral recognition should be sustained, as they can strengthen global recognition of higher education qualifications.

20. As shown above, there is a high level of support for a global standard-setting instrument in the form of a convention in all the regions consulted, with some slight regional differences. While a number of respondents from Europe feel that a global convention may weaken the Lisbon Convention, other European Member States unreservedly support a global convention to promote global recognition issues.

21. The proposed new standard-setting instrument will be a convention, legally binding and universal in nature, allowing for flexibility and recognition of regional agreements. The main objectives of the global convention will be to:

- develop overarching principles which reflect values common to all regions, as well as subsidiary texts to deal with specific needs of regions;
- build on the regional conventions that are successful and functional;
- provide the missing international framework for qualifications recognition and promote mutual trust across regions;
- provide a vehicle for use in regions where the regional conventions are not operating or are dysfunctional; and
- provide a mechanism for assisting Member States, in particular the small and less developed ones or those without qualifications frameworks, national information centres or quality assurance mechanisms.

22. The basic principles underlying the proposed new standard-setting instrument will be:

- preserve and strengthen the cultural identity and diversity of peoples, and respect the specificities of national higher education systems;

- acknowledge the right to education as a human right and the fact that higher education represents an exceptionally rich cultural and scientific asset for both individuals and society;
- promote international cooperation in higher education by reducing obstacles to mobility of students and academics;
- promote fair recognition of higher education qualifications; and
- promote lifelong learning, the democratization of education, and the adoption and application of educational policies allowing for structural, economic, technological and social changes, and suited to the cultural context of each country.

23. The analysis carried out to explore the risks of having a global standard-setting instrument as compared to the risks of not having one highlighted the complexity of the implementation of UNESCO's conventions on the recognition of higher education qualifications in general, whether they have a regional or global coverage. The main challenges inherent in a possible global standard-setting instrument fall into four main categories: academic, ethical, political, and financial and human resources.

24. Academic challenges to a global standard-setting instrument relate primarily to the great diversity of higher education systems around the world and the different legacies and traditions. Furthermore, there are significant differences between the level of development of quality assurance mechanisms, qualifications frameworks, the assessment of learning outcomes and national information centres, which are prerequisites for reliable practices for the mutual recognition of qualifications between States. Differences in the degree of university autonomy are another factor adding to these challenges. Different approaches to academic and professional recognition at the regional level are a challenge to be tackled by a global standard-setting document.

25. The academic challenges of a global standard-setting instrument differ in scale but not in nature from the regional conventions. Higher education systems, recognition procedures and quality assurance methods are as diverse in Europe as they are worldwide. A key response to this challenge is sharing effective practices across regions, which is part of UNESCO's mandate.

26. Ethical challenges (equity). The brain drain phenomenon was raised as a potential threat. Preserving cultural and linguistic diversity and national sovereignty, and ensuring that the voices of small countries and developing countries are taken into account, were put forward as a challenge. Another ethical/equity issue of concern is the trend towards creating world-class universities, which is reinforced by the existing global university rankings. Degree/accreditation mills and academic fraud in general raise additional ethical challenges for a global standard-setting instrument. Creating enabling environments for promoting mutual trust among recognition professionals is the key to addressing this. Sharing examples of good practice is a good vehicle to promote mutual trust.

27. Political challenges. Clear political will to support a global standard-setting instrument, in addition to the regional ones, is key to the process of developing a global instrument. The very fact that the feasibility study was proposed at an International Conference of States involving all UNESCO regions is a signal of the existing political will; of the belief that such a standard-setting instrument will offer more options to countries that otherwise risk being left behind. Linked to this challenge are the issues of governance and management of a global standard-setting instrument, in particular its monitoring and impact on the regional ones and their achievements, which must be addressed. A global standard-setting instrument will feed on the more successful and operational conventions, while at the same time helping the weaker and less operational ones gain new momentum. The leadership and ownership of the global standard-setting instrument should

unconditionally remain with UNESCO. However, partnerships with other intergovernmental structures must be sustained to promote synergy.

28. The financial and human resource implications within the Member States of implementing a global standard-setting instrument were raised as a significant challenge. Sharing resources and good practice across regions is one of the ways to rise to this challenge. In this respect, more developed regions are called upon to share and support the less developed ones.

29. In conclusion, the academic, ethical, political and financial and human resources challenges posed by a global standard-setting instrument differ only in scale from those posed by the regional ones. A multitude of tools and effective practices exist and can be shared across regions. The promotion of mutual trust and capacity-building for less developed countries will help further to overcome academic challenges. Ethical challenges will be tackled by principles guiding the global standard-setting instrument, while regional specificities will be addressed by subsidiary texts. Political commitment should be secured given that, as demonstrated by the risk analysis, not having a global standard-setting instrument negatively impacts on the mobility of students and academic staff, notably as a result of the use of different criteria and principles in recognizing qualifications obtained in different regions. Without a global standard-setting instrument, the opportunity of building mutual trust will be significantly diminished.

30. UNESCO is committed to lead and implement the process. The monitoring role of the Secretariat through regular meetings, capacity-building activities and networking cannot be overestimated, as is the case with other UNESCO conventions. Different financing models, such as a combination of earmarked regular programme resources and the establishment of a fund for this particular global standard-setting instrument, will be explored.

Conclusion

31. Based on the present preliminary study, the Director-General considers that a global standard-setting instrument, in particular in the form of a convention, on the recognition of higher education qualifications is both desirable and feasible. Such a new normative instrument is desirable because higher education is diversifying rapidly in all parts of the world while at the same time the mobility of students and workers with higher education qualifications has become global as well as regional. A global framework for qualifications recognition is missing. A global convention on the recognition of higher education qualifications will build on decades of work in developing and implementing regional recognition conventions. It will rely on tools developed over the years that have helped ease recognition criteria and procedures. The survey conducted for the feasibility study demonstrated that a majority of those most familiar with recognition procedures firmly support the move to a global standard-setting instrument.

Proposed timetable and action expected of the Executive Board

32. In accordance with the Rules of Procedure concerning recommendations to Member States and international conventions covered by the terms of Article IV, paragraph 4, of the Constitution, the Executive Board is called upon to examine this preliminary study and to decide whether or not it should be included in the provisional agenda of the 37th session of the General Conference. Should the Executive Board examine this study favourably, the Director-General will, in accordance with the aforementioned Rules of Procedure, communicate to Member States a copy of the preliminary study and the Executive Board's observations and decisions thereon, at least 70 days before the opening of the 37th session of the General Conference, that is before the end of August 2013.

33. Pursuant to Article 6 of the above-mentioned Rules of Procedure, the General Conference will be invited, after examining this study and the Executive Board's observations thereon, to decide whether the question should be regulated internationally and, if so, whether that regulation should take the form of a convention or a recommendation. Should the General Conference at its

37th session (2013) decide that the question of the recognition of higher education qualifications at the global level must be regulated by an international convention, a preliminary report, possibly accompanied by a preliminary draft convention, could be submitted to the General Conference at its 38th session (2015).⁵

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According to Article 7 of the same Rules of Procedure, the General Conference may also decide at its 37th session to defer such decisions mentioned in Article 6 to a future session and to instruct the Director-General to report to it on the desirability of regulating on an international basis the question dealt with in the proposal. Furthermore, Article 9 stipulate that the General Conference shall not vote on the adoption of a draft convention or recommendation before the ordinary session following that at which it has taken the decisions on the desirability and nature of the instrument.

ANNEX II

191 EX/Decision 42

Preliminary study on the technical and legal aspects relating to the desirability of a global standard-setting instrument on the recognition of higher education qualifications

The Executive Board,

1. Having examined document 191 EX/42 presenting a preliminary study on the technical and legal aspects relating to the desirability of a global standard-setting instrument on the recognition of higher education qualifications,
2. Considering the support expressed by experts for the development of a global convention on the recognition of higher education qualifications as a new standard-setting instrument under the aegis of UNESCO,
3. Supports the initiative to advance the international regulation of recognition of higher education qualifications by means of a new global standard-setting instrument;
4. Decides to inscribe this item on the provisional agenda of the 37th session of the General Conference;
5. Invites the Director-General to submit to the 37th session of the General Conference the preliminary study on the technical and legal aspects relating to the desirability of a global standard-setting instrument on the recognition of higher education qualifications, together with the relevant observations and decisions of the Executive Board thereon;
6. Also invites the Director-General to proceed with the consideration of this topic step-by-step, in consultation with Member States, and with various regions on the basis of regional conventions;
7. Recommends that the General Conference adopt a resolution to continue action aimed at drawing up a new global standard-setting instrument on the recognition of higher education qualifications.