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## **REPORT OF THE FIRST SESSION OF THE INTERGOVERNMENTAL MEETING OF EXPERTS ON THE PRELIMINARY DRAFT CONVENTION FOR THE SAFEGUARDING OF THE INTANGIBLE CULTURAL HERITAGE**

Paris, UNESCO Headquarters, 23-27 September 2002

### **I. INTRODUCTION**

1. The first session of the Intergovernmental Meeting of Experts on the Preliminary Draft Convention for the Safeguarding of the Intangible Cultural Heritage was held at UNESCO Headquarters in Paris from 23 to 27 September 2002. The meeting was attended by 281 experts from 120 Member States, 10 experts from three Permanent Observer Missions to UNESCO, and numerous representatives of interregional and international governmental and non-governmental organizations (see Annex IV).

2. Pursuant to 164 EX/Decision 3.5.2, the participants were invited to “define the scope and to take forward the work on the preliminary draft of an international convention”. For this purpose, the debates were based on a preliminary draft which was the result of the deliberations of a select drafting group composed of experts who met in their personal capacity on two separate occasions (March and June 2002). A glossary of terms which could be useful for the preparation of such an instrument (drawn up by another similar group of experts in June 2002) was distributed to the governmental experts.

### **II. OPENING OF THE MEETING**

3. In his opening address, the Director-General, Mr Koïchiro Matsuura, noted the accelerating pace of globalization, which was undermining cultural diversity, and underscored the key role to be played by the intangible cultural heritage in sustainable development. The Director-General referred to the Third Round Table of Ministers of Culture held in Istanbul on 16 and 17 September 2002, at which 74 ministers of culture adopted a final declaration making the intangible cultural heritage and cultural diversity a priority on their political agendas. In particular, that declaration stressed the urgent need to identify mechanisms at the international level for action to safeguard the intangible cultural heritage, and expressed the view that the elaboration of “an appropriate international convention” could be a “positive step” towards that end. The Director-General therefore emphasized the need for deep interaction between national policies and international action. The President of UNESCO’s General Conference, H.E. Mr Ahmad Jalali, said that the UNESCO Universal Declaration on Cultural Diversity made numerous references to the intangible cultural heritage, which should therefore be the subject of appropriate safeguarding policies at the national and international levels. He pointed out that the intangible cultural heritage was created and recreated by each generation, a process which gave the communities concerned a feeling of

continuity and fostered a rich dialogue between cultures and civilizations. In the face of the new challenges of globalization, Mr Jalali invited the participants to reflect on the ways and means of preserving and conserving such heritage.

### **III. ELECTION OF THE BUREAU AND ORGANIZATION OF THE MEETING**

5. Mr Mohammed Bedjaoui (Algeria) was elected Chairperson of the meeting; Mr Scovazzi (Italy), Mr Berke (Hungary), Mr Kim (Republic of Korea) and Mr Yaï (Benin) were elected Vice-Chairpersons; and Mr Barrios (Bolivia) was elected Rapporteur. Following a lengthy debate on the draft agenda, the draft agenda as amended (Annex II) was adopted. The draft rules of procedure (Annex III) were also amended and adopted. The Assistant Director-General for Culture, Mr Bouchenaki, spelled out the objectives of the meeting. To begin with, he stressed that the intangible cultural heritage was threatened with disappearance. Then, in view of the very relative success of the 1989 Recommendation on the Safeguarding of Traditional Culture and Folklore, and the widespread success of the 1972 Convention for the Protection of the World Cultural and Natural Heritage among the international community, he reminded the meeting that the General Conference had expressed itself in favour of the drafting of an international convention.

### **IV. GENERAL DEBATE**

6. In the course of the discussions over the five days of the meeting, the experts stressed the need to give recognition to (i) the interaction between the tangible and the intangible cultural heritage; (ii) the live, evolving nature of the intangible cultural heritage; (iii) the cross-border dimension of the intangible cultural heritage; (iv) the urgent need for protective measures; (v) the need for great flexibility in the negotiation process in order to secure the broadest possible consensus; and (vi) the importance of safeguarding the intangible cultural heritage at the local, national and international levels.

7. In addition, there was broad agreement on the following points:

#### **A. General considerations**

- (i) In accordance with the choice expressed by the General Conference in November 2001, to adopt an international convention in view of the incentive force and the implementational guarantees of such a legal instrument, rather than a mere recommendation. In view of the specificity of the intangible cultural heritage, the 1972 Convention should be taken more as a source of inspiration than as a model;
- (ii) To take into account the traditional dimension of the intangible cultural heritage (which gives communities a sense of continuity and cohesion), while stressing its contemporary, creative and evolving dimension;
- (iii) To link the future convention to UNESCO's programme on the Proclamation of Masterpieces of the Oral and Intangible Heritage of Humanity (clarifying its status with respect to the principle and the mechanism of a "list");
- (iv) To take account of "documentation" work as an integral part of the identification of the intangible cultural heritage;
- (v) To adopt the notion of "revitalization" so long as it does not underpin a policy of artificial "reactivation" of a given form of the intangible cultural heritage;

(vi) To ensure an appropriate distribution of tasks between States and local communities.

## **B. Preamble**

To make reference to human rights in the Preamble.

## **C. General provisions**

- (i) To restrict the definition of the intangible cultural heritage, while taking into account its dynamic, evolving nature;
- (ii) To narrow the scope of application (*ratione materiae*), given that the scope of the definition and the annex is considered to be too broad;
- (iii) To include the notion of transmission from generation to generation in the definition so as to ensure that the definition covers only such intangible cultural heritage as has stood the test of time;
- (iv) To seek to harmonize the definition of the intangible cultural heritage with that used in the Proclamation of Masterpieces of the Oral and Intangible Heritage of Humanity, and to give it a stronger legal and operational meaning.

## **D. Article 4 (General framework for safeguarding the intangible cultural heritage)**

To involve the actors and cultural communities concerned in the safeguarding process.

## **E. Considerations relating to other articles**

- (i) With regard to relations between UNESCO and WIPO, to take into account the work undertaken by WIPO by referring to intellectual property law and by seeking to avoid any overlap in the fields of competence of the agencies and conflicts regarding standards;
- (ii) To maintain inventories, registers and/or lists, without neglecting the particular dynamic of the intangible cultural heritage;
- (iii) With regard to the possible establishment of an intangible cultural heritage committee, to create a body which is smaller and more representative than the World Heritage Committee (WHC), to be composed of members chosen by the States on the basis of their scientific skills.

8. On the other hand, the experts expressed divergent views on the following matters:

- (i) Whether or not to include languages in the scope of the convention; for some participants, languages were already covered by specific UNESCO programmes, such as that on languages in danger of disappearing;
- (ii) Whether or not to accept the principle of a list of items of the intangible cultural heritage. For various participants, efforts should be made to draw up either (i) a list of items of the intangible cultural heritage of specific and exceptional value, including the intangible cultural heritage in danger, or (ii) a list of items of the intangible cultural heritage at risk, or (iii) a world inventory of the intangible cultural heritage; or (iv) a list of “best practices”;

- (iii) To elaborate various funding mechanisms, either (i) a mechanism which is binding for all States, or (ii) a non-binding mechanism, taking into account the financial possibilities of each party, or (iii) to make an appeal for extrabudgetary funds;
- (iv) To determine the status of the annex: whether or not it should be an integral part of the future convention.

## V. CONCLUSION

9. Before proceeding to examine the draft recommendation prepared by the Secretariat (Annex I), the Chairperson outlined the forthcoming phases, and the method of work to be adopted:

- (a) in accordance with the Director-General's circular letter (CL/3629), all Member States would be invited to communicate their amendments, comments and remarks by the end of November 2002, in order to enable the Secretariat to prepare a new consolidated version of the preliminary draft of the convention;
- (b) with regard to the definition of the scope of application, a consolidated version would be presented of Article 2 and of the Annex containing the various proposals made on the basis of the written amendments received by the Secretariat.

10. After inviting the Rapporteur to present his oral report, the Chairperson submitted the draft recommendation to the plenary meeting. A wide-ranging debate ensued, leading to the approval of the greater part of the proposed text, with a number of amendments.

11. The Chairperson congratulated the participants on the progress achieved in understanding and elaborating the preliminary draft of the convention. Underscoring the scale of the further efforts necessary in order to discharge the mandate given by the General Conference to the Director-General by 31 C/Resolution 30 and 164 EX/Decision 3.5.2, the participants agreed that it was necessary to continue the current meeting of governmental experts. Mr Bedjaoui therefore announced that the first meeting would not be brought to a close, but would merely be adjourned, and that consequently, the Bureau would be maintained until a further session was convened and held in early 2003. He also indicated that no drafting committee could be convened without the express agreement of the Committee of Governmental Experts, and that such a drafting committee would in any case have to be a direct emanation of the Committee of Governmental Experts. The Chairperson again encouraged all the participants to make good use of the time before the next meeting to communicate their amendments to the Secretariat; the task of the group of experts was to help the Director-General in the drafting process, contributing to his reflection by making constructive proposals. Final responsibility for the report to the General Conference at its 33rd session lay with the Director-General.

## ANNEX I

### **Recommendation of the Intergovernmental Meeting of Experts on the Preliminary Draft Convention for the Safeguarding of the Intangible Cultural Heritage**

Bearing in mind the eminent value, the importance, and the extreme vulnerability of intangible cultural heritage, and the consequent urgency of taking action to safeguard, revitalize and promote intangible cultural heritage and to develop international cooperation in a spirit of constructive solidarity, in close cooperation with relevant international organizations, more specifically, by establishing an appropriate international convention that would fill a gap in current international law,

Recalling 31 C/Resolution 30, and pursuant to 164 EX/Decision 3.5.2,

The Intergovernmental Meeting of Experts on the Preliminary Draft Convention for the Safeguarding of the Intangible Cultural Heritage convened in Paris (UNESCO Headquarters, 23-27 September 2002) recommends to the Director-General:

1. to take forward the work on the preliminary draft of an international convention for the safeguarding of the intangible cultural heritage within an intergovernmental framework;
2. to prepare a consolidated preliminary draft convention on the basis of the debates of the present meeting, integrating amendments proposed and comments as well as observations to be submitted to the Director-General by Member States and by observers by the end of November 2002 as requested by the Director-General in his letter CL/3629 and requests the Director-General to circulate this text as soon as possible to all Member States and observers;
3. to provide Member States with a list of multilateral international instruments in force directly relevant to the intangible cultural heritage; and
4. to convene the second session of this intergovernmental meeting starting in early 2003 to examine the consolidated text of the preliminary draft convention.

**ANNEX II**

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**INTERGOVERNMENTAL MEETING OF EXPERTS ON  
THE PRELIMINARY DRAFT CONVENTION FOR THE SAFEGUARDING  
OF THE INTANGIBLE CULTURAL HERITAGE**

Paris, UNESCO Headquarters, 23-27 September 2002

**AGENDA**

1. Opening of the meeting
2. Election of the Chairperson
3. Adoption of the agenda
4. Adoption of the Rules of Procedure
5. Election of Vice-Chairpersons and of the Rapporteur
6. Introductory statement by the Secretariat concerning the objectives of the meeting and of the working documents
7. Determination of the scope of the preliminary draft convention
8. Results of the work of the governmental experts concerning the elaboration of the preliminary draft convention
9. Recommendations of the meeting to the Director-General

## ANNEX III

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### INTERGOVERNMENTAL MEETING OF EXPERTS ON THE PRELIMINARY DRAFT CONVENTION FOR THE SAFEGUARDING OF THE INTANGIBLE CULTURAL HERITAGE

Paris, UNESCO Headquarters, 23-27 September 2002

#### RULES OF PROCEDURE

##### I. Composition of the Meeting

###### Article 1: Participants

The participants shall be representatives of Member States of UNESCO who have been invited to participate by the Director-General after consulting the Executive Board of UNESCO; they shall have the right to vote.

###### Article 2: Observers

Representatives of Associate Members of UNESCO and States Members of the United Nations, as well as representatives of Palestine and those of intergovernmental and non-governmental organizations invited in conformity with a decision of the UNESCO Executive Board participate in the work of the meeting, as observers, without the right to vote.

##### II. Organization of the Meeting

###### Article 3: Election

The Meeting shall elect its Chairperson, four Vice-Chairpersons and a Rapporteur.

###### Article 4: Subsidiary bodies

The Meeting may establish such working groups as are necessary for the conduct of its work. Each of these bodies shall elect its Chairperson and its Rapporteur. The provisions of these Rules of Procedure shall apply *mutatis mutandis* to the Chair and to the discussions of the subsidiary bodies, in the absence of any decision to the contrary by them or by the Meeting, when the Rules of Procedure so permit.

###### Article 5: Duties of the Chairperson

1. The Chairperson shall open and close each plenary session. He/she shall direct the discussions, ensure observance of these Rules, accord the right to speak to the representatives, put questions to the vote and announce decisions. He/she shall rule on points of order and, subject to the present Rules, shall control the proceedings of each session and the maintenance of order.

2. Should the Chairperson find it necessary to be absent during the session or any part thereof, a Vice-Chairperson designated by him/her shall replace him/her. A Vice-Chairperson sitting as Chairperson shall share the same powers and responsibilities as the Chairperson.

3. The Chairpersons of the working groups shall have the same duties in respect of the bodies which they are required to chair.

### **III. Conduct of business**

#### Article 6: Publicity of sessions

All plenary sessions shall, unless the Meeting decides otherwise, be held in public.

#### Article 7: Order and duration of speeches

1. The Chairperson shall call upon participants in the order in which they signify their wish to speak.
2. To facilitate the conduct of business the Chairperson may limit the time to be allowed to each speaker.
3. With the consent of the participants, the Chairperson may call upon an observer who has expressed his/her wish to speak.

#### Article 8: Points of order

During a discussion, any participant may rise to a point of order. Such points of order shall be immediately decided by the Chairperson. An appeal may be made against the ruling of the Chairperson. Such appeal shall be put to the vote immediately.

#### Article 9: Adjournment and closure

Any participant may at any time move the adjournment or closure of the debate or of the session. Such motions shall be immediately put to the vote in the following order:

- to suspend the session;
- to adjourn the session;
- to adjourn the debate on the item under discussion;
- for the closure of the debate on the item under discussion.

#### Article 10: Working languages

English and French are the working languages of the Meeting and of the working groups.

#### Article 11: Voting

1. Each Member State shall have one vote. Voting shall normally be by show of hands but any participant may request vote by roll-call. The decisions shall be taken by a simple majority of the participants present and voting. Nevertheless, in all matters, participants shall endeavour to take decisions by consensus.



2. For the purpose of the present Rules, the expression “participants present and voting” means participants casting an affirmative or negative vote. Participants abstaining from voting shall be considered as not voting.

#### **IV. Secretariat of the Meeting**

##### Article 12: Secretariat

The Secretariat of the Meeting and of its subsidiary bodies shall be provided by the UNESCO staff designated for this purpose by the Director-General.

##### Article 13: Duties of the Secretariat

1. It shall be the duty of the Secretariat to receive, translate and distribute documents, reports and resolutions, to provide for the interpretation of speeches made at the Meeting and to perform all other work necessary for the smooth functioning of the Meeting or of its subsidiary bodies.
2. The Secretariat may, at any time, upon the Chairperson’s approval, make statements, either written or oral, at the Meeting or at its bodies, concerning any matter under consideration.

#### **V. Amendment of the Rules of Procedure**

##### Article 14

The present Rules may be amended by a decision of the participants taken in plenary session.

**ANNEX IV**

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*Distribution limitée*

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**INTERGOVERNMENTAL MEETING OF EXPERTS  
ON THE PRELIMINARY DRAFT CONVENTION FOR THE  
SAFEGUARDING OF THE INTANGIBLE CULTURAL HERITAGE**

Paris, UNESCO Headquarters, 23-27 September 2002

**REUNION INTERGOUVERNEMENTALE D'EXPERTS  
SUR L'AVANT-PROJET DE CONVENTION POUR LA SAUVEGARDE  
DU PATRIMOINE CULTUREL IMMATERIEL**

Paris, Siège de l'UNESCO, 23-27 septembre 2002

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