

United Nations Educational, Scientific and Cultural Organization



Report of the Expert Meeting on
CRITERIA FOR INSCRIPTION ON THE LISTS ESTABLISHED BY THE
2003 CONVENTION FOR THE SAFEGUARDING OF THE
INTANGIBLE CULTURAL HERITAGE

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Introduction

The Intangible Heritage Section organised on 5 and 6 December 2005 an expert meeting on criteria for inscription of intangible heritage elements on the Lists to be established under the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage: the *Representative List of the Intangible Cultural Heritage of Humanity* and the *List of Intangible Cultural Heritage in Need of Urgent Safeguarding*. The meeting, which was co-financed by the Government of Norway, was attended by experts coming from some 15 UNESCO Member States and by observers from another 30 Member States. It formed part of a series of meetings, organized or co-organized by the Secretariat, aiming at contributing to the implementation of the Convention by its statutory organs. A background document was prepared by the Secretariat.

This report summarises the debates of the meeting and presents the selection criteria as recommended at the conclusion of the meeting, relating in particular to the definition of intangible heritage given in the Convention, to the need of involving communities in the whole identification and safeguarding process, and to the importance of transmission of ICH. The experts primarily debated criteria for inscription on the *Representative List of the Intangible Cultural Heritage of Humanity* (Article 16), considering that one or more additional criteria for the *List of Intangible Cultural Heritage in Need of Urgent Safeguarding* (Article 17) could later be developed.

The experts concluded that elements proposed for inscription on the Representative List, as well as programmes proposed for funding in accordance with Article 18 of the Convention, must:

- i) fall within one or more of the domains listed in Article 2.2;
- ii) be compatible with international human rights instruments, mutual respect and sustainable development;
- iii) be recognized by the community, group or, if appropriate, the individuals concerned as part of their cultural heritage;
- iv) provide the community or group involved with a sense of identity and continuity, based on shared experience and collective memory;
- v) be rooted in the community or group in which it is continuously transmitted and recreated;
- vi) enhance the diversity of ICH on the List, thus reflecting cultural diversity worldwide and testifying to human creativity;
- vii) be included already on a national representative list that complies with all relevant criteria established for submission to the Convention's Representative List;
- viii) be submitted with the free, prior and informed consent of the community, group or, if applicable, the individuals concerned;
- ix) be submitted following the participation of the community, group or, if applicable, the individuals concerned at all stages of identification, definition, documentation and nomination;
- x) currently be safeguarded effectively through appropriate means and measures, or may in the future be safeguarded effectively by means of a well elaborated and feasible safeguarding plan;
- xi) be submitted following the procedures established by the Committee¹.

¹ Mentioned during the meeting, but not given its place within the set of prerequisites and criteria.

Some experts proposed to organise the above mentioned criteria in three categories: (1) prerequisites implied by the Convention, (2) qualifying criteria derived from the definition of ICH formulated in Article 2.1 of the Convention and (3) procedural criteria. These three categories structured the debates, highlights of which are summarized below.

1. Prerequisites

- Domains** The experts agreed that a clear indication of the domain(s) concerned should be given in the nomination file of the ICH element proposed for inscription on the Representative List. Clearly establishing membership within one or more of the domains presented in Article 2.2 of the Convention² would not be necessary, inasmuch as the list of domains is not exhaustive. Furthermore, they are broad enough to cover many sub-domains that should not necessarily be further specified in the Operational Directives.
- Cultural landscapes** The experts considered that cultural landscapes fall under the legal coverage of the 2003 Convention because they are included in the definition of ICH itself under the term “cultural spaces” and because they, like objects, artefacts and instruments, may be associated with any of the ICH domains. The experts concluded that no separate domain should therefore be established.
- Human rights** Some experts remarked that certain ICH elements may not fully comply with existing international human rights instruments, and suggested that a distinction could be made between a central core of laws on human rights (right to life, to human dignity, against genocide, slavery, etc.), and peripheral norms which could be treated more flexibly. The proposal to distinguish core from peripheral norms was, however, rejected on the basis that no mention should be made of specific human rights standards in the Operational Directives, as the very nature of the Convention as a UN instrument provides that all of them are integrally covered. An ICH element submitted for inscription on the Representative List should therefore be automatically rejected when proof is given that it does not comply with any international human rights instrument whatsoever.
- Sustainable development** The experts noted that compliance with objectives of sustainable development must be a prerequisite. A nomination file should clearly indicate that the inscription of an ICH element does not hinder economic, ecological or social development. As the notion of sustainable development is very broad, they suggested that “sustainability” should be the guiding principle.

² The list of domains given in the Convention is not exhaustive: “*The “intangible cultural heritage” [...] is manifested inter alia in the following domains: (a) oral traditions and expressions, including language as a vehicle of the intangible cultural heritage; (b) performing arts; (c) social practices, rituals and festive events; (d) knowledge and practices concerning nature and the universe; (e) traditional craftsmanship.*” (paragraph 2 of article 2)

Misappropriation

The experts noted that the condition in the Convention related to human rights, mutual respect and sustainable development is meant, among other purposes, to discourage and forestall those practices that might go against the interests of the communities whose ICH is to be safeguarded. They remarked that the inventorying or listing of ICH could potentially facilitate its misappropriation for other uses, such as commercial exploitation. However, it was stressed that, as in the case of Brazil, the listing of ICH implies official recognition by the government of the communities and groups that transmit this heritage, making its misappropriation by others more difficult.

2. Qualifying Criteria

Recognition, identity and continuity

The experts noted that article 2.1 of the Convention provides three criteria with which the ICH submitted for inscription must comply: the intangible cultural heritage must

- (1) be recognized by communities, groups and, in some cases, individuals as part of their cultural heritage,
- (2) be transmitted from generation to generation and be constantly recreated by communities and groups in response to their environment, their interaction with nature and their history and
- (3) provide them with a sense of identity and continuity, thus promoting respect for cultural diversity and human creativity.

Transmission

The experts considered that continued transmission, aimed at ensuring the viability of ICH, is a main objective of the Convention. They discussed and chose not to recommend a criterion to ensure the integrity of the transmission process. They agreed that the transmission of ICH is a continuous process, both among and within generations, as well as beyond national borders. When considering the transmission process, they recommended avoiding the term “tradition”, which could be understood as “rooted in traditional practices” and lead to the stigmatisation of native groups. Various terms were proposed as alternatives, such as the term “transmission” itself, “collective memory”, “shared experience”, “community identity” or “historical continuity”.

Representativeness

The experts discussed whether it had been the intention of the drafters of the Convention to provide an indirect definition of representativeness in article 2.1, when providing a definition of intangible cultural heritage. If so, the criteria implied in the definition could serve to “test” representativeness. The experts agreed that the term “representative” should not be used for categorizing a community’s ICH, but to check whether the element proposed for listing complies with the minimum requisites provided in the definition of the Convention. The experts considered that the term *Representative* List as mentioned in article 16 introduces the concept of representativeness as opposed to the concept of “exceptional value” or “outstanding value”. Its main effect is to stress that no hierarchies should be established among elements of the intangible heritage on the basis of their intrinsic qualities.

Authenticity and outstanding value

Considering that the intangible cultural heritage is constantly evolving and changing, the suggestion was made to identify its core elements at the time of inscription in order to evaluate their evolution and determine whether they still exist after a certain period of time. Some experts suggested that the description of the supposed core elements could be used for determining the authenticity of the ICH proposed, but others replied that this would lead to preventing those elements from evolving and changing, which is contrary to the definition of ICH given in article 2.1. The fact that supposed core elements did not change in space and over time might then be misinterpreted as demonstrating their outstanding value. Some experts also suggested that the description of the supposed core elements could serve as a basis for periodic reporting at a later stage (article 29 of the Convention). They advised learning from the experience gained with the 1972 Convention and avoiding problems that could arise with the concept of “authenticity”.

Distinctiveness

With reference to the mention of “human creativity” in article 2.1 of the Convention, one expert proposed to introduce a selection criterion based on the “excellence” or “uniqueness” of the ICH element submitted for inscription, which could also serve as a threshold to avoid too many inscriptions. The proposal was rejected as it would be too close to the concept of “outstanding value”. Nevertheless, some participants suggested that a criterion could be included on the “distinctiveness” of the ICH proposed for inscription, but could not reach clarity on what that term would refer to.

Community involvement

The experts recalled the importance given in the Convention to the involvement of communities in the identification and safeguarding of ICH, in particular according to articles 2.1 (recognition of ICH), 11 (inventorying ICH with the participation of communities, groups and relevant non-governmental organizations) and 15 (participation of communities and groups in safeguarding activities of the ICH and their active involvement in its management). They recommended that strict procedures be adopted in the Operational Directives to ensure the prior consent of communities and their active participation in inventorying and nominating their ICH. Consideration should thereby be given to the fact that the inventorying and nomination processes may affect and even change the way communities perceive and enact their own heritage. In such cases, it might be preferable to not inscribe or only partially inscribe their ICH (e.g., when it involves spiritual, sacred or esoteric aspects of their ICH).

Individuals

While the Convention often refers to communities, groups and individuals together, it sometimes refers to communities and groups only, excluding the category of individuals. The experts suggested that individuals should only be considered when they are transmitters of a collective memory or a shared experience. Another proposal was to generally speak of “cultural practitioners”, instead of “groups” and “individuals”, as a separate category from communities. This, however, was rejected since the term “communities” may also apply to “cultural practitioners”. Some experts also argued that no distinction should be made between communities and

individuals because of potential conflicts between individual and collective cultural rights.

3. Procedural criteria

Cultural diversity Since articles 2 and 16 of the Convention refer to cultural diversity, experts agreed that a threshold criterion might be introduced in the Operational Directives requiring that the ICH submitted for listing contribute to enhancing the diversity of ICH on the List, thus reflecting cultural diversity worldwide.

Summary justification Some of the experts recommended that a “summary justification” form part of a nomination for inscription on the Representative List. This justification should refer to (1) the selection criteria, (2) the place of the element proposed within the cultural heritage of the community, (3) its representativeness, (4) the importance of its safeguarding, and (5) its contribution to cultural diversity.

Tentative or national representative lists Proposed criterion (vii) requires the prior inscription of an ICH element on a tentative list (e.g., a *National Representative List*). ICH inscribed on this list would already comply with the requisites of the Convention. The experts remarked that this criterion should not be strictly applied for ICH in need of urgent safeguarding (Article 17). The establishment of a national representative list would override inconsistencies between different inventories within a country and would facilitate the coordination of international assistance activities. However, some experts warned that the ICH elements inscribed on these lists could be seen as hierarchically “higher” than those included in other inventories.

Safeguarding Plan Considering that the safeguarding of ICH is the main objective of the Convention, experts suggested that it is necessary to require a complete and feasible safeguarding plan in the nomination file for the Representative List. In the absence of such a plan, an element should not be inscribed. However, experts questioned whether the application of such a criterion could have the opposite effect and lead to the rejection of elements that urgently need a safeguarding plan, which inscription on the lists of the Convention could in fact help to bring about. The experts therefore clarified that special attention should be paid to each case and that this requirement should not apply strictly for ICH nominated to the List of Intangible Heritage in Need of Urgent Safeguarding. The inscription on this list should be done upon request by the State Party with the prior consent of the community, especially in those cases where the best possible efforts of the community and State Party have not successfully safeguarded the element.

Legal protection The provision of appropriate legal protection of the ICH proposed for inscription was also considered to be a potential criterion, in particular when the inscription on a national inventory does not automatically provide for such protection. However, the experts considered that no separate criterion should be established for legal protection, and

recommended that legal safeguarding measures – if necessary – be included in a safeguarding plan.

Sunset clause

Following the discussion on limiting the number of inscriptions of ICH on the Representative List, and bearing in mind the evolving nature of ICH, the experts positively considered the application of a “sunset clause” to limit the duration of inscriptions. They noted that the main objective of the List is to increase the visibility of ICH and raise awareness on the need of its safeguarding. Once a specific time limit is reached, elements would be removed. They recommended not to use the word delisting, but rather to transfer the ICH element to an archive or register.

Limitation of inscriptions

The experts also proposed to set a technical threshold that would limit the number of ICH elements that a State Party may have on the Representative List at a given time, and to limit to one per State Party the annual inscription of national nominations, while allowing in addition to that involvement in one or more international nominations. Nevertheless, if a sunset clause is to be introduced, they remarked that the rules concerning the number of inscriptions could be more flexible.

4. Other issues

1972 Convention

The experts also discussed the relation with other standard setting instruments, in particular with the 1972 Convention concerning the Protection of the World Cultural and Natural Heritage, as article 3 of the 2003 Convention states that “nothing in this Convention may be interpreted as [...] altering the status or diminishing the level of protection [...] of World Heritage properties with which an item of the intangible cultural heritage is directly associated”. The experts remarked that overlap between both conventions should not be problematic as long as it does not weaken any obligations towards the 1972 Convention. While both conventions deal with cultural heritage, their approaches nevertheless differ, in particular with respect to the notion of “safeguarding” as opposed to “protection”, and the concepts of “representativeness” versus “outstanding universal value”. The different approaches are also reflected in the different meaning of related concepts such as “authenticity”, “integrity”, “protection” and “management”. They recommended that a clarification of these and other terms be included in the Operational Directives of the 2003 Convention in order to avoid misunderstandings. Concerning the evaluation of properties for inscription on the World Heritage List, some experts remarked that sometimes the appearance of the nomination dossier itself is evaluated instead of the property proposed for inscription. They recommended avoiding this practice when implementing the 2003 Convention.

MAB

The suggestion was made to include a reference in the Operational Directives to the Convention on Biological Diversity and to the Man and Biosphere Programme (MAB). The example of MAB could be followed concerning the relations between States Parties, Experts and Communities, by which an intermediary working group is established to coordinate the

nomination procedure among the three of them. The 2003 Convention allows such a procedure in its article 11.

2005 Convention

The relation with the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions was also addressed, as both are supposed to contribute to the promotion of cultural diversity, and refer to the sense of identity of people.

Conclusion

Besides the criteria presented above, the experts recommended developing other technical and procedural criteria as well as the details concerning the adoption of a sunset clause system for better management of the list. They furthermore advised the Committee to provide the States Parties with clear guidelines and the simplest possible formulation of the criteria, in order to make them easily comprehensible to a wide range of concerned parties, in particular to the communities themselves. An explanatory note to the guidelines and/or an executive summary should also be added in order to clarify the terminology used. Such clarity should also be requested of the States Parties when bringing matters to the Committee and in their own national programmes and policies.

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