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Cultural Organization

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177 EX/74

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REPORT OF THE COMMITTEE ON CONVENTIONS AND RECOMMENDATIONS

1. The Committee on Conventions and Recommendations (CR) held four public working meetings on 27 and 28 September and on 5 October 2007, with Mr Luiz Filipe de Macedo Soares, representative of Brazil, in the Chair. It met on 9 October 2007 to adopt this report. Pursuant to Rule 16.2 of the Rules of Procedure of the Executive Board, the Committee on Conventions and Recommendations elected Ms Theresa Moxey-Ingraham, representative of the Bahamas, as temporary Chairperson. The Committee examined the following agenda items.

Item 33 Protocol instituting a Conciliation and Good Offices Commission to be responsible for seeking the settlement of any disputes which may arise between States Parties to the Convention against Discrimination in Education: nominations and report of the Committee on Conventions and Recommendations thereon (177 EX/33 and Add. and Corr.)

2. The members of the Committee noted that only one country (Portugal) had submitted nominations for the three seats on the Commission which would fall vacant in 2007.

3. The Committee recommended that the Executive Board adopt the following draft decision:

The Executive Board,

1. Recalling the provisions of Article 3 of the Protocol instituting a Conciliation and Good Offices Commission to be responsible for seeking the settlement of any disputes which may arise between States Parties to the Convention against Discrimination in Education,
2. Having taken note of the list of persons nominated by the States Parties to the Protocol for the purpose of the election of three members of the Commission, communicated to it by the Director-General pursuant to Article 3, paragraph 2, of the said Protocol (177 EX/33 and Add. and Corr.),
3. Transmits this list to the General Conference at its 34th session;
4. Requests the Director-General to add to this list any candidatures which he may receive before the opening of the 34th session of the General Conference.

Item 35 Monitoring of the implementation of UNESCO's standard-setting instruments
(177 EX/35 Parts I and II)

Proposed new procedures specifically for the monitoring of the implementation of UNESCO conventions and recommendations for which no specific institutional mechanism is provided (177 EX/35 Part I)

4. In accordance with 176 EX/Decision 33 of the Executive Board, the members of the Committee continued their examination of this item and amended the multi-stage procedure set out in the Annex to document 177 EX/35 Part I.

5. Having completed its examination of the item, the Committee recommended that the Executive Board adopt the following draft decision and the Annex thereto entitled *Specific multi-stage procedure for the monitoring of the implementation of UNESCO conventions and recommendations for which no specific institutional mechanism is provided*:

The Executive Board,

1. Recalling 15 C/Resolution 12.2, 23 C/Resolution 29.1 and 32 C/Resolution 77, 165 EX/Decision 6.2, 170 EX/Decision 6.2, 171 EX/Decision 27, 174 EX/Decision 21, 175 EX/Decision 28 and 176 EX/Decision 33 on the first aspect of the terms of reference of the Committee on Conventions and Recommendations (CR) relating to the implementation of UNESCO's standard-setting instruments,
2. Having examined documents 177 EX/35 Parts I and II, and the report of the CR Committee thereon (177 EX/74),
3. Decides to approve the specific multi-stage procedure for the monitoring of the implementation of UNESCO conventions and recommendations for which no specific institutional mechanism is provided, as set out in the Annex to this decision.

Annex

**Specific multi-stage procedure for the monitoring
of the implementation of UNESCO conventions and recommendations
for which no specific institutional mechanism is provided**

***Stage 1: Frequency of submission of reports on the monitoring of the
implementation of UNESCO conventions and recommendations for
which no specific institutional mechanism is provided***

In accordance with the provisions of Article IV, paragraph 4, and Article VIII of the Constitution, reports shall be submitted every four years unless the General Conference, in the case of specific conventions or recommendations, decides otherwise.

Stage 2: Transmission of conventions and recommendations to Member States

Pursuant to the provisions 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, while transmitting a certified copy of any convention or recommendation to Member States, the Director-General shall formally remind them of their obligation to submit the convention or recommendation in question to their competent national authorities in accordance with Article IV, paragraph 4, of the Constitution, drawing also their attention to the difference in the legal nature of conventions and recommendations.

The Secretariat will ensure that the standard-setting texts adopted by the General Conference are widely disseminated to Member States and the public.

Stage 3: *Establishment of reports for monitoring the effective implementation of conventions and recommendations*

(a) *Consultations concerning conventions*

The Secretariat shall submit to the Executive Board its proposals concerning the modalities of consultation of Member States on any measures they have respectively adopted pursuant to Article IV, paragraphs 4 and 6, and Article VIII of the Constitution. To this effect, it shall prepare draft guidelines for the preparation of reports based on the framework guidelines adopted by the Executive Board, to which the Secretariat will add, in view of the wide variety of UNESCO's standard-setting instruments, specific questions to which additional information is sought in the light either of the conclusions of the previous consultation or of the information available.

The Executive Board shall entrust the examination of these proposals to its Committee on Conventions and Recommendations (CR).

After the guidelines have been approved by the Executive Board, the Director-General will invite the Member States to submit their report on the action taken on the convention, within a period of six months. Each Member State must submit such a report pursuant to Article 17, paragraph 1, 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.

(b) *Collection of information concerning recommendations*

The Secretariat will collect from Member States and National Commissions and from the various partners of the Organization such as non-governmental organizations (NGOs), information on the implementation of the recommendation in question.

This collection of information may be conducted on the basis of simplified questionnaires or using the model guidelines.

(c) *Preparation of reports*

With regard to the conventions, the Member States may, with the cooperation and support of the National Commissions, prepare reports in accordance with the model guidelines. Within the limit of available resources, the guidelines may be made accessible on the Internet to Member States to enable them to draw up and submit their report to the Secretariat by electronic means.

With regard to the recommendations, the Secretariat will prepare a report on their implementation by the Member States, on the basis of the information collected.

(d) *Technical assistance provided by the Secretariat to Member States*

In order to reduce their workload, the Secretariat will provide Member States, at their request or at the request of the General Conference, with technical assistance, which will focus both on a better understanding of the objectives of the convention or recommendation in question and on practical procedures for the preparation of their reports, in particular, the collection of information and the drafting of the reports.

Stage 4: Consideration by the Executive Board of the reports for monitoring the effective implementation of conventions and recommendations

The Secretariat will submit to the Executive Board a summary of the reports received from Member States on the measures taken for the implementation of the conventions. When it so desires, the Executive Board may ask the Secretariat to submit to it for consideration all the reports for each country.

With regard to recommendations, the Secretariat will submit its consolidated report on the implementation of these instruments, which it will prepare on the basis of the information collected.

The documents prepared by the Secretariat will be examined by the Executive Board, which will entrust the task to the Committee on Conventions and Recommendations. The debates and work of the Executive Board and the CR Committee arising from their consideration of the reports will take place during public meetings.

The Executive Board will transmit these documents to the General Conference, together with its observations or comments and any that the Director-General may make, following their consideration by the Executive Board.

Stage 5: Decision of the General Conference concerning the reports for monitoring the effective implementation of conventions and recommendations

The General Conference may adopt, as necessary, a decision with regard to the summaries on the implementation of the conventions and recommendations.

The Director-General shall regularly inform the General Conference and the Executive Board with respect to the implementation of the decisions adopted by the General Conference.

Model guidelines (177 EX/35 Part II (and Corr. in English only))

6. After examining the revised version of the model guidelines submitted by the Secretariat in the Annex to document 177 EX/35 Part II, the Committee recommended that the Executive Board adopt the following draft decision and the Annex thereto entitled *Framework Guidelines*.

The Executive Board,

1. Recalling 15 C/Resolution 12.2, 23 C/Resolution 29.1 and 32 C/Resolution 77, 165 EX/Decision 6.2, 170 EX/Decision 6.2, 171 EX/Decision 27, 174 EX/Decision 21, 175 EX/Decision 28 and 176 EX/Decision 33 on the first aspect of the terms of reference of the Committee on Conventions and Recommendations (CR) relating to the implementation of UNESCO's standard-setting instruments,
2. Having examined documents 177 EX/35 Parts I and II, and the report of the CR Committee thereon (177 EX/74),
3. Having noted that of the eight conventions for whose monitoring the CR Committee is now responsible, three are monitored regularly,
4. Decides accordingly to approve the framework guidelines as set out in annex to this decision for the three conventions referred to below:
 - Convention against Discrimination in Education (Paris, 14 December 1960);

- Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (Paris, 14 November 1970);
- Convention on Technical and Vocational Education (Paris, 10 November 1989).

Annex

Framework Guidelines

I. Information on the legislative, judicial, administrative and other measures taken by the State at the national level

(a) Pursuant to Article IV, paragraphs 4 and 6, and Article VIII of the Constitution, each State may provide information on its status in respect of UNESCO's conventions by indicating whether it plans to accede to the instruments to which it is not yet Party or which it has signed but not yet ratified.¹

(b) States should describe the specific legal framework governing the protection on their territory of the rights guaranteed by the UNESCO convention to which they are Parties. They should indicate, *inter alia*, whether the rights set forth in the convention are protected by the Constitution, by a basic legislative text or by any other national provision and whether the UNESCO convention has been incorporated into national legislation and should make reference to the legal, administrative or other authorities competent in relation to the rights guaranteed by the convention and the scope of such competence.

II. Information on the implementation of the convention (with reference to its provisions)

This part of the report provides States with the opportunity to concentrate on more specific questions pertaining to the implementation of the instrument concerned. It should contain the information requested by the Committee on Conventions and Recommendations in its most recent guidelines for the preparation of reports and should set out the specific measures taken to respond to any concerns expressed by the Committee in its observations made at the conclusion of the examination of the State Party's previous report.

(a) *Convention against Discrimination in Education*

States would provide detailed information on:

- (i) the means employed to proscribe discrimination in education for the reasons set out in the Convention and to ensure equality of treatment in education;
- (ii) the measures taken to ensure equal opportunities in education and to attain the objective of Education for All (EFA) including gender parity in education and to implement strategies and programmes aimed at achieving in the country the full exercise for all of the right to education without discrimination or exclusion;

¹ In the case of the conventions on education, States Parties may wish to include information transmitted to the United Nations treaty bodies on their endorsement of other international human rights standards, in particular when such information is directly related to States' implementation of the provisions of UNESCO's conventions. States could indicate if they are Parties to regional human rights instruments.

- (iii) progress made with respect to ensuring universal access to primary and secondary education, including technical and vocational education, and the means employed to protect the right of national minorities to carry out their own educational activities.

(b) *Convention on Technical and Vocational Education*

States should provide detailed information on:

- (i) the measures taken to define strategies and implement programmes and curricula for technical and vocational education designed for young people and adults, within the framework of their respective education systems;
- (ii) the measures taken to review periodically the structure of technical and vocational education, study programmes, plans, training methods and materials, as well as the forms of cooperation between the school system and the world of work, and the measures taken to give persons teaching in the field of technical and vocational education the opportunity to update their knowledge;
- (iii) the measures taken to facilitate international cooperation and to participate actively in international exchanges dealing with study and teacher-training programmes, methods, equipment standards and textbooks in the field of technical and vocational education.

(c) *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property*

States should provide detailed information on the measures taken to:

- (i) prevent the illicit transfer of ownership, such as setting up one or more national services for the protection of the cultural heritage, and establishing and updating a national inventory of protected cultural property whose export would constitute an appreciable impoverishment of the national cultural heritage;
- (ii) prevent illicit excavations, such as supervising archaeological excavations, ensuring the preservation “in situ” of certain cultural property, and protecting certain areas reserved for future archaeological research;
- (iii) control the export of cultural property, such as introducing an appropriate certificate by which the exporting State would specify that the export of the cultural property in question is authorized.

III. Methods established to draw the attention of the various authorities in the country to the instrument and to remove obstacles encountered

(a) The report should contain an assessment of the results of the methods established to draw the attention of the various authorities in the country to the instrument and to remove obstacles encountered. It should highlight the difficulties encountered in implementing the substantive provisions of the convention and the legal and practical obstacles encountered by States in implementing the convention.

(b) States should describe briefly the main issues that need to be resolved in order to promote the implementation of the substantive provisions of the convention in the

country, what measures have been taken to launch an awareness-raising campaign to promote ratification.

(c) States should describe the measures taken to raise awareness of the basic principles of the convention, including their translation into national and, where necessary, local languages, and their national or local dissemination, in particular to non-governmental organizations. States should specify the activities undertaken or supported by the National Commission with a view to promoting the convention and fostering debate on critical issues, in relation to the rights enshrined in the convention.

Item 36 Results of the seventh consultation of Member States on the implementation of the Convention and the Recommendation against Discrimination in Education (1960) (177 EX/36)

7. During the debate, prominence was given to UNESCO's normative action in line with obligations under the Convention. Some Member States expressed their intention to ratify the Convention in view of its high significance. The implementation of the Convention should be seen in the context of national legislation, including initiative for legislation for EFA. Concern was raised about low response rates. The debate covered a number of questions relating to the process of consultation, the need for making the monitoring mechanisms more effective as well as technical assistance to be provided for the preparation of reports and follow-up to be given to the seventh consultation. The questions relating to the periodicity of reporting and synchronizing consultation of Member States as regards the implementation of conventions and recommendations in the field of education were discussed.

8. After having examined this item, the Committee recommended that the Executive Board adopt the following draft decision:

The Executive Board,

1. Recalling 26 C/Resolution 1.18 and 30 C/Resolution 15,
2. Further recalling 170 EX/Decision 6.3 and 171 EX/Decision 28, by which it recognized the Convention and Recommendation against Discrimination in Education as a key pillar of EFA,
3. Having examined document 177 EX/36,
4. Notes with appreciation that 51 Member States submitted their reports within the seventh consultation;
5. Recognizes the significance of applying the principle of equality of educational opportunities and the importance of the application of the Convention and Recommendation against Discrimination in Education by Member States for the EFA process in order to promote the realization of the right to education;
6. Commends steps undertaken at national level in order to meet the continuing challenges to fully implement the provisions of the Convention and Recommendation against Discrimination in Education;
7. Notes that as of 31 July 2007, 94 Member States have ratified the Convention;
8. Invites Member States which have not become a party to the Convention to consider doing so and to make the Convention and Recommendation against Discrimination in Education as well as the Protocol instituting a Conciliation and Good Offices Commission of 1962 better known to the bodies, target groups and other entities interested in matters dealt with therein, in line with Article 16(2) 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 of UNESCO;

9. Requests the Director-General to put special emphasis on and widely publicize the Convention against Discrimination in Education and intensify his efforts to encourage Member States to adopt effective domestic measures intended to secure education for all without discrimination or exclusion as part of the EFA process;
10. Invites the Director-General to take appropriate action as a follow-up to the seventh consultation;
11. Invites all Member States to take an active part in the meeting of the State Parties to the Convention against Discrimination in Education and other Member States, to be organized on 24 October 2007 on the sidelines of the 34th session of the General Conference;
12. Requests the Director-General to transmit document 177 EX/36, along with the present decision and comments, to the General Conference at its 34th session for consideration and follow-up decision;
13. Recommends that the General Conference invite the Director-General to initiate the eighth consultation of Member States in order that its results be examined by the Executive Board and then presented to the General Conference at its 37th session in 2013.

Item 37 Report on the fifth and sixth meetings of the Joint Expert Group UNESCO (CR)/ECOSOC (CESCR) on the Monitoring of the Right to Education (November 2006, May 2007) (177 EX/37)

9. Introducing this agenda item, the Chairperson of CR invited Mr José Duarte Ramalho Ortigão, representative of Portugal, who had chaired the sixth meeting of the Joint Expert Group, to present the document. Mr Ramalho Ortigão then highlighted the main elements discussed and the results of these meetings, and summarized the recommendations contained in paragraph 24 of the document – universalizing access to primary education, free of charge for all, with emphasis on Member States' *core obligations* to eliminate school fees and other direct costs and to render more effective the protection of the right to compulsory primary education free of charge. This was followed by the intervention of Mr Olabiyi Babalola Yai, representative of Benin, and member of the Joint Expert Group, who expressed support for the work of the Joint Expert Group and of the Secretariat and emphasized the importance of measures to be adopted by Member States for EFA.

10. Member States underlined the importance of close collaboration with the United Nations system, especially the collaboration with the United Nations Committee on Economic, Social and Cultural Rights (CESCR) in monitoring the realization of the right to education. The Joint Expert Group was considered as a useful mechanism for such collaboration in transmitting new ideas and technical suggestion. The debate brought into focus the core obligation of States for universalizing access to primary education, free of charge. Reference was made to the concept paper, annexed to document 177 EX/37. It was important to give added impetus to UNESCO's work in order to strengthen country system and domestic legal framework – a theme the Joint Expert Group had addressed in its third meeting.

11. After having examined this item, the Committee recommended that the Executive Board adopt the following draft decision:

The Executive Board,

1. Recalling 162 EX/Decision 5.4, 171 EX/Decision 27, 172 EX/Decision 26 and 175 EX/Decision 29,
2. Having examined document 177 EX/37,
3. Expresses its appreciation of the work of the Joint Expert Group UNESCO (CR)/ECOSOC (CESCR) on the Monitoring of the Right to Education;
4. Recognizes the key importance of the theme it addressed in its fifth and sixth meetings;
5. Invites all Member States, in that regard, to fulfil their respective commitments and international obligations relating to universalizing access to primary education free for all;
6. Encourages Member States without sufficient resources to seek international cooperation and assistance with a view to securing compulsory primary education free of charge for every child and invites States in a position to assist to consider such request for cooperation and assistance to promote the full realization of the right to education;
7. Requests the Director-General to consider in consultation with Member States the recommendations made by the Joint Expert Group in paragraph 22 of document 177 EX/37;
8. Invites the Joint Expert Group to continue its consultations related to monitoring the progressive achievement of the full realization of the right to education; and continue to examine key issues within its mandate;
9. Requests the Joint Expert Group to report to the Executive Board at its 179th session.

Item 38 Examination by the Executive Board of the new report by Member States and other States Parties on measures taken in application of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1970) (177 EX/38)

12. The Assistant Director-General for Culture introduced document 177 EX/38 and reminded the Committee that the reports on the implementation of the 1970 Convention were a means of providing information to and exchanging good practices among States. In reply to questions regarding other arrangements for examining reports outside the framework of the General Conference, as mentioned in paragraph 12(5) of the draft decision, she explained that the Secretariat had been referring to the ongoing work of the Committee on Conventions and Recommendations in relation to monitoring the application of UNESCO's standard-setting instruments. Another possibility could also have been to entrust the examination of reports on the implementation of the Convention to the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation, established in 1978. She nevertheless considered that the question of instituting additional arrangements for examining reports needed to be examined at greater length. She then explained that the questionnaire had been addressed both to countries in which cultural property originated and to countries which imported cultural property and that the methodology used to structure the requests for information from States could be improved, on the basis of a questionnaire the results of which might be available within a year. Finally, she said that the question of virtual access had not been raised in the guidelines provided in order to facilitate their preparation and that the Secretariat was not trying to replace real access to the works by virtual access.

13. During the discussion, three members of the Committee proposed amendments to the draft decision contained in paragraph 9 of document 177 EX/38.

14. After examining this item, the Committee recommended that the Executive Board adopt the following draft decision:

The Executive Board,

1. Recalling 32 C/Resolution 38,
2. Having examined document 177 EX/38 on the examination by the Executive Board of the new report by Member States and other States Parties on measures taken to implement the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (hereinafter “the 1970 Convention”) and the two annexes to that document which contain, respectively, the guidelines issued to facilitate the preparation of national reports on measures taken to protect and monitor cultural property and the summaries of those reports,
3. Noting that the number of reports submitted by States Parties to the 1970 Convention remains very inadequate in view of the obligation of each State Party to report under Article 16 of the Convention,
4. Noting with satisfaction that several Member States not yet Parties to the 1970 Convention have provided information regarding their intention to ratify the Convention,
5. Stressing the importance of transmitting to UNESCO precise information on the measures taken by States to protect cultural property on their territory, particularly in regard to the successes, failures and obstacles encountered in implementing the Convention, and on any requests for assistance that they might make in that respect,
6. Considering that action to combat trafficking in cultural property needs to be strengthened at the national as well as the international level,
7. Invites the States which are not yet Parties to the 1970 Convention and to the 1995 UNIDROIT Convention, which complements it, to consider acceding to them;
8. Reminds States Parties of their obligations under the 1970 Convention in respect of effective implementation, and in particular their obligation to report under its Article 16;
9. Emphasizes that the content of such reports should be as detailed as possible to enable an accurate understanding and evaluation of the implementation of the 1970 Convention;
10. Encourages States Parties to the 1970 Convention to assess the national measures taken to implement the Convention so that areas of weakness may be identified and appropriate adjustments or improvements made as necessary;
11. Invites Member States and the Director-General to pursue activities aimed at strengthening regional and worldwide cooperation, particularly by encouraging an international system to facilitate the restitution of stolen or illicitly exported cultural property;
12. Recommends that the General Conference adopt at its 34th session the following draft resolution:

The General Conference,

Having examined the reports by Member States and other States Parties to the 1970 Convention on measures taken by them to implement the Convention, and the information provided by the States Parties on measures taken to protect cultural property and monitor its illicit import, export and transfer of ownership,

Stressing the importance of transmitting to UNESCO precise information on the measures taken by States to protect cultural property in their territory, particularly in regard to the successes, failures and obstacles encountered in implementing the Convention, and on any requests for assistance that they might make in that respect,

Considering in particular the obstacles and progress mentioned by States in regard to action to combat the growing traffic in cultural property on the Internet,

Aware of the very great usefulness of these national reports to the Director-General and of the additional activities that he has undertaken since the 32nd session in regard to the protection of cultural property,

Noting with satisfaction the growing number of States Parties to the 1970 Convention and noting the intentions of those that plan to become Parties and thus strengthen the effective scope of this international instrument,

1. *Calls on* all States that are not yet Parties to it to consider acceding to the 1970 Convention;
2. *Recommends* that States consider acceding to the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects (1995), which complements the UNESCO Convention;
3. *Encourages* States to take cognizance of and apply without delay the Basic Actions concerning Cultural Objects being offered for Sale over the Internet, drawn up jointly by UNESCO, Interpol and the International Council of Museums (ICOM);
4. *Invites* States and the Director-General to pursue activities aimed at strengthening regional and international cooperation, in particular through the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation;
5. *Also invites* the Director-General to assist States, at their request, in their efforts to implement the 1970 Convention, to prepare reports on such implementation, or on the means of becoming Parties thereto, and to propose other arrangements for the examination of the reports submitted by States that are complementary to existing procedures.