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**Information Meeting with IGBC on the
Progress of the Elaboration of a Declaration
on Universal Norms on Bioethics**

UNESCO Headquarters (Paris), 7 July 2004

Final Report

Division of Ethics of Science and Technology

I. INTRODUCTION

1. In application of the timetable approved by the Executive Board (169 EX/Dec. 3.6.2), an Information Meeting of the Intergovernmental Bioethics Committee (IGBC) on the progress of the elaboration of a declaration on universal norms on bioethics was organized at UNESCO Headquarters on 7 July 2004. The meeting was chaired by Ms Cinzia Caporale, Vice-Chairperson of IGBC.

2. The aim of this meeting was to inform IGBC on the progress of the work in hand and to hear the views of IGBC on the on-going discussions (see Programme, Annex I), thus avoiding any overlapping between the reflection of IGBC and that of IBC. The Chairperson of the International Bioethics Committee (IBC), Ms Michèle S. Jean, the Chairperson of the Drafting Group of IBC, Mr Michael Kirby, and other members of the Drafting Group also took part in the discussions (see List of Participants, Annex II).

II. OPENING OF THE INFORMATION MEETING OF IGBC

3. In her opening address, Ms Françoise Rivière, Assistant Director-General, Office of the Director-General and Representative of the Director-General on this occasion, expressed her satisfaction at the work which had been carried out collectively and which had allowed rapid progress to be made in the elaboration of a declaration on universal norms on bioethics, thanks not only to the work of the Drafting Group of IBC but also to the written consultation carried out with all Member States, the Extraordinary Session of IBC and the United Nations Inter-Agency Committee on Bioethics. Ms Rivière also paid tribute to the transparent working method adopted by IBC which had engaged a democratic process of reflection on bioethics at international level. She referred to this occasion as being an opportunity for IGBC to share all its expertise and capacity of analysis to initiate an exchange of views on a first outline of the text and thus nurture the drafting work of IBC.

4. In her introductory remarks, Ms Caporale began by recalling that the consultations carried out at all levels from the beginning of the elaboration of the text had been requested by IGBC in the Recommendations of its Third Session (Paris, 23-24 June 2004). She also welcomed the spirit of cooperation and dialogue as evidenced during the joint meeting of the Bureaux of IBC and IGBC in Rome in December 2003 during which the timetable for the elaboration had been finalized and this same spirit had led to the information meeting with IGBC. Furthermore, Ms Caporale considered that whilst the very idea of a universal declaration poses the presumption of equality of all human beings and the unicity of humanity, the future declaration should nevertheless respect cultural diversity and should face the challenge of finding unity in diversity. The question is to know to what extent our differences are admissible and to what extent unity is required in the field of ethics of science and technology. This new declaration will need to set forth not abstract but concrete principles that will serve as a guide in the regulation of present practices which, for the most part, have become transnational. States have a crucial role to play in the field of bioethics and in so doing they must keep in mind the fundamental interests of humanity. Ms Caporale concluded by underlining the dialogue that should govern the discussions in order to seek consensus in bringing the different positions together. This meeting was an opportunity to engage such a dialogue on issues that concern the entire international community.

III. PROGRESS REPORT ON THE ELABORATION OF THE FUTURE DECLARATION AND PRESENTATION OF THE FIRST OUTLINE OF A TEXT

5. Mr Henk ten Have, Director of the Division of Ethics of Science and Technology, presented the main stages of the elaboration of the declaration. He recalled that it was on the basis of technical and legal studies carried out by IBC (see IBC Report on the Possibility of Elaborating a Universal Instrument on Bioethics, 2003) that the General Conference, at its 32nd session, had invited the Director-General to elaborate the declaration in question (32 C/Res. 24).

6. The timetable for the elaboration of the declaration, drawn up in consultation with the Bureaux of IBC and IGBC, foresees three main stages: broad consultations from the beginning of the elaboration on the scope and structure of the declaration, carried out in written form with Member States, in the form of hearings with intergovernmental and non governmental organizations and national bioethics committees on the occasion of the Extraordinary Session of IBC (27-29 April 2004), or in the form of meetings with national experts; the actual drafting by IBC together with further consultations; and the finalization of the text on the occasion of meetings with government experts.

7. Mr ten Have then presented the results of the written consultation launched on 20 January 2004 with Member States of UNESCO, Associate Member States and Permanent Observer Missions, by means of a questionnaire drawn up in consultation with the Bureau of IBC. At 24 May 2004, 67 responses from Member States had been returned to the Secretariat. The general trend of these responses seems favourable towards the drafting of a text of broad scope, not limited to the human being. Moreover, the great majority of States were in favour of a structure including a preamble and sections. Among the fundamental principles most often mentioned by States were confidentiality, consent, respect for human dignity and transparency. A number of States also mentioned the importance of principles linked to the right to life, the rights of the child, equity and tolerance. Lastly, the vast majority of the replies suggested that the declaration should make reference to specific subjects. Opinions are still highly divided, however, on some subjects such as abortion, euthanasia, intellectual property rights and behavioural research. It is therefore stressed in the general comments that the declaration ought to be one of general principles that could be the object of a large consensus.

8. Mr ten Have concluded his presentation with a report of the results of the third meeting of the United Nations Inter-Agency Committee on Bioethics (Paris, 24-25 June 2004), during which intergovernmental organizations, members of the Committee, were able to discuss and exchange views on the scope and content of the first outline of the text of the future declaration. Overall, the participants reiterated their full support for the drawing up of a declaration providing a universal ethical framework in the field of science and technology. Some also underlined the importance of the Extraordinary Session of IBC, which had already given them the opportunity to express their opinions at a preliminary stage of the undertaking. They also welcomed the emphasis placed on the reference to the biosphere, while seeking clarification about the scope of the declaration, especially as regards issues relating to the human being. Strong emphasis was placed on the importance of respect for cultural diversity and of responsibility towards future generations. Similarly, the participants suggested that great emphasis should be placed in the future declaration on the principle of consent and responsibility, and on the right to safe food and a healthy environment. At the end of the third meeting and on the proposal of UNESCO, the Inter-Agency Committee decided to include in the agenda of its fourth meeting, which will be held in December 2004 at UNESCO Headquarters in Paris, an item on the outline of the future declaration produced by IBC at its eleventh session (23-24 August 2004).

9. Mr Kirby, Chairperson of the IBC Drafting Group, presented the work of the Drafting Group and the first outline of the text it had drawn up. After having presented the members of the Drafting Group and recalling that all IBC members may contribute to the drafting work of the group, Mr Kirby stressed the importance of this meeting which was in keeping with the transparent approach adopted by IBC from the beginning of the undertaking.

10. Whilst reminding the participants that the first outline of the text had been elaborated throughout the two previous meetings and that it would further develop and evolve, Mr Kirby illustrated the main lines of the text and highlighted pending issues. With regard to the preamble, it could be asked whether it might not be preferable to have a simple, short text citing only the main relevant international instruments. As to the part dealing with the scope, the first outline reflects the desire to concentrate in the first place on the human being while recognizing his place in the biosphere. Respect for cultural diversity was also mentioned here. Four general principles regarding responsibility towards the biosphere, human dignity, human rights and justice, diversity and tolerance as well as solidarity, equity and cooperation were identified. The question is posed as to whether the value of science and its contribution to the well-being and to the evolvement of the human being and of humanity as a whole should not be affirmed here. The difficulty raised by the part devoted to the application of general principles is to determine whether or not to deal with specific subjects and to what extent this would be possible, particularly with regard to controversial subject areas. With regard to the procedural principles and the promotion and application of the declaration, Mr Kirby wondered where transparency and public consultations lie and whether they should perhaps be elevated to the level of a principle. Mr Kirby concluded by expressing the hope that, taking advantage of this day of exchange, IGBC would give its views on these questions to the Drafting Group of IBC.

11. At the invitation of the Chairperson of the meeting, Ms Jean added that during the Extraordinary Session, for the most part speakers were in favour of a text dealing with questions mainly concerning the human being, which differs slightly from the responses received in the framework of the written consultation with Member States. She also pointed out that as other intergovernmental organizations, by their respective areas of competence, were working on specific subjects, the idea of foreseeing a periodic system of revision of the declaration would allow UNESCO to deal with more concrete issues in the future, should the need arise.

12. The participants congratulated IBC on the work it had accomplished and welcomed the transparency with which IBC had carried out its reflection. They also recognized that the text was to be considered as a preliminary text and that it could develop and evolve during the coming months, not only in the framework of the work of IBC but also during the meetings of governmental experts that will be convened in 2005.

13. With regard to the preamble, the approach of a long preamble, allowing the instrument to be positioned in its historical and legal context, was faced with an approach which favours a preamble that is concise, pragmatic and understandable by all. Some suggested that, in order to alleviate the text, the reference to all the relevant international instruments concerned could perhaps figure in an explanatory memorandum or even in the resolution by which the General Conference would adopt the declaration. Nevertheless, it was recalled that within the framework of the elaboration of the declaration, the preamble is a well-established tradition in international legal practice. The purpose of the preamble is to comment on the objectives and reasons for the instrument and constitutes a source of interpretation of the instrument according to Article 31, paragraph 2 of the Vienna Convention on the Law of Treaties (1969).

14. As to the scope of the future declaration, given the deadlines set for drafting the text and the need to take into account the field of competence of other intergovernmental organizations, some participants considered that the scope of the future declaration should be limited to human beings. Others considered that issues relating to animals, plants and, more broadly, the biosphere should also be covered by the declaration. In this regard, several participants expressed the wish for the provisions concerning human dignity and human rights to appear in the text before those dealing with the biosphere. In any event, all agreed that it was necessary to draw up a text that was general in scope, recalling the basic principles of the international protection of human rights and fundamental freedoms. The declaration could also be supplemented by new instruments on more specific issues.

15. Moreover, certain speakers pointed out the problem of distinction between principles that apply to humanity as a whole and principles that apply to the human being as an individual. A same principle such as human dignity could cover a different concept according to one case or the other.

16. As to cultural diversity, a balance would need to be found to resolve the latent tension between respect for cultural diversity and the universal aspiration of the declaration. In this regard, some expressed a wish that the reference to cultural diversity be limited to the preamble, whilst others felt that the place and the drafting of the article on “diversity and tolerance” in the part devoted to general principles responded adequately to this concern.

17. Concerning the part devoted to the applications of the general principles – to be developed at a later stage by the Drafting Group, it was suggested that the list of principles given in the questionnaire sent to States within the framework of the written consultation be reviewed and completed. Certain participants also insisted on education in bioethics that the declaration should promote, particularly for developing countries.

18. With regard to more specific subjects, several participants called for provisions on scientific research and others evoked more particularly the freedom of research but also the respect of the integrity of the human genome as well as organ trafficking, the system of social security, access to genetic resources – in particular the fight against biopiracy – and to treatment, the dangers of hybridisation of species and the implications of converging technologies such as nanotechnology. Generally, the participants preferred that the future declaration not go into detail on subjects that presently lead to intense debate where a common position does not seem possible to attain. Others envisaged the possibility of a thematic evolution of the declaration according to the advances yet to come in science and technology as well as a standard-setting evolution through the elaboration of instruments of a more binding character.

19. Participants entered into a discussion on the use of the term “norms”. For some, maintaining the mandate of the General Conference which speaks of a “declaration on universal norms on bioethics” would signal a strong political wish on the part of all States to place this declaration at a high level in the international legal corpus of human rights. For others, wishing to avoid creating any confusion concerning the non-binding character of the declaration, it seemed more appropriate not to use the term “norms” in the title. In this regard, it was recalled that in international law three types of norms are recognized: norms that are binding, derived from treaties and conventions, norms that are included in texts other than treaties or conventions but which lay down criteria – for example the Universal Declaration on the Human Genome and Human Rights –, and programme norms that are not lines of conduct but programmes of action. A declaration, although of a non-binding character, constitutes a standard-setting instrument in itself and therefore sets forth norms that States commit themselves to implement even if the term does not specifically figure in the text.

20. The declaration should be drafted as an instrument that is open to the future. The mechanisms envisaged in the first outline for the promotion and implementation of the declaration, particularly the mechanism of periodic reporting, evaluation and review, were favourably received, at the same time participants expressed the need to avoid a multiplication of UNESCO subsidiary bodies.

IV. CONCLUSIONS

21. Ms Jean et Mr Kirby thanked the IGBC for their valuable and constructive comments and assured the participants that the observations formulated would be taken into consideration during the third meeting of the Drafting Group (Paris, 8-9 July 2004).

22. Mrs Caporale then thanked all the participants and expressed her satisfaction that the IGBC had played an active part in the debate in a spirit of openness and dialogue, thus responding to the wishes of the Director-General. She encouraged States to continue their commitment to this undertaking and whilst bearing in mind the independence of IBC to send contributions that could be of assistance to the Committee in its drafting work.

**Information Meeting of IGBC
on the Progress of the Elaboration of a
Declaration on Universal Norms on Bioethics**

UNESCO House, 7 July 2004
(Room IV, Fontenoy building)

Programme

10:00 a.m.	10:15 a.m.	Opening by the Representative of the Director-General
10:15 a.m.	10:45 a.m.	Introductory remarks by Prof. (Mrs) Cinzia Caporale (Italy), Vice-chairperson of the Intergovernmental Bioethics Committee (IGBC)
10:45 a.m.	11:15 a.m.	<i>“Towards a Declaration on Universal Norms on Bioethics: Progress Report”</i> - Presentation by Mr Henk ten Have, Director of the Division of Ethics of Science and Technology of UNESCO
<i>11:15 a.m.</i>	<i>11:45 a.m.</i>	<i>Break</i>
11:45 a.m.	12:15 p.m.	<i>“Elaboration of the Declaration on Universal Norms on Bioethics: Work of the Drafting Group of the International Bioethics Committee of UNESCO (IBC) and First Outline of a Text”</i> - Presentation by Justice (Mr) Michael Kirby, Chairperson of the IBC Drafting Group
12:15 p.m.	1:00 p.m.	Discussion

3:00 p.m.	4:00 p.m.	Discussion – continuation
<i>4:00 p.m.</i>	<i>4:30 p.m.</i>	<i>Break</i>
4:30 p.m.	5:30 p.m.	Discussion – continuation
5:30 p.m.	6:00 p.m.	Adoption of the conclusions and closure of the meeting

6:15 p.m. <i>Cocktail offered by the Director-General</i>

**Réunion d'information du CIGB sur les avancements de
l'élaboration d'une déclaration relative à des normes
universelles en matière de bioéthique**
UNESCO, Paris, 7 juillet 2004

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**Information Meeting of IGBC on the
Progress of the Elaboration of a Declaration
on Universal Norms on Bioethics**
UNESCO, Paris, 7 July 2004

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