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pour l'éducation,  
la science et la culture

Organización  
de las Naciones Unidas  
para la Educación,  
la Ciencia y la Cultura

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联合国教育、  
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### PRELIMINARY STUDY ON THE TECHNICAL, LEGAL AND MUSEOLOGICAL ASPECTS RELATING TO THE DESIRABILITY OF A STANDARD-SETTING INSTRUMENT ON THE PROTECTION AND PROMOTION OF MUSEUMS AND COLLECTIONS

#### OUTLINE

**Source:** 191 EX/Decision 8 and 190 EX/Decision 11.

**Background:** 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, and following the series of debates concerning the adequacy of the existing legal instruments for the protection and promotion of museums and collections and the desirability of a new standard-setting instrument on this subject, held at the Executive Board at its 190th and 191st sessions, the Executive Board, at its 191st session, decided to inscribe this item on the provisional agenda of the 37th session of the General Conference.

**Purpose:** This document presents the observations and decisions of the Executive Board on the above-mentioned feasibility study and proposes a working method and timetable, should the General Conference decide to proceed with the elaboration of a new standard-setting instrument in the form of a Recommendation.

**Decision required:** paragraph 10.

## I. BACKGROUND

1. Taking note of the results of the Expert Meeting on the Protection and Promotion of Museums and Collections, held in Rio de Janeiro, Brazil, from 11 to 14 July 2012, the Executive Board, at its 190th session, requested “the Director-General to conduct consultations, in close cooperation with Member States and the International Council of Museums (ICOM), and to undertake an independent preliminary study, with extrabudgetary resources, on the desirability, the technical and legal aspects, the scope, rationale, added value, and administrative and financial implications of a new standard-setting instrument on the protection and promotion of museums and collections, for examination by the Executive Board at its 191st session, with a view to inscribing this item on the agenda of the 37th session of the General Conference” (190 EX/Decision 11).

2. According to 190 EX/Decision 11, two independent preliminary studies on the technical, legal and museological aspects of the desirability of a new standard-setting instrument on the protection and promotion of museums and collections, were conducted in collaboration with ICOM. The Director-General also undertook close consultations with Member States, by circulating the two studies to all Member States by e-mail on 16 January 2013. The observations of the 10 Member States who replied, as well as the preliminary studies may be found at the dedicated web link [“Protection and Promotion of Museums and Collections”](#).

## II. 191st SESSION OF THE EXECUTIVE BOARD: DEBATES AND DECISION

3. In conformity with the relevant 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, the Executive Board was invited to examine document 191 EX/8, provide its observations on the two preliminary studies and to consider placing an item on the agenda of the General Conference concerning the proposal to regulate internationally the question of the protection and promotion of museums and collections by means of a Recommendation.

4. During the debates, the Executive Board recognized the important role of museums in today’s society, especially in the social, economic and educational spheres. Many speakers emphasized in particular the role of museums in promoting intercultural dialogue and social inclusion, in addition to the conservation of heritage and its fundamental role in the fight against illicit traffic of cultural property.

5. Several Member States expressed reservations concerning the need to develop such a new instrument. Concerns were raised that it might create duplication with the 1960 *Recommendation concerning the Most Effective Means of Rendering Museums Accessible to Everyone* and the 1970 *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property*. It was recommended instead to strengthen the implementation of the existing legal instruments, in particular the 1970 Convention, and to develop further synergies with museums and programmes to support them. Some Member States expressed their concern over the lack of adequate financial resources in the current financial context of the Organization, recalling that, while the elaboration of this instrument may be covered by extrabudgetary resources, it was not possible at present to predict its scope and content and therefore difficult to evaluate the cost of its implementation in the long-term, including with regard to the need for human resources.

6. A number of delegates were in favour of the elaboration of a new normative instrument, recalling the standard-setting function of UNESCO and its unique mandate in the field of culture. It was noted by many that the only legal instrument directly related to museums dates back to 1960, and that it merely addresses access to museums and does not reflect the reality of the contemporary museum world. It was further acknowledged that the 1970 Convention focuses on the fight against the illicit trafficking of cultural property, and would therefore not be able to achieve the same objectives as those that would be pursued in the proposed new standard-setting instrument. It was recalled that a recommendation would not be legally binding but would offer

guidelines, benchmarks and best practice examples for museums in countries where adequate legislation and resources are lacking. Many Member States emphasized the necessity to strengthen the role of museums in the fight against illicit traffic of cultural property.

7. By 191 EX/Decision 8, the Executive Board invited the Director-General to submit “to the General Conference at its 37th session the preliminary study contained in document 191 EX/8, together with the relevant observations and decisions of the Executive Board thereon”.

### III. PROPOSED WORKING METHOD AND TIMETABLE

8. Pursuant to Article 6 of the above-mentioned Rules of Procedure, the General Conference is invited, after examining this study and the Executive Board’s observations thereon, to decide whether the question should be regulated internationally and, if so, in what form.

9. With regard to the financial implications, the Secretariat has carried out an evaluation of the implications and costs that would be incurred for the preparation of a new standard-setting instrument. Anticipating two two-day meetings in 2014/15 – one for experts invited in their personal capacity (category VI) and the other for Member States (intergovernmental experts meeting, category II) – the cost would be approximately US \$135,000, covered entirely by extrabudgetary sources that have already been received from Brazil. The exact number and types of meetings will depend on the decision of the General Conference. In terms of human resources, this will require one existing regular programme-funded staff member working part-time on this process and an additional full-time staff paid under the above-mentioned extrabudgetary funds.

### IV. PROPOSED RESOLUTION

10. Bearing in mind the above considerations, the General Conference may wish to adopt the following resolution:

The General Conference,

1. Having examined document 191 EX/8, containing a preliminary study of the technical, legal and museological aspects of the desirability of a new standard-setting instrument on the protection and promotion of museums and collections,
2. Taking note of the conclusions of the Expert Meeting on the Protection and Promotion of Museums and Collections (Rio de Janeiro, Brazil, 11-14 July 2012) that existing legal instruments are insufficient to cope with the new challenges relating to this matter,
3. Taking into consideration the new challenges that have emerged and the new approaches concerning the protection and promotion of museums and collections, and the economic, social and educational roles of museums, and their role in the fight against traffic in cultural property,
4. Recalling that, in a rapidly changing world, UNESCO, in cooperation with the International Council of Museums (ICOM), should play a leading role in articulating principles and guidelines to support Member States in developing and strengthening their museum policies, in all forms, taking into consideration the needs and aspirations of local communities,
5. Invites the Director-General to prepare, under extrabudgetary funding, in cooperation with ICOM, if possible, and in consultation with the Member States, a preliminary text of a new standard-setting instrument on the protection and promotion of museums and collections, in the form of a Recommendation, and to submit the text to it at its 38th session.

## ANNEX

### I. RESUME OF THE PRELIMINARY STUDY AS CONTAINED IN DOCUMENT 191 EX/8<sup>1</sup>

#### **New challenges – the evolution of the roles of museum.**

- The studies recall that over the last four decades museums have undergone a number of important changes, which have opened up new challenges. The number of museums has increased from 22,000 in 1975 to 55,000 at present, attracting a more numerous and diverse public. In many instances, museums adapt their exhibitions, the choice of objects and their presentation to respond to the demands and needs of the public. Many museums today have marketing departments whose importance is growing. This often dramatically boosts the attractiveness of the museums for the public and results in increased visitor flows, which frequently generate management difficulties. In order to welcome the new flow of visitors, many museums are changing from within to adapt to their success and their new roles. The flow of objects and collections should be viewed in the context of globalization and extensive growth of the prices on the international art market in recent years and an increasing number of international exhibitions, both enhancing the licit and illicit traffic of objects. Museum professionals have also become increasingly mobile, contributing to the spread of best practices and information. The circulation of information has radically evolved with the development of the Internet and social networks encouraging museums to invest in communication tools and interactive programmes to respond to the new audiences on the Web.
- The social and economic role of museums has also undergone significant changes. The link between the museums and the creative economy at local levels has grown exponentially and the opening of large contemporary institutions has contributed to regional regeneration in many countries. Over the past three decades, there has been a considerable rise in tourism: from 277 million in 1980 to 990 million in 2011.<sup>2</sup> In this context museums play a leading role in bolstering the creative economy and attracting tourists and revenues. There is a need for policy guidelines to address the tensions between economic development and the protection of cultural heritage. Such guidelines, could, *inter alia*, emphasize the importance of taking into account the needs of directly affected populations and communities to promote sustainable tourism and highlight the fundamental responsibility to preserve cultural heritage.
- Museums are also increasingly present in the social sphere, acting as platforms for debate and discussion, tackling complex societal issues and encouraging public participation. This implies the development of education and research departments and additional resources for the preparation of temporary exhibits and participative forums. As acknowledged in the Santiago de Chile Declaration in 1972, the growing importance of museums within the social sphere should be further emphasized. It is also necessary to underscore the need to develop a harmonious relation between the social and economic roles of museums.

#### **Conclusion of the independent expert studies.**

- The non-exhaustive list of standard-setting instruments, national legislations and other relevant texts adopted under the auspices of UNESCO and other intergovernmental organizations and nongovernmental meetings, and examined by the authors of the study can be found at the following weblink: Protection and Promotion of Museums and Collections.

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<sup>1</sup> The complete study can be consulted on the following link: [Protection and Promotion of Museums](#)

<sup>2</sup> Latest figures available from World Tourism Organization.

- The only existing standard-setting instrument directly concerning museums adopted by UNESCO is the 1960 Recommendation concerning the Most Effective Means of Rendering Museums Accessible to Everyone, which focuses on the issue of access to museums. This instrument does not address the economic and social role of museums, and the related issues of funding, staffing, information management and educational outreach.
- The experts stressed that the legal instruments elaborated and implemented by UNESCO and its partners mainly reflect the concern for the preservation and protection of cultural property. They suggested that existing instruments, legislations and texts are therefore insufficient to cope with the new challenges faced by museums and that a new standard-setting instrument for the protection and promotion of museums and collections is necessary, and that it should take the form of a Recommendation.
- In accordance with the Article I.1(b) of the Rules of Procedure referred to in paragraph 4, recommendations are instruments “in which the General Conference formulates principles and norms for the international regulation of any particular question and invites Member States to take whatever legislative or other steps may be required – in conformity with the constitutional practice of each State and the nature of the question under consideration – to apply the principles and norms aforesaid within their respective territories”. A Recommendation would in particular enhance international cooperation and assist many countries in reinforcing their national legislations and policies for museums.
- The experts suggest that a new Recommendation should *inter alia* encourage governments to ensure that museums benefit from appropriate legal structures and legislation. The issue of accessibility should be addressed anew, especially in the context of democratization and the question of free access, in order to reinforce the general principles underlying the 1960 Recommendation, which advises that museums be “accessible to all without regard to economic or social class”. In particular, it shall encourage the promotion and development of museums and collections so that they can properly play their role in society, especially taking into account educational content.

## II. DECISIONS OF THE EXECUTIVE BOARD

### **Decision 190 EX/11 Protection and promotion of museums and collections**

The Executive Board,

1. Recalling 36 C/Resolution 46,
2. Having examined documents 190 EX/11 and Add.,
3. Taking into consideration the results of the Expert Meeting on the Protection and Promotion of Museums and Collections, held in Rio de Janeiro, Brazil, from 11 to 14 July 2012, and thanking the Government of Brazil for hosting and financing that meeting,
4. Recalling that, in a rapidly changing world, UNESCO, in cooperation with the International Council of Museums (ICOM), should play a leadership role in articulating principles and guidelines to support Member States in developing and strengthening their museum policies, in all forms, taking into consideration the needs and aspirations of local communities,

5. Also recalling the need for ratification of existing international legal instruments and ensuring the full implementation of the specific provisions concerning museums and collections, and the development of national legislations and policies to implement such provisions,
6. Acknowledging the evolving role of museums as tools for social inclusion, cohesion and transformation and cross-cultural dialogue,
7. Takes note of the conclusions and recommendations of the Expert Meeting on the Protection and Promotion of Museums and Collections held in Rio de Janeiro, Brazil, from 11 to 14 July 2012;
8. Requests the Director-General to conduct consultations, in close cooperation with Member States and the International Council of Museums, and to undertake an independent preliminary study, with extrabudgetary resources, of the desirability, the technical and legal aspects, and the scope, rationale, added value, and administrative and financial implications of a standard-setting instrument on the protection and promotion of museums and collections, for examination by the Executive Board at its 191st session, with a view to inscribing this item on the agenda of the 37th session of the General Conference;
9. Also requests the Director-General to include in the above-mentioned independent preliminary study an assessment of the relevant international instruments and programmes and an indication of how they relate to the protection and promotion of museums and collections;
10. Invites the Director-General to strengthen UNESCO's action for the protection of cultural objects and the sharing of best practices among museums to strengthen capacity-building for museum professionals in conservation, inventorying, documentation, presentation and security of cultural objects, with a view to enhancing the recognition of the role of museums in favour of social inclusion and cohesion, peace, sustainable development and the fight against the trafficking of cultural property and the illegal trade in endangered species;
11. Encourages the Director General to seek extrabudgetary funds to support the implementation of this initiative, and urges Member States, as well as governmental and non-governmental organizations, to provide extrabudgetary resources for this purpose.

#### **Decision 191 EX/8**

##### **Preliminary study on the technical, legal and museological aspects relating to the desirability of a standard-setting instrument on the protection and promotion of museums and collections**

The Executive Board,

1. Recalling 190 EX/Decision 11,
2. Having examined document 191 EX/8, containing a preliminary study of the technical, legal and museological aspects of the desirability of a new standard-setting instrument on the protection and promotion of museums and collections,
3. Taking into consideration the new challenges that have emerged and the new approaches concerning the protection and promotion of museums and collections,

4. Also taking into consideration the economic, social and educational roles of museums, and their role in the fight against traffic in cultural property,
5. Recalling that, in a rapidly changing world, UNESCO, in cooperation with the International Council of Museums (ICOM), should play a leading role in articulating principles and guidelines to support Member States in developing and strengthening their museum policies, in all forms, taking into consideration the needs and aspirations of local communities,
6. Also recalling the need to ratify existing international legal instruments and to ensure full implementation of the specific provisions concerning museums and collections, and to develop national legislation and policies to implement such provisions,
7. Taking note of the conclusions of the Expert Meeting on the Protection and Promotion of Museums and Collections (Rio de Janeiro, Brazil, 11-14 July 2012) that existing legal instruments are insufficient to cope with the new challenges relating to this matter,
8. Decides to inscribe this item on the provisional agenda of the 37th session of the General Conference;
9. Invites the Director-General to submit to the General Conference at its 37th session the preliminary study contained in document 191 EX/8, together with the relevant observations and decisions of the Executive Board thereon;
10. Recommends that the General Conference at its 37th session invite the Director-General to prepare a preliminary text of a new standard-setting instrument on the protection and promotion of museums and collections, in the form of a draft recommendation, taking into consideration the fact that the evaluation of the financial implications only takes into account the costs that would be incurred for the preparation of a new standard-setting instrument.