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

*Paris, UNESCO Headquarters, 2-14 June 2003*

**SECRETARIAT REPORT**

**A. Introduction**

1. At its 164th session, the Executive Board (Decision EX/3.5.2) invited the Director-General to convene one or more Category II intergovernmental meetings of experts "to define the scope of, and take forward, the work on the preliminary draft of an international convention for the safeguarding of the intangible cultural heritage". Acting on this Decision, the Director-General convened such a meeting, and two successive plenary sessions have been held, in September 2002 and February 2003. At the second session in February 2003 the experts set up an Intersessional Working Group, which met in April 2003 to prepare the work of the Experts' third session, held in June 2003.

2. **The first session** was held at UNESCO Headquarters from 23 to 27 September 2002. The experts worked on the basis of a document prepared by the Secretariat containing the first preliminary draft prepared earlier (largely by experts assisting in a personal capacity during March and June 2002), and contributions from 59 Member States which responded to the Director-General's Circular Letter CL36/29 of 29 July 2002. At the end of their first session, the experts emphasized the strict interdependence of the tangible and the intangible heritage, and recognized the living, evolving nature of this heritage, as well as its extreme fragility.

3. At the **second session** of the Group of experts, which took place from 24 February to 1 March 2003, a consensus emerged on three essential points: (i) the **purposes**; (ii) the **definitions** of the terms "intangible cultural heritage" and "safeguarding"; (iii) the establishing of national **inventories** in order to ensure that this heritage can be identified. The principle of a "list" or "register" of "intangible cultural heritage in danger" was also accepted. A Drafting Committee was set up by the plenary meeting, and contributed to progress on these points. Also at this second session, the plenary meeting adopted, on the motion of its Chairperson and in accordance with Article 4 of its Rules of Procedure, the principle of an intersessional mechanism in the form of an informal working group of 18 government experts, three experts (from three different Member States) from each electoral group.

4. The Intersessional Working Group met at UNESCO Headquarters from 22 to 30 April 2003 and considered the articles concerning (i) the **nature, composition and functions** of the **Committee**; (ii) the **List of Intangible Cultural Heritage in Need of Urgent Safeguarding** and the list of treasures of the world intangible cultural heritage; (iii) **finance** and the creation of a **fund for the safeguarding of the intangible cultural heritage**; (iv) the **form and content of international assistance**; and lastly (v) the Convention's **general provisions**. The Preamble, the Annex and the Final Provisions could not be examined, due to lack of time; but more than 26 Articles were considered, and the results of this work were presented in a consolidated text, the Preliminary Draft, which was adopted by consensus and served as a basis for discussion at the third session in June 2003.

5. **The third session** was held at UNESCO Headquarters from 2 to 14 June 2003. 249 participants representing 103 Member States took part in the meeting, as well as ten experts from UNESCO's three permanent observation missions and representatives of two intergovernmental organizations and five non-governmental organizations (for a list of participants, see Annex III). This being a continuation of the work of the first and second sessions of the Group of Experts (September 2002 and February 2003), the Chairperson (Mr Bedjaoui - Algeria), the four Vice-chairs (Mr Scovazzi - Italy, Mr Berke - Hungary, Mr Kim - Republic of Korea and Mr Yai - Benin) and the Rapporteur (Mr Barrios - Bolivia) were confirmed in their functions; Mr Berke was replaced by Mr Soès for this 3<sup>rd</sup> session). The same Rules of Procedure and Agenda were applied as adopted at the first session in September 2002.

#### **B. Opening of the meeting**

6. On behalf of the Director-General, Mr Mounir Bouchenaki, Assistant Director-General for Culture, congratulated the participants for their impressive work at each stage since September 2002: in the two sessions of the Intergovernmental Meeting and the meeting of the Intersessional Working Group, and on the constructive atmosphere at those meetings. He also expressed his confidence in the prospects of finalizing a text of the Preliminary Draft Convention within the two weeks allocated for the meeting's works, and recalled the progress made over the last thirty years at UNESCO on the role and importance of the intangible cultural heritage. Mr Bouchenaki then announced that, in response to the concerns expressed by some experts at the meeting of the Intersessional Working Group in April, the UNESCO and WIPO secretariats would be drafting a document concerning the two organisations' respective mandates in the field of safeguarding the intangible cultural heritage. He also wished to point out that the safeguarding and promotion of the intangible cultural heritage had acquired greater international recognition; and he was particularly concerned to thank the governments of Japan and Spain for their contributions which had, once more, made it possible to hold a third session.

7. Mr. Bouchenaki turned next to the meeting's Agenda, announcing that the discussion would be on points 7 and 8 (determination of the domains to be covered by the Convention, and the results of the government experts' work on the preparation of the Preliminary Draft). He then presented the working documents prepared by the Secretariat, and reminded the Plenary that it would have an opportunity, at the conclusion of its work, to address a recommendation to the Director-General with a view to the submission of the Preliminary Draft Convention to the 32<sup>nd</sup> session of the General Conference.

#### **C. Chairperson's Introduction**

8. The Chairperson cleared up a few points concerning methods of work, and recalled that the meeting's officers would be the same as at the first session. He also wished to emphasize the remarkable work carried out by the Intersessional Working Group: this was now available in the form of a

consolidated version of the Preliminary Draft Convention, which would serve as a basis for the discussions of this third plenary session.

#### **D. Presentation by the Rapporteur**

9. The Rapporteur was then given the floor, and presented an account of the process of negotiation which had led to the holding of the third session; he also recalled a number of texts that had recently recognized the safeguarding of the intangible cultural heritage as a fundamental aspect of cultural diversity (the Universal Declaration on Cultural Diversity, 2001; the Declaration of Istanbul, adopted by Ministers of Culture in September 2002; and the “Consensus of Cusco”, adopted at the 17th summit of the Rio Group in May 2003).

#### **E. Organization and progress of the meeting’s work**

10. The discussions took place in 26 sessions, four of which were evening sessions. At the Chairperson’s suggestion, the Plenary started with a first reading, article by article and paragraph by paragraph, to all the articles which had not yet been examined in plenary session. The first week sufficed for an initial consideration of the essential provisions of the preliminary draft: (I) the **general provisions**, (II) the **organs** of the convention, (III) **safeguarding intangible heritage at national level** and (IV) **safeguarding intangible heritage at international level** (including the question of **lists**), (V) the **international cooperation and assistance**, (VI) issues of **finance**, (VII) **reports** by States Parties and by the Committee and (VIII) the **transitional clauses**. The articles were read through a second time in the course of the second week’s work, after the Plenary had, at the Chairperson’s suggestion, decided to set up four *ad hoc* working groups to examine the following chapters and draft a version to put to the Plenary:

- **Group 1:** The final clauses;
- **Group 2:** The Preamble, Glossary and Annex;
- **Group 3:** Recommendations, transitional clauses and general provisions;
- **Group 4:** The structure of the Preliminary Draft, the arrangement of the Articles and the revision of the titles.

11. This method of working, which was followed to consider of all the articles of the Consolidated Preliminary Draft, gave the experts an opportunity to express their views on each of the issues raised by the text, and to adopt by consensus a complete text of the Preliminary Draft Convention and a Recommendation addressed to the Director-General upon conclusion of the meeting’s work (the texts of the Recommendation and the Preliminary Draft Convention are attached: see Annexes I and II). The purpose of the present report is to give an account of the content of the discussions and the outcome at the end of this third session.<sup>1</sup>

#### **F. The debate**

##### **I. General provisions**

Article 1: Purposes of the Convention Article 2: Definitions Article 3: Relationship to other international instruments
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12. A consensus had been reached at the second session in February 2002 on Articles 1 and 2 (the **purposes** of the convention and the **definitions** of the terms “intangible cultural heritage” and “safeguarding”. The experts subsequently added the definition of “States Parties”, and the clarification that the Convention would apply *mutatis mutandis* to territories with internal autonomy (cf. Articles 1, 2 and 33).

13. The experts expressed their desire to clarify **the relationship of the future convention to other international instruments** already in force. The Plenary gave *ad hoc* Group 3 the task of drafting an article devoted to this point: this states clearly that none of the Convention’s provisions may be interpreted as: (i) altering the status or diminishing the level of protection under the 1972 Convention with which an item of the intangible cultural heritage is directly associated; or (ii) affecting the rights and obligations of States Parties deriving from any international instrument to which they are parties relating to intellectual property rights or to the use of biological and ecological resources (cf. Article 3).

## II. Organs of the Convention

Article 4: General Assembly of States Parties  
Article 5: Intergovernmental Committee for Safeguarding the Intangible Cultural Heritage  
Article 6: Election and terms of office of States Members of the Committee  
Article 8: Working methods of the Committee  
Article 9: Accreditation of the consultative organizations

14. The experts decided to accept the proposal of the Intersessional Working Group that one article should be devoted to **the General Assembly of States Parties** as the sovereign body of the Convention, to meet every two years. The Assembly would adopt its own Rules of Procedure (cf. Article 4).

15. So far as concerns the **creation of an Intergovernmental Committee** for the safeguarding of the intangible cultural heritage, the experts opted for the adjective “intergovernmental” rather than “international,” for a better reflection of its nature. Concerning the number of States Members which should make up the Committee, experts expressed different opinions on this question (some proposing 12, others 24 or 30 members); the Plenary opted initially for the creation of a small committee of 18 members, to be subsequently enlarged under one of the transitional provisions to 24 members once the number of ratifications had reached 50. These arrangements were mainly to accommodate the need to ensure that the Committee stays a lean organization with low running costs. Another requirement was approved: the need for a fair geographical distribution and rotation of members (Articles 5 and 6).

16. Concerning **the election and terms of office of the States Members of the Committee**, the experts confirmed the proposal of the Intersessional Working Group to set the period of office at **four years**, so that half of the members first elected is limited to two years; half the seats would thereafter be subject to re-election every two years. In order to ensure fair rotation, States Members of the Committee would not be eligible for consecutive re-election. Persons sitting on the Committee should be “qualified” in the appropriate domains relating to the intangible cultural heritage (cf. Article 6).

17. So far as **the functions of the Committee** are concerned, the promotion of the Convention’s objectives and the monitoring of its implementation were regarded as particularly important. Due to the urging of a number of States, a further function was added: giving guidance in the form of advice on

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<sup>1</sup> For the sake of brevity, this report will follow the structure of the text of the Preliminary Draft as adopted at the end of the meeting. References to Articles will also use the new numbering approved after the second reading of the entire text.

“best practices” and formulating recommendations in the matter of safeguarding the intangible cultural heritage. The experts also emphasized the Committee’s task of preparing, and submitting for the approval of the General Assembly of States Parties, a draft plan for the use of resources of the Fund (in accordance with the provisions of Article 25 on this point), and its duty to strive to find additional resources so as to ensure that the objectives set out in the Convention could be achieved. The Committee was also charged with preparing operational directives, and considering reports submitted by States Parties (cf. Article 7).

18. The **Committee’s decision-making role** concerning the inscription, at the request of the States Parties concerned, of items of the intangible cultural heritage on the lists established by Articles 16 and 17 (the “Representative List and the List of Intangible Cultural Heritage in Need of Urgent Safeguarding”), were agreed after thorough discussion, as was its function of examining and deciding on projects, programmes, and requests for international assistance presented by the State Party directly concerned (cf. Article 7 g).

19. Concerning the **working methods of the Committee**, the principle that the Committee should be answerable to the General Assembly of States Parties was maintained in Paragraph 1. The experts strongly stressed the need to give the Committee a certain minimum degree of autonomy in its functioning, exemplified for instance in its faculty of adopting (by a two-thirds majority) its own Rules of Procedure, and that of setting up, in the exercise of its functions, such temporary, *ad hoc* bodies as it thought necessary. The Committee should also be allowed to invite to its meetings any public or private organization or individual with recognized capabilities in the various fields of the intangible cultural heritage, in order to have the benefit of their opinions on specific technical matters (cf. Article 8).

20. Paragraph 3 of the former Article 8 was made into a new Article 9 on a system of **accreditation for advisory organizations** with recognized capabilities in domains of the intangible cultural heritage. The reference to NGOs’ “scientific and technical” capabilities was not retained because these two terms might not cover the whole range of expertise that might be required on the various aspects of the intangible cultural heritage. This mechanism was not to be confused with the creation of temporary bodies (Article 8, para.3), or with invitations issued on particular occasions for the purposes of consultation (Article 8, para. 4): the new Article 9, which reproduces requirements as to operational and scientific capability which are familiar from the framework of the 1972 Convention (Article 8, para.3) is a replacement for the idea, left between square brackets by the Intersessional Working Group, of an Article 10bis providing for the creation of a **scientific committee**.

21. Concerning the **Secretariat**, the experts considered the original text was not precise enough: it should be spelled out that the Committee would be assisted by the UNESCO Secretariat. While recalling that it was essential to keep a light structure, the experts specified that the Secretariat should take on the task of preparing the Agendas and documents for the meetings of the General Assembly of States Parties and of the Committee. Above all, the Secretariat should ensure that the decisions of these governing bodies were put into effect (cf. Article 10).

### III. Safeguarding the intangible cultural heritage: the national level

Article 11: Role of the State Party Article 12: Inventories Article 13: Other measures for safeguarding Article 14: Education, awareness-raising and capacity-building Article 15: Participation of communities, groups and individuals
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22. The Plenary decided to draft two separate chapters in order to distinguish between safeguarding activities at national level on the one hand and international safeguarding and cooperation on the other. The chapter concerning **national safeguarding** of the intangible cultural heritage is divided into 5 articles: (i) the **definition of the role of the State Party** in the national safeguarding activities, (ii) **national inventories**, (iii) **other measures for safeguarding**, (iv) **national measures in the field of education and capacity-building** and (v) **participation of communities, groups and individuals** in the implementation of these measures and in the management of the intangible cultural heritage at national level.

23. The principle of **responsibility of the State Party** for the safeguarding of the intangible cultural heritage in its territory was strongly stressed in Article 11. The phrase “present in its territory”, which appears twice in this Article, conveys the experts’ keenness to reaffirm the sovereignty of the State in all actions for the safeguarding of the intangible cultural heritage that are necessary for identifying those heritages which should be safeguarded. The State Party also has the duty, within the framework of measures for safeguarding the intangible cultural heritage, of taking steps to identify and define elements of its heritage with participation of communities, groups and other actors involved in their safeguarding (cf. Article 11). Among the safeguarding measures, emphasis was placed on the need for each State Party to compile national inventories of its intangible heritage, in a manner suited to its situation, keeping it up to date and continuing to notify the Committee of all such updates (cf. Article 12).

24. While this article was being discussed, some delegates asked for further clarification, concerning **other national safeguarding measures**, of the scope of the phrase “customary rules” governing access to particular aspects of the intangible cultural heritage. The legal adviser explained that this was not a reference to “customary law” in the sense applied in public international law, but rather to “customary practices” under domestic law, principally those applying at local level. With that clarification, the experts considered that the State Party should “make efforts” (rather than “undertake”) to do the following: (i) **adopt general policies** aimed at validating the role of this heritage in society, (ii) **designate or create bodies with responsibility** for its safeguarding, (iii) **encourage scientific research** in this field, particularly in the case of elements of heritage in danger of disappearing, (iv) **adopt the necessary legislative, administrative and financial measures**, for the establishment of training institutions or guaranteeing access to this heritage while respecting customary practices in the matter, and (v) **establish institutions for documenting** the intangible cultural heritage. In order to take into account the particular situations of federal States (such as Belgium and Canada, for instance), the phrase “the competent national authority” in the original draft of this article was rejected. It was likewise decided that the relationships between the provisions of this Convention and the other international instruments in the field of the cultural heritage (in particular the 1972 Convention concerning the Protection of the World Natural and Cultural Heritage, instruments concerning human rights, and instruments bearing on intellectual property) should be dealt with in a separate Article, and in a general way (cf. Article 3). Finally, all references to cultural diversity originally appearing in this Article were moved to the Preamble (cf. Article 13).

25. The measures contained in the former Article 27 concerning “**Programmes of education, awareness-raising and capacity-building**” were included in this chapter because they are national in scope. The experts were generally of the opinion that States Parties should endeavour, by all appropriate means, to make sure that the intangible cultural heritage is recognized, respected and properly valued and to strengthen public interest in such heritage. They laid stress on the essential role of educating and

raising the awareness of people generally, and of the young in particular as the priority targets of such programmes. Women, the elderly and indigenous peoples were also mentioned by certain experts as priority groups. The majority, however, observed that the young were the natural beneficiaries of the educational programmes with which this paragraph is concerned; and therefore, while accepting that the other groups were also important, their view was that such an enumeration could have a restrictive effect. The experts were also keen to include a paragraph stressing the importance of education programmes specifically for the communities concerned, and of capacity-building where the safeguarding of the heritage was concerned, particularly in the field of scientific research and management. In view of the specific nature of the intangible cultural heritage, special mention of “non-formal” means of transmitting knowledge was made as well as the importance of education programmes aimed at promoting education for the protection of natural spaces and places of memory whose existence is necessary for expressing the intangible cultural heritage. Some States had stressed the role of the media in enhancing widespread awareness, and the experts accordingly adopted a paragraph on the need to take the necessary steps to inform the general public of threats to this heritage (cf. Article 14).

26. A majority of experts earnestly stressed the **participation of the communities concerned** in the implementation and management of national measures for safeguarding their intangible cultural heritage. A separate Article was therefore devoted to this essential aspect of the Convention: the State Party must endeavour to ensure the active involvement, by all appropriate means, of the relevant communities, groups and individuals in the activities not only of safeguarding their heritage, but also of managing it (cf. Article 15, to be taken with Article 11 b). The phrase “communities, groups and individuals” was preferred over “actors”, which was thought to be too general. Some experts suggested to keep the phrase “present in its territory” which appeared in the original text, but a majority considered that no such reference was necessary since this aspect of territoriality was a general rule which applies to all provisions concerning safeguarding the intangible cultural heritage at national level.

#### IV. Safeguarding the intangible cultural heritage: the international level

Article 16: Representative List of the Intangible Heritage of Humanity  
 Article 17: List of Intangible Cultural Heritage in Need of Urgent Safeguarding  
 Article 18: Programmes, projects and activities for safeguarding the intangible cultural heritage

27. The Plenary then decided to rearrange Chapter IV concerning the **international safeguarding** of the intangible cultural heritage into three Articles: (i) the “Representative List of the Intangible Heritage of Humanity” (ii) the “List of Intangible Cultural Heritage in Need of Urgent Safeguarding”, and (iii) Projects, programmes and activities for safeguarding the heritage<sup>2</sup>. While this chapter was under discussion, a proposal was made by four countries (Barbados, Saint Lucia, Grenada and Saint Vincent and the Grenadines) which among other things called for the establishment of an “international register of the intangible cultural heritage” based on national inventories made by States Parties. The Plenary took some of the concerns expressed into account, and continued its consideration of this chapter on the basis of the text proposed by the Intersessional Working Group.

28. The experts confirmed that a **Representative List of the Intangible Heritage of Humanity** had to be created in order to ensure better visibility of such heritage. The term “representative list” was preferred to “masterpieces” and “treasures”, which had been proposed initially. Inclusion in this list was

<sup>2</sup> The Article on the situation of items of the intangible cultural heritage *not included* in the lists was eliminated, since the experts considered that this issue was fully dealt with by the Chapter concerning national safeguarding measures, under which each State Party has the obligation of safeguarding the intangible cultural heritage in its territory, whether such heritage is or is not included in one of the lists established under Chapter IV.

to be done by the Committee on the basis of applications by States parties to the Convention. Criteria for the drawing up and revision of the List should be established by the Committee and submitted for approval to the General Assembly of States Parties. The experts debated the relationship which the future convention should have with the programme of the “Proclamation of Masterpieces of the Oral and Intangible Heritage of Humanity”, launched by UNESCO in 1998, and held for the first time in 2001. Their concern was to clarify the measures to be taken for including those elements which had already been proclaimed Masterpieces in the convention’s Representative List. An Article on the transition from the Proclamation programme was prepared, and appears in the Chapter on transitional clauses (cf. Articles 16 and 31).

29. The majority of the experts regarded the establishment of a **List of Intangible Cultural Heritage in Need of Urgent Safeguarding** by the Committee as an essential part of the safeguarding mechanism which the future convention is to set in place. There was some discussion of the terms “Register” and “List”; some experts argued that reference to a “register” was in order, to accommodate the national practice in those States which had Intangible Cultural Heritage Registers: this would avoid any confusion with the Lists of world cultural heritage established under the 1972 Convention. In the end a majority of the experts approved retention of the term “List”, as more appropriate to the international level and in keeping with UNESCO practice. The publication and revision by the Committee of the List of Intangible Cultural Heritage in Need of Urgent Safeguarding was also upheld by a majority of the experts, who felt it essential to ensure visibility of this endangered heritage. As in the case of the Representative List, the criteria for the establishment, revision and publication of the List of Intangible Cultural Heritage in Need of Urgent Safeguarding should be prepared by the Committee and submitted for approval by the General Assembly of States Parties. So far as concerns the initiative for inclusion of endangered intangible cultural heritage in the List, a great majority of the experts considered that the Committee should include such items in the List only at the request of the State Party concerned. Lastly, the experts wanted some provision for situations of “extreme urgency” or “exceptional urgency”: here they specified that the Committee could make an entry on the list in consultation with the State Party concerned. The objective criteria for such an entry would also have to be approved by the General Conference, on the Committee’s proposal (cf. Article 17).

30. In addition to the two Lists established by Articles 16 and 17, the experts considered that the Committee should be empowered to periodically select **projects, programmes and activities** for the safeguarding of the intangible cultural heritage at national, sub-regional or regional level, according to criteria worked out by itself and approved by the General Assembly of States Parties, always providing the specific needs of developing countries were taken into account. Some experts strongly advocated the embodiment of the results gained from experience in implementing such projects and programmes in a corpus of best practices which could be disseminated. This would make it possible to assist States Parties in the implementation of their national policies for safeguarding and promoting the intangible cultural heritage (cf. Article 18).

## **V. International cooperation and assistance**

Article 19: Cooperation Article 20: Objectives of international assistance Article 21: Forms of international assistance Article 22: Conditions of international assistance Article 23: Requests for international assistance Article 24: Role of the State Party receiving assistance
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31. **The general framework of international cooperation and assistance**, which plays an essential part in ensuring the success of this instrument, was the subject of Chapter V. A definition was



agreed for the term “international cooperation”, mainly bearing on two essential features: on the one hand, exchanges of information and experience and joint initiatives by States Parties; and on the other, the establishment of a mechanism of international assistance to help States in their efforts to safeguard their heritage. The great majority of the experts insisted on including the notion of a “duty to safeguard” in this Article, in the form of a commitment to cooperate at bilateral, sub-regional and international levels with a view to safeguarding the concerned intangible cultural heritage, this being recognized as in the general interest of humanity by the Convention. This commitment would take account of States Parties’ national legislation and of “customary rights and practices” (a phrase preferred to “customary law” or “customs”) in this area. The experts considered that this commitment to solidarity, taking the form of the establishment of a mechanism for international cooperation and assistance, was an absolutely essential condition for the success of the future convention (cf. Article 19).

32. The experts adopted the proposal of the Intersessional Working Group concerning **the objectives that should guide the granting of international assistance**, with particular attention to: (i) the preparation of national inventories (Articles 11 and 12), (ii) the safeguarding of items inscribed in the List of Intangible Cultural Heritage in Need of Urgent Safeguarding (Article 17); and (iii) the support to programmes, projects and activities instituted at national, sub-regional and regional levels (Article 18). The experts felt the Committee should be able to decide to grant international assistance for other objectives it considers necessary. The text was adopted with virtually no modification, though some countries vigorously pointed out that there had been no mention of international assistance for items on the Representative List of the Intangible Cultural Heritage of Humanity (cf. Article 20).

33. Concerning the **forms which international assistance might take**, the experts decided after some discussion to simplify the version proposed by the Intersessional Working Group, retaining various forms of international assistance as examples (research, provision of experts, human resources training, preparation of normative measures, support for infrastructure, supply of equipment and certain forms of financial and technical assistance) (cf. Article 21).

34. Concerning the **conditions governing international assistance** (Article 22), the experts considered that the Committee should establish a procedure for considering requests, and their minimum content. It should make its decision on the basis of “studies and consultations” as it deems necessary: The words “scientific and technical” were removed from this paragraph. The experts also decided to eliminate all reference to the “degree of urgency” of the measures envisaged – though requests in emergency situations should be evaluated by the Committee as a matter of priority. The creation of a committed reserve fund was not mentioned, since there was already the implication that the Committee should make some provision for making resources available for these cases of exceptional urgency.

35. The experts then turned to the Article entitled **“Requests for international assistance”** (Article 23, adopted in the version proposed by the Intersessional Working Group). Only those States Parties, which are territorially linked with the intangible cultural heritage in question, might originate a request for assistance, this territorial connection being essential (cf. also Article 11,a). Requests for international assistance could be made jointly by two or more States in order to deal with intangible cultural heritage which extends across national borders.

36. In Article 24 (**Role of beneficiary States Parties**), the experts decided to maintain the neutral term “role” which covers duties as well as obligations. They endorsed the principle that the State had a duty to share, “according to its means”, the costs of safeguarding measures for which international

assistance is to be provided. This principle of “co-responsibility” or “shared responsibility” of the Receiving state also draws on Article 11, a). Lastly, some of the experts considered it necessary that the State Party should present a “report” on the activities carried out with the international assistance and the use of the resources given, which would provide the Committee with useful information.

## VI. Intangible Cultural Heritage Fund

Article 25: Nature and resources of the Fund
Article 26: Contributions of States Parties to the Fund

37. Mr. Warren, UNESCO Comptroller, who had already addressed the meeting of the Intersessional Working Group, was invited by the Plenary to provide explanations of the Organization’s practices in the case of the World Heritage Fund under the 1972 Convention. The Comptroller explained the functioning of the Fund, observing that the resources of the Fund consist of compulsory contributions (1% of the contribution of a State Party to UNESCO’s regular budget), voluntary contributions by States Parties, resources from UNESCO’s regular budget as approved by the Organisation’s General Conference, and other voluntary additional contributions under special agreements between the Heritage Centre and the donor. He told the meeting, among other things, that the resources for the ordinary programme were allocated by the Director-General and applied mainly to the functioning of the Centre and the financing of the statutory meetings. Lastly, he said the Fund’s status was that of a fund-in-trust managed in accordance with UNESCO’s financial regulations. After Mr. Warren’s explanations, the experts considered the mechanism for financing the future convention, and this gave rise to a many-sided and difficult debate on the two essential Articles in the chapter on finance: **the nature and composition of the Fund’s resources**, and **contributions** from States Parties.

38. Two distinct tendencies were observable from the start of the debate on finance: the first, organized around a proposal made by one of the experts, was for the Fund’s resources to be furnished out of UNESCO’s regular budget, in a percentage to be determined by the General Conference, as well as by voluntary contributions from States Parties, technical contributions, and the other forms of funding listed in Paragraph 15 of the consolidated text prepared by the Intersessional Working Group. UNESCO’s own resources would pay for the functioning of the Secretariat and the statutory meetings of the Committee. The group of countries supporting this proposal expressed reservations about the principle of a **compulsory contribution**, in that it might compromise the Convention’s ratification by certain States in the future; this group therefore advocated the elimination of the article in question. According to these countries’ experts, funding through UNESCO’s ordinary budget would enable the whole international community to take part in what was a collective effort to safeguard the intangible cultural heritage. The second tendency defended the text proposed by the Intersessional Working Group, along with the principle of a compulsory contribution equivalent to 1% of a country’s annual contribution to UNESCO’s regular budget, plus **voluntary contributions** and voluntary supplementary contributions. The group of countries in favour of this proposal argued that the assurance of a stable mechanism based on compulsory as well as voluntary contributions was a matter of principle and an essential ingredient in the effective implementation of the Convention’s mechanisms. The principles of “international solidarity and cooperation” and of “shared responsibility” were invoked. Both groups of States nevertheless insisted on the need to get a consensus on this question, which was fundamental for the future of the Convention. A majority of States was in favour of considering this chapter on the basis of the Article as originally proposed by the Intersessional Working Group.

39. So far as Article 25 (**Nature and resources of the Fund**) was concerned, the search for a compromise between the two positions outlined above led the Chairperson to propose avoiding any reference, in this Article, to “compulsory and voluntary” contributions, but simply mentioning “contributions of States Parties”: this would defer the search for a compromise to the following Article, on contributions. One expert proposed that 1% of the contribution of each State Party to UNESCO’s regular budget should be paid to the Fund; but this proposal was set aside on the grounds that allocating 1% of the UNESCO budget to implementing the Convention must entail cutting, if not terminating, some projects and programmes already under way. Furthermore, experts stressed that the allocation of resources from the regular budget was a matter solely to be decided by the General Conference of the Organization. Next, at the request of a number of experts who wanted a contribution from UNESCO to feature explicitly in the text, a new paragraph was inserted to this effect. The Fund would therefore consist of contributions made by States Parties, funds allocated by the UNESCO General Conference, payments, gifts or grants by States and Inter-governmental Organizations (in particular the UNDP), interests received on the Fund’s resources, and any other income authorized by the Fund’s Regulations. An amendment was carried concerning the Committee’s decisions on how to use the Fund: these must be made on the basis of guidelines from the General Conference. The other paragraphs of this article (the Committee to be authorized to accept other forms of assistance for approved projects; no political, economic or other condition incompatible with the Convention’s objectives to be acceptable) were approved unaltered. Lastly, there was discussion of the form the Fund should take – “fund-in-trust” or “special account” – in order to permit the addition of funds provided by UNESCO. The Chairperson reminded the meeting that the World Heritage Fund – which is furnished by compulsory and voluntary contributions – was set up as a fund-in-trust within UNESCO, and was managed in accordance with the Organisation’s financial regulations. (cf. Article 25).

40. In the matter of **contributions of States Parties to the Fund**, discussion initially concerned the compulsory nature of the contribution, with an uniform percentage. On the one hand, a great number of States felt a compulsory contribution to be a matter of fundamental principle, crucial to the future of the proposed convention and in keeping with the spirit of international solidarity. Some experts pointed out that there already exists a Convention on the “tangible” heritage (the 1972 Convention) which includes a compulsory contribution, and argued that creating a Convention on the “intangible” heritage without such a requirement would be unacceptable. On the other hand, there were States which thought that adopting the principle of a set compulsory contribution, with an uniform percentage, would make it harder to find signatories. Trying to find a solution that would allow the greatest possible number of States to accede to the Convention, the Chairperson proposed that no specific percentage should be mentioned, and that the General Assembly of States Parties should thus be left to decide this matter. Finally, on the basis of Article 16 of the 1972 Convention, the Chairperson proposed a compromise formula: States parties to the Convention “undertake” to pay into the Fund regularly, at least every other year, a contribution calculated according to an uniform percentage applicable to all States. This uniform percentage would be fixed by the General Assembly of States Parties, in a majority vote, with the provision that the contribution of a State Party may not exceed 1% of its contribution to the regular budget of UNESCO.

41. To take into account the situation of States going through difficult financial circumstances and those whose legislative arrangements do not permit a compulsory contribution as mentioned in paragraph 1, the experts agreed that a State Party might make a **declaration at the time of** the deposit of its instruments of **ratification, acceptance, approval or accession to the Convention** that it would not be bound by the provisions of Paragraph 1 of this article. The experts insisted that such a declaration

must be exceptional and temporary. Any State making such a declaration would therefore be obliged to make efforts to withdraw it by notification to the Director-General, and to pay a regular voluntary contribution which should be as close as possible to that which it would have had to pay had it been bound by the provisions of paragraph 1. This would make it easier for the Committee to budget efficiently for the carrying out of its operations. A system of sanctions for late payment of contributions – ineligibility to the Committee – was also provided for in this article, in order to encourage States to fulfil their financial obligations under the Convention. The Plenary then adopted the Articles as finally drafted, though a number of experts expressed certain reservations over the principle of compulsory contributions (cf. Article 26).

Article 27: Voluntary supplementary contributions to the Fund  
Article 28: International fund-raising campaigns

42. States Parties may also make **voluntary supplementary contributions to the Fund**, other than those provided for in Article 26, informing the Committee in advance so that it can take these into account when planning its activities (cf. Article 27). Finally (as far as this chapter on finance is concerned), the experts decided that States Parties should, to the best of their capacities, support international fund-raising campaigns organized under UNESCO auspices on behalf of the Fund (cf. Article 28).

## VII. Reports

Article 29: Reports by the States Parties  
Article 30: Reports by the Committee

43. Concerning **reports**, the experts decided to make a distinction between **reports submitted to the Committee by States Parties** and **reports submitted by the Committee to the General Assembly**. Two Articles were drafted accordingly. As far as the first type of report was concerned, States Parties would present regular reports to the Committee concerning their legislative, regulatory, or other measures taken in implementation of the Convention. The format and frequency of these reports should be decided later, by the Committee. In the case of the second type of report, the Committee would submit a report to each session of the General Assembly of States Parties, prepared from the reports submitted by States Parties, and would bring the contents of this report to the attention of the UNESCO General Conference (cf. Article 30).

## VIII. Transitional Clause

Article 31: Relationship to the Proclamation of Masterpieces of the Oral and Intangible Heritage of Humanity

44. To ensure that the elements of the intangible cultural heritage which UNESCO had already proclaimed “Masterpieces of the Oral and Intangible Heritage of Humanity” are included on the Representative List provided for in Article 16 of the future convention, a transitional provision concerning the **relationship between the Masterpieces Proclamation programme and the Convention** was inserted in Article 31. The great majority of the experts stressed the importance of the Proclamation programme and the significant progress that had been made, since that programme had been launched in 1998, in raising awareness among the international community on the importance of safeguarding the intangible cultural heritage. The experts decided therefore that all “masterpieces” proclaimed by UNESCO before the Convention entries into force will be included in the Representative

List by the Committee, without prejudice to its choice of criteria for future entries. Many States were insistent that the Proclamation programme should be maintained until the Convention had actually come into force. At the request of some of the experts, the legal adviser spoke to remind the meeting that the Proclamation programme had been set up by a Resolution of the General Conference, which alone had the authority to decide whether and when it should be discontinued (cf. Article 31).

#### **F. Reports of the *ad hoc* groups**

45. Before considering the Articles in a second reading, the Plenary examined the reports of the *ad hoc* groups. The chairpersons of the *ad hoc* groups were congratulated for the drafting work carried out in these groups, which made it possible for the Plenary to finalize its review of every Article in the Preliminary Draft within the allotted time.

##### **▪ Preamble, Glossary and Annex (*ad hoc* Group 2)**

46. The Group's chair (Hungary) presented its recommendations to the Plenary. So far as the **Preamble** was concerned, an explicit reference to the instruments relating to human rights – not only the 1948 Universal Declaration, but also the 1966 International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights – were included in Paragraph 2. Though some experts expressed concerns over the inclusion of the terms “indigenous communities” or “indigenous peoples” in the text of the Preamble, the majority considered it important to mention them explicitly, in view of the part they play in the production, creation and safeguarding of intangible cultural heritage. Some experts maintained that the terms “communities, groups and individuals” were general enough to include these communities, while others insisted on mentioning them specifically, recalling, among other things, the Action Plan of the 2001 Universal Declaration on Cultural Diversity, which refers to the protection of the traditional know-how and cultures of indigenous peoples, and the Convention on Biological Diversity. The experts likewise stressed the deep interdependence between the tangible and intangible cultural heritage, and recommended keeping a specific reference to the “Proclamation of Masterpieces of the Oral and Intangible Heritage of Humanity” programme. Some experts pointed out that the process of globalization was not the only threat to the intangible cultural heritage: other factors should be mentioned too, such as forms of intolerance and lack of resources for safeguarding.

47. Concerning the **Glossary and the Annex**, the experts thought that in view of the continuous evolution of the terminology used in this field they should recommend not including these in the body of the Convention. This would allow future developments of terminology to be taken into account, and avoid immobilizing the interpretation of the Convention with a predefined terminology. Furthermore, the experts thought that the Annex required clarification in sociological and anthropological terms, and that a considerable amount of work remained to be done for the drafting of this text. The majority of the experts nevertheless strongly endorsed the usefulness of such a text, suggesting that the Director-General should prepare a manual for States Parties on safeguarding the intangible cultural heritage (as had been done for the Convention concerning the Illegal Trade in Cultural Property), containing an annex and a glossary. The experts also strongly recommended that resources from the regular programme should be provided for this.

## **Final clauses** (*ad hoc* Group 1)

48. The Chair of *ad hoc* Group 1 (Italy) presented to the Plenary the report on the drafting of the final clauses concerning: (i) **ratification, acceptance, approval and accession**, (ii) **entry into force**, (iii) **federal or non-unitary constitutional systems**, (iv) **denunciation**, (v) **Depositary functions**, (vi) **amendments** to the Convention, (vii) **authoritative texts** and (viii) **registration** (cf. Articles 32 to 40). The provisions of this chapter followed as a whole the standard layout of the 1972 Convention and the 1969 Convention on the Law of Treaties. So far as accession was concerned (cf. Article 33), the experts decided to include a paragraph (based on the one in the 2001 UNESCO Convention on the Protection of the Underwater Cultural Heritage) which would permit accession to the Convention by territories enjoying full internal autonomy. Concerning the number of signatory States required for the Convention to entry into force, the experts decided that the Convention should entry into force “three months after the date of the deposit of the thirtieth instrument of ratification, acceptance, approval or accession” (cf. Article 34). A standard clause on geographical applicability of the Convention in States Parties with a federal or non-unitary constitutional system was also approved (cf. Article 35). So far as amendments were concerned, a paragraph was approved to specifically facilitate amendments concerning the number of States Members of the Committee (cf. Article 38). The report by the *ad hoc* Group’s chairperson stressed that the experts had had different opinions on the necessity of, firstly, some specific provision for the peaceful settlement of disputes (a standard provision from the Vienna Convention) and, secondly, a provision clearly excluding reservations with respect to the Convention. A consensus proving impossible, the experts decided not to include these two provisions.

- **Structure of the Preliminary Draft**, arrangement of articles, revision of titles (*ad hoc* Group 4)

49. The Group’s Chairperson (Republic of Korea) had the task of proposing a **structure and arrangement for the articles** of the Preliminary Draft. The Plenary followed his recommendations, and the experts adopted the structure of the Preliminary Draft as it appears in the approved final text.

## **G. Final recommendations**

50. The Plenary thanked the Chair (Benin) and the experts of *ad hoc* Group 3, which had been given the task of preparing a draft recommendation; it then turned to drafting the final text of that recommendation. In the introductory remarks, the experts reaffirmed the outstanding value of the intangible cultural heritage and its extreme vulnerability, which made action in a constructive spirit of **international cooperation** urgently necessary. They also recalled that the Convention would be filling a legal gap which currently existed in international law, and that the protection of the intangible cultural heritage was part of a **comprehensive vision of sustainable development**. The recommendation recalled the various stages of meetings and negotiations which had been necessary for preparing the Preliminary Draft, and the importance of the Istanbul Declaration by Ministers of Culture in September 2002 as well as the recent “Consensus of Cusco” in which the Rio Group had stressed the crucial part which the intangible cultural heritage and its protection played in the reaffirmation of Latin America’s cultural identity and development. The experts also stressed the decisive impact of UNESCO’s programmes in this area, and in particular that of the programme of the Proclamation of Masterpieces of the Oral and Intangible Heritage of Humanity. Lastly, the experts earnestly thanked Mr Bedjaoui for his excellent conduct of their proceedings, and the Secretariat for the work it had contributed. Turning to the formal recommendation itself, the experts invited the Director-General to prepare a manual for States

Parties on safeguarding intangible cultural heritage, accompanied by a glossary of terms and a list of examples of intangible cultural heritage. The experts wished likewise to draw the Director-General's attention to the appropriate measures for ensuring a proper transition from the Proclamation programme. In forwarding its text of a Preliminary Draft to the Director-General, the Third Session of the Intergovernmental Meeting expressed its satisfaction at having completed the task it had been given in accordance with Decision 164EX/3.5.2 of the Executive Board, "to define the scope of, and take forward, the work on the preliminary draft of an international convention for the Safeguarding of the Intangible Cultural Heritage". As the last stage in the deliberations concerning its provisions as a whole and concerning the recommendations, the full text (second reading) was then put to the Plenary, which adopted the entire text of the Preliminary Draft Convention by consensus.

## **H. Closing session**

51. Following an address by Mr Barrios, the Group's Rapporteur, the Chairperson closed the meeting, thanking all the experts for their thorough and varied discussions and for the remarkable spirit of cooperation which had enabled them to approve a final text at the end of the two weeks' sessions. In his conclusion, he expressed the wish that the Convention shall become a reality as soon as possible, so that States might have a legal instrument at their disposal to ensure the safeguarding of their intangible cultural heritage. Lastly, the Chairperson earnestly encouraged States in a position to become parties to the Convention to do so as swiftly as possible, so that this first multilateral international instrument for safeguarding the intangible cultural heritage, might come into force in the very near future. The Director-General then addressed the meeting and paid tribute to the Chairperson, Mr Bedjaoui, for the exemplary way he had conducted the debate, and for the determination and tact he had shown throughout the long process of negotiation. He then thanked the experts for their work, and assured them that a report would be presented to the General Conference in October 2003 along with the text of the Preliminary Draft Convention.

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## **I. Conclusion**

52. The Director-General will submit a progress report on the Preliminary Draft to the 167<sup>th</sup> session of the Executive Board, with a view to its submission to the 32<sup>nd</sup> session of the General Conference, to take place in September/October 2003. The General Conference will need to consider the Director-General's report on the situation calling for the establishment of an instrument, and on the scope such an instrument should have; that report will be accompanied by the Preliminary Draft Convention, in accordance with 31 C/Resolution 30. The text of the Preliminary Draft is the outcome of contributions from Member States, Observer States, States associated with UNESCO, and international governmental and non-governmental organizations, which have made contributions in the course of the various international meetings of experts and intergovernmental meetings organized by the UNESCO Secretariat.

## ANNEX I

### **Recommendation** **Third session of the intergovernmental meeting of experts**

(2-14 June 2003)

The intergovernmental meeting of experts on the preliminary draft convention for the safeguarding of the intangible cultural heritage, convened in Paris in three sessions (September 2002, February-March and June 2003);

*Recalling* 31 C/Resolution 30, and in accordance with 164 EX/Decision 3.5.2 of the Executive Board;

*Aware* that UNESCO is the only international organization whose mandate refers explicitly to the safeguarding of the heritage in all its forms;

*Pursuant* to the Recommendation of the first session of the intergovernmental meeting of experts on the preliminary draft convention for the safeguarding of the intangible cultural heritage (September 2002);

*Recalling* the non-binding nature of the 1989 Recommendation on the Safeguarding of Traditional Culture and Folklore, the only international standard-setting instrument in this field;

*Reaffirming* the eminent value and extreme vulnerability of the intangible cultural heritage, which requires that it be safeguarded as a matter of urgency, in a spirit of constructive international cooperation, by means of a convention which would fill a gap in current international law;

*Bearing in mind* that the intangible cultural heritage is the wellspring of the identity, creativity and cultural diversity of communities and constitutes a shared richness of humanity as a whole;

*Acknowledging* that the enhancement of the intangible cultural heritage fosters the emergence of a genuine integrated vision of sustainable development;

*Recalling* the significance of UNESCO's programmes regarding intangible cultural heritage, in particular of the Proclamation of Masterpieces of the Oral and Intangible Heritage of Humanity, at a local, national and international level;

*Recalling* the meetings of experts which took place in Turin (March 2001) and Rio de Janeiro (January 2002) with the aim of elaborating a working definition of the "intangible cultural heritage" and the objectives of a standard-setting instrument, and the meeting of experts on the terminology of the intangible cultural heritage (June 2002) for the purpose of producing a glossary;

*Further recalling* the two meetings of the "restricted drafting group" composed of experts convened in their personal capacity (February-March and June 2002), the meeting of the Intersessional Working Group of Governmental Experts designated by the electoral groups (22-30 April 2003) and the three sessions of the intergovernmental meeting of experts (September 2002, February and June 2003), whose valuable results enabled progress in the



drafting of the preliminary draft convention for the safeguarding of the intangible cultural heritage;

*Taking note*, with satisfaction, of the Cusco Consensus (May 2003), in which the Rio Group emphasized “the importance of the preservation and revitalization of the rich intangible cultural heritage of our peoples in reaffirming their corresponding cultural identities and in the development of the region”;

*Bearing in mind* the Istanbul Declaration of September 2002, an important milestone in the development of an international standard-setting instrument for the safeguarding of the intangible cultural heritage;

*Thanking* the Chairperson, H.E. Mr Bedjaoui, for his outstanding conduct of the proceedings and his constructive approach;

*Expressing its satisfaction* with the results achieved due to the richness of the debates, held in an atmosphere of consensus and solidarity, resulting in the elaboration of a preliminary draft convention;

*Thanking* the donors for their significant financial support which enabled a series of meetings of experts to be held;

*Thanking* the Secretariat for its efforts;

1. *Informs* the Director-General that the intergovernmental meeting has fulfilled its mandate, as set out in 164 EX/Decision 3.5.2, namely, “to define the scope and to take forward the work on the preliminary draft of an international convention”;
2. *Transmits* to the Director-General the text of the preliminary draft adopted by consensus at the present session;
3. *Draws the attention* of the Director-General to the relevant transitional measures in connection with the programme for the Proclamation of Masterpieces of the Oral and Intangible Heritage of Humanity;
4. *Encourages* the Director-General to prepare a manual to assist Member States in the safeguarding of the intangible cultural heritage, and suggests to include this activity in UNESCO’s regular programme and budget. This manual should include in particular a glossary of terms and a non-exhaustive list of examples of intangible cultural heritage;
5. *Recommends* the Director-General to take all necessary measures to ensure the conformity between the six linguistic versions of the preliminary draft convention before its submission to the General Conference at its 32nd session.

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## ANNEX II

### **PRELIMINARY DRAFT CONVENTION FOR THE SAFEGUARDING OF THE INTANGIBLE CULTURAL HERITAGE**

The General Conference of the United Nations Educational, Scientific and Cultural Organization hereinafter referred to as UNESCO, meeting in Paris, from 29 September to 17 October 2003, at its 32nd session,

*Referring to* existing international human rights instruments, in particular to the Universal Declaration on Human rights of 1948, the International Covenant on Economic, Social and Cultural Rights of 1966, and the International Covenant on Civil and Political Rights of 1966,

*Considering* the importance of the intangible cultural heritage as a mainspring of cultural diversity and a guarantee of sustainable development, as underscored in the UNESCO Recommendation on the Safeguarding of Traditional Culture and Folklore of 1989, in the UNESCO Universal Declaration on Cultural Diversity of 2001, and in the Istanbul Declaration of 2002,

*Considering* the deep-seated interdependence between the intangible cultural heritage and the tangible cultural and natural heritage,

*Recognizing* that the processes of globalization and social transformation, alongside the conditions they create for renewed dialogue among communities, also give rise, as does the phenomenon of intolerance, to grave threats of deterioration, disappearance and destruction of the intangible cultural heritage, in particular owing to a lack of resources for safeguarding such heritage,

*Being aware* of the universal will and the common concern to safeguard the intangible cultural heritage of humanity,

*Recognizing* that communities, in particular indigenous communities, groups and, in some cases, individuals, play an important role in the production, safeguarding, maintenance and recreation of the intangible cultural heritage, thus helping to enrich cultural diversity and human creativity,

*Noting* the far-reaching impact of the activities of UNESCO in establishing normative instruments for the protection of the cultural heritage, in particular the Convention for the Protection of the World Cultural and Natural Heritage of 1972,

*Noting further* that no binding multilateral instrument as yet exists for the safeguarding of the intangible cultural heritage,

*Considering* that existing international agreements, recommendations and resolutions concerning the cultural and natural heritage need to be effectively enriched and supplemented by means of new provisions relating to the intangible cultural heritage,

*Considering* the need to build greater awareness, especially among the younger generations, of the importance of the intangible cultural heritage and of its safeguarding,

*Considering* that the international community should contribute, together with the States Parties, to the safeguarding of such heritage in a spirit of cooperation and mutual assistance,

*Recalling* UNESCO's programmes relating to the intangible cultural heritage, in particular the Proclamation of Masterpieces of the Oral and Intangible Heritage of Humanity,

*Considering* the invaluable role of the intangible cultural heritage as a factor in bringing human beings closer together and ensuring exchange and understanding among them,

*Adopts* this Convention on this ..... day of 200....

## I. General provisions

### *Article 1 – Purposes of the Convention*

The purposes of this Convention are:

- (a) to safeguard the intangible cultural heritage;
- (b) to ensure respect for the intangible cultural heritage of the communities, groups and individuals concerned;
- (c) to raise awareness at the local, national and international levels of the importance of the intangible cultural heritage, and of ensuring mutual appreciation thereof;
- (d) to provide for international cooperation and assistance.

### *Article 2 – Definitions*

For the purposes of this Convention,

1. The “intangible cultural heritage” means the practices, representations, expressions, knowledge, skills – as well as the instruments, objects, artefacts and cultural spaces associated therewith – that communities, groups and, in some cases, individuals recognize as part of their cultural heritage. This intangible cultural heritage, transmitted from generation to generation, is constantly recreated by communities and groups in response to their environment, their interaction with nature and their history, and provides them with a sense of identity and continuity, thus promoting respect for cultural diversity and human creativity. For the purposes of this Convention, consideration will be given solely to such intangible cultural heritage as is compatible with existing international human rights instruments, with the requirement of mutual respect among communities, groups and individuals, and with sustainable development.

2. The “intangible cultural heritage”, as defined in paragraph 1 above, is manifested *inter alia* in the following domains:

- (a) oral traditions and expressions, including language as a vehicle of the intangible cultural heritage;
- (b) the performing arts;
- (c) social practices, rituals and festive events;
- (d) knowledge and practices concerning nature and the universe;
- (e) traditional craftsmanship.

3. “Safeguarding” means measures aimed at ensuring the viability of the intangible cultural heritage, including the identification, documentation, research, preservation, protection, promotion, enhancement, transmission, particularly through formal and non-formal education, as well as the revitalization of the various aspects of such heritage.

4. “States Parties” means States which are bound by this Convention and among which this Convention is in force.

5. This Convention applies *mutatis mutandis* to the territories referred to in Article 33 which become Parties to this Convention in accordance with the conditions set out in that Article. To that extent the expression “States Parties” also refers to such territories.

***Article 3 – Relationship to other international instruments***

Nothing in this Convention may be interpreted as:

(a) altering the status or diminishing the level of protection under the 1972 Convention concerning the Protection of the World Cultural and Natural Heritage of World Heritage properties with which an item of the intangible cultural heritage is directly associated;  
or

(b) affecting the rights and obligations of States Parties deriving from any international instrument to which they are parties relating to intellectual property rights or to the use of biological and ecological resources.

**II. Organs of the Convention**

***Article 4 – General Assembly of the States Parties***

1. A General Assembly of the States Parties is hereby established, hereinafter referred to as “the General Assembly”. The General Assembly is the sovereign body of this Convention.
2. The General Assembly shall meet in ordinary session every two years. It may meet in extraordinary session if it so decides or at the request either of the Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage or of at least one-third of the States Parties.
3. The General Assembly shall adopt its own Rules of Procedure.

***Article 5 – Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage***

1. An Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage, hereinafter referred to as “the Committee”, is hereby established within UNESCO. It shall be composed of representatives of 18 States Parties, elected by the States Parties meeting in General Assembly, once this Convention enters into force in accordance with Article 34.
2. The number of States Members of the Committee shall be increased to 24 once the number of the States Parties to the Convention reaches 50.

***Article 6 – Election and terms of office of States Members of the Committee***

1. The election of States Members of the Committee shall obey the principles of equitable geographical representation and rotation.
2. States Members of the Committee shall be elected for a term of four years by States Parties to the Convention meeting in General Assembly.
3. However, the term of office of half of the States Members of the Committee elected at the first election is limited to two years. These States shall be chosen by lot at the first election.
4. Every two years, the General Assembly shall renew half of the States Members of the Committee.
5. It shall also elect as many States Members of the Committee as required to fill vacancies.
6. A State Member of the Committee may not be elected for two consecutive terms.
7. States Members of the Committee shall choose as their representatives persons who are qualified in the various fields of the intangible cultural heritage.

***Article 7 – Functions of the Committee***

Without prejudice to other prerogatives granted to it by this Convention, the functions of the Committee shall be to:

- (a) promote the objectives of the Convention, and to encourage and monitor the implementation thereof;

- (b) provide guidance on best practices and make recommendations on measures for the safeguarding of the intangible cultural heritage;
- (c) prepare and submit to the General Assembly for approval a draft plan for the use of the resources of the Fund, in accordance with Article 25;
- (d) seek means of increasing its resources, and to take the necessary measures to this end, in accordance with Article 25;
- (e) prepare and submit to the General Assembly for approval operational directives for the implementation of this Convention;
- (f) examine, in accordance with Article 29, the reports submitted by States Parties, and to summarize them for the General Assembly;
- (g) examine requests submitted by States Parties, and to decide thereon, in accordance with objective selection criteria to be established by the Committee and approved by the General Assembly for:
  - (i) inscription on the lists and proposals mentioned under Articles 16, 17 and 18;
  - (ii) the granting of international assistance in accordance with Article 22.

#### *Article 8 – Working methods of the Committee*

1. The Committee shall be answerable to the General Assembly. It shall report to it on all its activities and decisions.
2. The Committee shall adopt its own Rules of Procedure by a two-thirds majority of its Members.
3. The Committee may establish, on a temporary basis, whatever ad hoc consultative bodies it deems necessary to carry out its task.
4. The Committee may invite to its meetings any public or private bodies, as well as private persons, with demonstrated competence in the various fields of the intangible cultural heritage, in order to consult them on specific matters.

#### *Article 9 – Accreditation of advisory organizations*

1. The Committee shall propose to the General Assembly the accreditation of non-governmental organizations with recognized competence in the field of the intangible cultural heritage to act in an advisory capacity to the Committee.
2. The Committee shall also propose to the General Assembly the criteria for and modalities of such accreditation.

#### *Article 10 – The Secretariat*

1. The Committee shall be assisted by the UNESCO Secretariat.
2. The Secretariat shall prepare the documentation of the General Assembly and of the Committee, as well as the draft agenda of their meetings, and shall ensure the implementation of their decisions.

### **III. Safeguarding of the intangible cultural heritage at the national level**

#### ***Article 11 – Role of States Parties***

Each State Party shall:

- (a) take the necessary measures to ensure the safeguarding of the intangible cultural heritage present in its territory;
- (b) among the safeguarding measures referred to in Article 2, paragraph 3, identify and define the various elements of the intangible cultural heritage present in its territory, with the participation of communities, groups and relevant non-governmental organizations.

#### ***Article 12 – Inventories***

1. To ensure identification with a view to safeguarding, each State Party shall draw up, in a manner geared to its own situation, one or more inventories of the intangible cultural heritage present in its territory. These inventories shall be regularly updated.
2. When each State Party periodically submits its report to the Committee, in accordance with Article 29, it shall provide relevant information on such inventories.

#### ***Article 13 – Other measures for safeguarding***

To ensure the safeguarding, development and promotion of the intangible cultural heritage present in its territory, each State Party shall endeavor to:

- (a) adopt a general policy aimed at promoting the function of the intangible cultural heritage in society, and at integrating the safeguarding of such heritage into planning programmes;
- (b) designate or establish one or more competent bodies for the safeguarding of the intangible cultural heritage present in its territory;
- (c) foster scientific, technical and artistic studies, as well as research methodologies, with a view to effective safeguarding of the intangible cultural heritage, in particular the intangible cultural heritage in danger;
- (d) adopt appropriate legal, technical, administrative and financial measures aimed at:
  - (i) fostering the creation or strengthening of institutions for training in the management of the intangible cultural heritage and the transmission of such heritage through forums and spaces intended for the performance or expression thereof;
  - (ii) providing access to the intangible cultural heritage while respecting customary practices governing access to specific aspects of such heritage;
  - (iii) establishing documentation institutions for the intangible cultural heritage and facilitating access to them.

#### ***Article 14 – Education, awareness-raising and capacity-building***

Each State Party shall endeavor, by all appropriate means, to:

- (a) ensure recognition of, respect for, and enhancement of the intangible cultural heritage in society, in particular through:
  - (i) educational, awareness-raising and information programmes, aimed at the general public, in particular young people;
  - (ii) specific educational and training programmes within the communities and groups concerned;
  - (iii) capacity-building activities for the safeguarding of the intangible cultural heritage, in particular management and scientific research; and
  - (iv) non-formal means of transmitting knowledge;

(b) keep the public informed of the dangers threatening such heritage, and of the activities carried out in pursuance of this Convention;

(c) promote education for the protection of natural spaces and places of memory whose existence is necessary for expressing the intangible cultural heritage.

***Article 15 – Participation of communities, groups and individuals***

Within the framework of its safeguarding activities of the intangible cultural heritage, each State Party shall endeavor to ensure the widest possible participation of communities, groups and, in some cases, individuals that create, maintain and transmit such heritage, and to involve them actively in its management.

**IV. Safeguarding of the intangible cultural heritage at the international level**

***Article 16 – Representative List of the Intangible Cultural Heritage of Humanity***

1. In order to ensure better visibility of the intangible cultural heritage and awareness of its significance, and to encourage dialogue which respects cultural diversity, the Committee, upon the proposal of the States Parties concerned, shall establish, keep up to date and publish a Representative List of the Intangible Cultural Heritage of Humanity.

2. The Committee shall draw up, and the General Assembly shall approve, the criteria for the establishment, updating and publication of this Representative List.

***Article 17 – List of Intangible Cultural Heritage in Need of Urgent Safeguarding***

1. With a view to taking appropriate safeguarding measures, the Committee shall establish, keep up to date and publish a List of the Intangible Cultural Heritage in Need of Urgent Safeguarding, and shall inscribe such heritage on the List at the request of the State Party concerned.

2. The Committee shall draw up, and the General Assembly shall approve, the criteria for the establishment, updating and publication of this List.

3. In cases of extreme urgency - the objective criteria of which shall be approved by the General Assembly upon the proposal of the Committee - the Committee may inscribe an item of the heritage concerned on the List mentioned in paragraph 1, in consultation with the State Party concerned.

***Article 18 – Programmes, projects and activities for the safeguarding of intangible cultural heritage***

1. On the basis of proposals submitted by States Parties, and in accordance with criteria to be defined by it and approved by the General Assembly, the Committee shall periodically select and promote national, sub-regional and regional programmes, projects and activities for the safeguarding of the heritage which it considers best reflect the principles and objectives of this Convention, taking into account the special needs of developing countries.

2. To this end, it shall receive, examine and approve requests for international assistance from States Parties for the preparation of such proposals.

3. The Committee shall accompany the implementation of such projects, programmes and activities by disseminating best practices using means to be determined by it.

**V. International cooperation and assistance**

***Article 19 – Cooperation***

1. For the purposes of this Convention, international cooperation includes, *inter alia*, the exchange of information and experience, joint initiatives, and the establishment of a mechanism of assistance to States Parties in their efforts to safeguard the intangible cultural heritage.

2. Without prejudice to the provisions of their national legislation and customary law and practices, the States Parties recognize that the safeguarding of intangible cultural heritage is of general interest to humanity, and to that end undertake to cooperate at the bilateral, sub-regional, regional and international levels.

***Article 20 – Purposes of international assistance***

International assistance may be granted for the following purposes:

- (a) the safeguarding of the heritage inscribed on the List of Intangible Cultural Heritage in Need of Urgent Safeguarding;
- (b) the preparation of inventories in the sense of Articles 11 and 12;
- (c) support for programmes, projects and activities carried out at the national, sub-regional and regional levels aimed at the safeguarding of intangible cultural heritage;
- (d) any other purpose the Committee may deem necessary.

***Article 21 – Forms of international assistance***

The assistance granted by the Committee to a State Party shall be governed by the operational directives prepared pursuant to Article 7 and by the agreement referred to in Article 24, and may take the following forms:

- (a) studies concerning various aspects of safeguarding;
- (b) the provision of experts and practitioners;
- (c) the training of all necessary staff;
- (d) the elaboration of standard-setting and other measures;
- (e) the creation and operation of infrastructures;
- (f) the supply of equipment and know-how;
- (g) other forms of financial and technical assistance, including, in certain circumstances, the granting of low-interest loans and donations.

***Article 22 – Conditions governing international assistance***

1. The Committee shall establish the procedure for examining requests for international assistance, and shall specify what information shall be included in the requests, such as the measures envisaged and the interventions required, together with an assessment of their cost.
2. In emergencies, requests for assistance shall be examined by the Committee as a matter of priority.
3. In order to reach a decision, the Committee shall undertake such studies and consultations as it deems necessary.

***Article 23 – Requesting international assistance***

1. Each State Party may submit to the Committee a request for international assistance for the safeguarding of the intangible cultural heritage present in its territory.
2. Such a request may also be jointly submitted by two or more States Parties.
3. The request shall include the information stipulated in Article 22, paragraph 1, together with the necessary documentation.

***Article 24 – Role of beneficiary States Parties***

1. In conformity with the provisions of this Convention, the international assistance granted shall be regulated by means of an agreement between the beneficiary State Party and the Committee.
2. As a general rule, the beneficiary State Party shall, within the limits of its resources, share the cost of the safeguarding measures for which international assistance is provided.
3. The beneficiary State Party shall submit to the Committee a report on the use made of the assistance provided for the safeguarding of the intangible cultural heritage.



## **VI. Intangible Cultural Heritage Fund**

### ***Article 25 – Nature and resources of the Fund***

1. A “Fund for the Safeguarding of the Intangible Cultural Heritage”, hereinafter referred to as “the Fund”, is hereby established.
2. The Fund shall consist of funds-in-trust established in accordance with the Financial Regulations of UNESCO.
3. The resources of the Fund shall consist of:
  - (a) contributions made by States Parties;
  - (b) funds appropriated for this purpose by the General Conference of UNESCO;
  - (c) contributions, gifts or bequests which may be made by:
    - (i) other States;
    - (ii) organizations and programmes of the United Nations system, particularly the United Nations Development Programme, as well as other international organizations;
    - (iii) public or private bodies or individuals;
  - (d) any interest due on the resources of the Fund;
  - (e) funds raised through collections, and receipts from events organized for the benefit of the Fund;
  - (f) any other resources authorized by the Fund’s regulations, to be drawn up by the Committee.
4. The use of resources by the Committee shall be decided on the basis of guidelines laid down by the General Assembly.
5. The Committee may accept contributions and other forms of assistance for general and specific purposes relating to specific projects, provided that those projects have been approved by the Committee.
6. No political, economic or other conditions which are incompatible with the objectives of this Convention may be attached to contributions made to the Fund.

### ***Article 26 – Contributions of States Parties to the Fund***

1. Without prejudice to any supplementary voluntary contribution, the States Parties to this Convention undertake to pay into the Fund, at least every two years, a contribution, the amount of which, in the form of a uniform percentage applicable to all States, shall be determined by the General Assembly. This decision of the General Assembly shall be taken by a majority of the States Parties present and voting which have not made the declaration referred to in paragraph 2 of this Article. In no case shall the contribution of the State Party exceed 1% of its contribution to the regular budget of UNESCO.
2. However, each State referred to in Article 32 or in Article 33 of this Convention may declare, at the time of the deposit of its instruments of ratification, acceptance, approval or accession, that it shall not be bound by the provisions of paragraph 1 of this Article.
3. A State Party to this Convention which has made the declaration referred to in paragraph 2 of this Article shall endeavor to withdraw the said declaration by notifying the Director-General of UNESCO. However, the withdrawal of the declaration shall not take effect in regard to the contribution due by the State until the date of the subsequent General Assembly.
4. In order to enable the Committee to plan its operations effectively, the contributions of States Parties to this Convention which have made the declaration referred to in paragraph 2 of this Article shall be paid on a regular basis, at least every two years, and should be as close as possible to the contributions they would have owed if they had been bound by the provisions of paragraph 1 of this Article.

5. Any State Party to this Convention which is in arrears with the payment of its compulsory or voluntary contribution for the current year and the calendar year immediately preceding it shall not be eligible as a Member of the Committee; this provision shall not apply to the first election. The term of office of any such State which is already a Member of the Committee shall come to an end at the time of the elections provided for in Article 6 of this Convention.

***Article 27 – Voluntary supplementary contributions to the Fund***

States Parties wishing to provide voluntary contributions in addition to those foreseen under Article 26 shall inform the Committee, as soon as possible, so as to enable it to plan its operations accordingly.

***Article 28 – International fund-raising campaigns***

The States Parties shall, insofar as is possible, lend their support to international fund-raising campaigns organized for the benefit of the Fund under the auspices of UNESCO.

**VII. Reports**

***Article 29 – Reports by the States Parties***

The States Parties shall submit to the Committee, observing the forms and periodicity to be defined by the Committee, reports on the legislative, regulatory and other measures taken for the implementation of this Convention.

***Article 30 – Reports by the Committee***

1. On the basis of its activities and the reports by States Parties referred to in Article 29, the Committee shall submit a report to the General Assembly at each of its sessions.
2. The report shall be brought to the attention of the General Conference of UNESCO.

**VIII. Transitional clause**

***Article 31 – Relationship to the Proclamation of Masterpieces of the Oral and Intangible Cultural Heritage of Humanity***

1. The Committee shall incorporate in the Representative List of the Intangible Cultural Heritage of Humanity the items proclaimed “Masterpieces of the Oral and Intangible Cultural Heritage of Humanity” before the entry into force of this Convention.
2. The incorporation of these items in the Representative List of Intangible Cultural Heritage of Humanity shall in no way prejudice the criteria for future inscriptions to be established by the Committee in accordance with Article 16, paragraph 2.
3. No further proclamation will be made after the entry into force of this Convention.

**IX. Final clauses**

***Article 32 – Ratification, acceptance or approval***

1. This Convention shall be subject to ratification, acceptance or approval by States Members of UNESCO in accordance with their respective constitutional procedures.
2. The instruments of ratification, acceptance or approval shall be deposited with the Director- General of UNESCO.

***Article 33 – Accession***

1. This Convention shall be open to accession by all States not Members of UNESCO that are invited by the General Conference of UNESCO to accede to it.
2. This Convention shall also be open to accession by territories which enjoy full internal self-government recognized as such by the United Nations, but have not attained full independence in accordance with General Assembly resolution 1514 (XV), and which have competence over the matters governed by this Convention, including the competence to enter into treaties in respect of such matters.
3. The instrument of accession shall be deposited with the Director-General of UNESCO.

***Article 34 – Entry into force***

This Convention shall enter into force three months after the date of the deposit of the thirtieth instrument of ratification, acceptance, approval or accession, but only with respect to those States that have deposited their respective instruments of ratification, acceptance, approval, or accession on or before that date. It shall enter into force with respect to any other State Party three months after the deposit of its instrument of ratification, acceptance, approval or accession.

***Article 35 – Federal or non-unitary constitutional systems***

The following provisions shall apply to States Parties which have a federal or non-unitary constitutional system:

- (a) with regard to the provisions of this Convention, the implementation of which comes under the legal jurisdiction of the federal or central legislative power, the obligations of the federal or central government shall be the same as for those States Parties which are not federal States;
- (b) with regard to the provisions of this Convention, the implementation of which comes under the jurisdiction of individual constituent States, countries, provinces or cantons which are not obliged by the constitutional system of the federation to take legislative measures, the federal government shall inform the competent authorities of such States, countries, provinces or cantons of the said provisions, with its recommendation for their adoption.

***Article 36 – Denunciation***

1. Each State Party may denounce this Convention.
2. The denunciation shall be notified by an instrument in writing, deposited with the Director-General of UNESCO.
3. The denunciation shall take effect twelve months after the receipt of the instrument of denunciation. It shall in no way affect the financial obligations of the denouncing State Party until the date on which the withdrawal takes effect.

***Article 37 – Depositary functions***

The Director-General of UNESCO, as the Depositary of this Convention, shall inform the States Members of the Organization, the States not Members of the Organization referred to in Article 33, as well as the United Nations, of the deposit of all the instruments of ratification, acceptance, approval or accession provided for in Articles 32 and 33, and of the denunciations provided for in Article 36.

***Article 38 – Amendments***

1. A State Party may, by written communication addressed to the Director-General, propose amendments to this Convention. The Director-General shall circulate such communication to all States Parties. If, within six months from the date of the circulation of the communication, not less than one half of the States Parties reply favorably to the request, the Director-General shall present such proposal to the next General Assembly for discussion and possible adoption.
2. Amendments shall be adopted by a two-thirds majority of States Parties present and voting.

3. Once adopted, amendments to this Convention shall be submitted for ratification, acceptance, approval or accession to the States Parties.

4. Amendments shall enter into force, but solely with respect to the States Parties that have ratified, accepted, approved or acceded to them, three months after the deposit of the instruments referred to in paragraph 3 of this Article by two-thirds of the States Parties. Thereafter, for each State Party that ratifies, accepts, approves or accedes to it, the amendment shall enter into force three months after the date of deposit by that State Party of its instrument of ratification, acceptance, approval or accession.

5. The procedure set out in paragraphs 3 and 4 shall not apply to amendments to Article 5 concerning the number of States Members of the Committee. These amendments shall enter into force at the time they are adopted.

6. A State which becomes a Party to this Convention after the entry into force of amendments in conformity with paragraph 4 of this Article shall, failing an expression of different intention, be considered:

- (a) as a Party to this Convention as so amended; and
- (b) as a Party to the unamended Convention in relation to any State Party not bound by the amendments.

***Article 39 – Authoritative texts***

This Convention has been drawn up in Arabic, Chinese, English, French, Russian and Spanish, the six texts being equally authoritative.

***Article 40 – Registration***

In conformity with Article 102 of the Charter of the United Nations, this Convention shall be registered with the Secretariat of the United Nations at the request of the Director-General of UNESCO.

DONE at Paris, this ..... day of ....., in two authentic copies bearing the signature of the President of the General Conference, at its ..... session, and of the Director-General of UNESCO. These two copies shall be deposited in the archives of UNESCO. Certified true copies shall be delivered to all the States referred to in Articles 32 and 33 as well as to the United Nations.

The above text is the authentic text of the Convention hereby duly adopted by the General Conference of UNESCO at its ..... session, held in Paris and declared closed on .....

IN WITNESS WHEREOF the undersigned have signed this Convention this ..... day of .....

President of the General Conference

Director-General

## ANNEX III

### List of Participants / Liste des participants

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