

**United Nations Educational, Scientific and Cultural Organization**



Report of the Expert Meeting on

**INVENTORYING INTANGIBLE CULTURAL HERITAGE**

Paris

17 – 18 March 2005

---

Intangible Heritage Section  
Division of Cultural Heritage  
UNESCO

1, Rue Miollis

75732 PARIS cedex 15

Tel.: +33 (0)1 45 68 42 52

Fax: +33 (0)1 45 68 57 52

<http://www.unesco.org/culture/heritage/intangible/>

## TABLE OF CONTENTS

<b>1</b>	<b>Introduction</b>	<b>5</b>
<b>2</b>	<b>Opening of the meeting</b>	<b>11</b>
<b>3</b>	<b>The Meeting</b>	
<b>3.1</b>	<b>First Session: Scope and Make-up</b>	
3.1.1	Keynote speech by Ms Marcia Sant'Anna	12
3.1.2	Debate	13
<b>3.2</b>	<b>Second Session: Criteria for Inscription</b>	
3.2.1	Keynote address by Mr Chérif Khaznadar	16
3.2.2	Debate	16
<b>3.3</b>	<b>Third Session: Actors and Stakeholders</b>	
3.3.1	Keynote address by Mr Anthony Seeger	22
3.3.2	Debate	23
<b>3.4</b>	<b>Fourth Session: Management and Ownership</b>	
3.4.1	Keynote speech by Mr Wend Wendland	29
3.4.2	Debate	30
<b>4</b>	<b>Conclusions and Recommendations by the Participants</b>	<b>36</b>
	<b>Annex I: List of Participants</b>	<b>38</b>
	<b>Annex II: Yamato Declaration</b>	<b>42</b>



*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 (from article 12 of the Convention for the Safeguarding of the Intangible Cultural Heritage).*

### 1.1 The 2003 Convention

In October 2003 the General Conference of UNESCO adopted the *Convention for the Safeguarding of the Intangible Cultural Heritage*. This Convention is meant to safeguard the living heritage of humanity, thus contributing to human creativity and cultural diversity and to the well-being of the groups and communities who are the bearers of the practices and expressions that constitute this heritage. The 2003 Convention has the potential to develop into a counterpart of UNESCO's 1972 *Convention concerning the Protection of the World Cultural and Natural Heritage*, better known as the *World Heritage Convention*, which mainly deals with elements of the world's tangible man-made ("cultural") and/or natural heritage of outstanding universal value.

The 2003 Convention will enter into force three months after it will have been ratified or otherwise accepted by thirty States Parties. The entry into force may be expected for summer 2006. By the end of September 2005 twenty-three States had become parties to the 2003 Convention: Algeria, Mauritius, Japan, Gabon, Panama, China, Central African Republic, Latvia, Lithuania, Belarus, Republic of Korea, Seychelles, Syrian Arabic Republic, United Arab Emirates, Mali, Mongolia, Croatia, Egypt, Oman, Dominica, India, Viet Nam and Peru.

### 1.2 Intangible Cultural Heritage (ICH) according to the Convention

For the purpose of the 2003 Convention the following description of intangible cultural heritage (ICH) was elaborated:

*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.*

To that definition was added an explicitly non-exhaustive list of domains in which the ICH manifests itself:

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

It goes without saying that many elements of the ICH can be attributed to more than one of these domains.

### **1.3 Organs and Lists**

The States Parties to the Convention, who jointly constitute the Convention's General Assembly, will elect an 18-member Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage. Before that Intergovernmental Committee can start implementing the Convention, it will have to prepare, for approval by the General Assembly, a set of *operational directives* that will guide the interpretation and implementation of the 2003 Convention.

The 2003 Convention establishes two Lists, the *Representative List of the Intangible Cultural Heritage of Humanity* and the *List of Intangible Cultural Heritage in Need of Urgent Safeguarding*. The Convention is not intended to inscribe elements on the basis of outstanding and/or universal value; instead, it proposes to list elements that are representative of the creativity and cultural diversity of humanity, as well as of the ICH of individual groups and communities.

The Committee will deal with the inscription on the Lists of ICH elements and with the monitoring of inscribed elements; it will also have to select, for granting international assistance, programmes and projects, thereby focusing on ICH inscribed on the *List of Intangible Cultural Heritage in Need of Urgent Safeguarding* and on the preparation of inventories by States parties to the Convention.

The Intergovernmental Committee, as well as the General Assembly, will be able to profit greatly from the experience gained through the implementation of the programme of the *Proclamation of Masterpieces of the Oral and Intangible Heritage of Humanity*, a listing-cum-safeguarding programme for elements of the ICH that UNESCO elaborated in the late 1990s. Proclaimed Masterpieces (19 in 2001, 28 more in 2003) will be inserted in the Convention's Representative List under conditions that are to be elaborated by the Intergovernmental Committee that will implement the 2003 Convention. After the entry into force of the Convention no new Proclamation of Masterpieces will take place, which means that the third Proclamation (November 2005) probably will be the last one.

#### **1.4 Safeguarding versus Protection**

Article 2.3 of the Convention defines “safeguarding” as *measures aiming at ensuring the viability of the intangible cultural heritage*. Such measures are specified in great detail; they are said to include 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*. Since the intention of the 2003 Convention is to safeguard heritage that is living, in constant evolution and human borne, the safeguarding measures will to a large extent concern the protection and revitalization of various and varying material and non-material circumstances that are necessary for the continued enactment and development of ICH elements, as well as for their transmission to subsequent generations.

Safeguarding measures for the intangible heritage, which is human borne and has to be transmitted from one generation to another, are quite different from measures that are necessary for the protection of the tangible (cultural and natural) heritage. At the same time, it has to be acknowledged that elements of the tangible (movable as well as immovable) are often interlinked. The 2003 Convention therefore also includes in its definition of intangible cultural heritage *instruments, objects, artefacts and cultural spaces* that are associated with manifestations of the intangible cultural heritage.

The relation between tangible and intangible heritage was extensively discussed during a recent international conference of experts which was co-organized by UNESCO. The conference took place in October 2004 in Nara, Japan; the declaration adopted at the end of that meeting, the so-called *Yamato Declaration*, is presented as annex II of this report.

#### **1.5 The role of communities**

Communities and groups of practitioners and tradition bearers are not only the principal beneficiaries of ICH safeguarding activities; they must also be main counterparts of States wishing to implement the 2003 Convention. Articles 11, 12 and 15 are especially relevant in this respect.

Article 11 of the Convention highlights, among the safeguarding measures that States Parties have to take, the identification and definition of the various elements of the ICH present on their territory, *with the participation of communities, groups and relevant NGOs*.

The twelfth article stipulates that *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*. Combined reading of articles 11 and 12 makes it clear that the Convention indicates that inventories are to be drafted with the participation of the tradition bearers themselves.

Article 15 further stipulates that *each State Party shall endeavour to ensure the widest possible participation of communities, groups and, where appropriate, individuals that create, maintain and transmit such heritage, and to involve them actively in its management.* Thus, the Convention explicitly expects its States Parties to involve in their national safeguarding activities the groups and communities who are the holders and transmitters of the elements that are to be safeguarded. The important role, imparted to communities and groups of tradition bearers and practitioners concerning the identification of their ICH, was also highlighted in the definition of ICH that was elaborated for the sake of the Convention in its article 2 – see section 1.2 above.

## **1.6 Inventories**

The Convention attaches great importance to the preparation of inventories; article 12, stating that States Parties *shall* draw up one or more inventories, uses stronger language than the other articles dealing with the role of States Parties to the Convention. The Convention presents the preparation of one or more inventories as a safeguarding measure in itself and at the same time as a prerequisite for further safeguarding measures – see article 2.3 which includes *identification* in the set of safeguarding measures, and article 12 which stipulates that inventories have to be drawn up *to ensure identification with a view to safeguarding.* The obligation to involve communities, groups and relevant NGOs was already mentioned above.

## **1.7 National Experiences**

About a hundred Member States acquired a limited experience in inventory-making when they submitted a candidature file for one or more of the *Proclamations of Masterpieces of the Oral and Intangible Heritage of Humanity.* As part of the candidature files that are submitted under this programme, Member States had to present “tentative lists” containing five examples of intangible cultural expressions which they wish to safeguard in the coming years.

Some Member States, such as Japan and Korea, understood the importance of the ICH quite early, and already developed legislation and listing systems in the 1950s. Quite a number of Member States followed them in the 1980s and 1990s; many of those who started recently, did so in view of the future implementation of the 2003 Convention. The experiences of the various States involved differ greatly.

## **1.8 The Meeting**

The present report summarizes a meeting on inventory-making in the field of ICH, organized in Paris on 17 and 18 March 2005 by UNESCO’s Intangible Heritage Section. The meeting was organized with the financial assistance of the Government of Norway whose generous support facilitated the participation of some fifteen experts from developing countries.



The purpose of the meeting was to study various inventory-making methodologies and to debate issues to be taken into account when preparing the implementation of the 2003 Convention. Indeed, the characteristics of various systems already under elaboration or in place were studied and compared during the meeting, as were the different approaches and experiences of Member States, regions and disciplines. The debates and the conclusions of the meeting will contribute substantially to the elaboration of thematic manuals on the safeguarding of the ICH. The experts took part in the meeting in their personal capacities; they did not represent – unless they explicitly stated otherwise – official positions of their countries.

The 30 participating experts were selected among researchers, representatives of custodian communities, civil servants working in local and national administrations, as well as from relevant NGOs. Most of them came from countries that had already acquired experience in preparing one or more inventories of ICH.

The World Intellectual Property Organization (WIPO) was also invited, as were observers from UNESCO Member States, in particular those that had already ratified the Convention or that had shown a special interest in UNESCO's programmes in the field of ICH. Some 50 observers attended all or part of the meeting. There were four plenary working sessions, each of which was introduced by a keynote presentation. Most of the time, however, was devoted to debates and discussions, the essentials of which – we hope – are presented in this report.

## **1.9 A Questionnaire**

The experts participating in the meeting had been invited, a few weeks earlier, to complete a questionnaire concerning experiences in their countries in the inventorying of ICH and related activities. The returned questionnaires covered 20 countries.

The answers cannot be viewed as rigorously representative for the countries or regions concerned, as not all regions were equally well represented, and as the answers were given by experts in their personal capacity. Furthermore, UNESCO made the deliberate choice of inviting experts from countries with limited to considerable experience in the field. Completed questionnaires were received from

- 6 countries from Europe and North America: Belgium, Bulgaria, Georgia, Lithuania, Spain, USA;
- 5 countries from Africa and the Arab States: Algeria, Cape Verde, Kenya, Mauritius, South Africa;
- 5 countries from Asia and the Pacific: Bhutan, Fiji, India, Japan, Uzbekistan;
- 4 countries from Latin America and the Caribbean: Brazil, Colombia, Haiti, Panama.

The responses to the questionnaires were analysed and, grouped around the four main themes of the meeting, presented at the beginning of each of the working sessions. The final chapter of this communication, which presents comments by the secretariat, also takes these responses into account. A report on the results of the questionnaire will be placed on the website of the section, which is <http://www.unesco.org/culture/heritage/intangible/>.

Rieks Smeets

---

UNESCO's Assistant Director-General for Culture, Mr Mounir Bouchenaki opened the meeting and presented in his welcoming address a chronology of ICH activities by UNESCO from 1970 on, reviewing the *1972 Convention concerning the Protection of the World Cultural and Natural Heritage*, the 1973 request by Bolivia to UNESCO to address non-material heritage, the 1989 *Recommendation on the Safeguarding of Traditional Culture and Folklore* and the regional meetings organized in the 1990s to study the impact of the 1989 Recommendation and to advise UNESCO on further activities, culminating in a final meeting at the Smithsonian Institution (Washington DC) in 1999. Mr Bouchenaki explained that this process was finalized with the adoption by the 32<sup>nd</sup> General Conference of UNESCO of the *2003 Convention for the Safeguarding of the Intangible Cultural Heritage*, which at the date of the meeting had already been ratified by 12 Member States.

Mr Bouchenaki also gave an overview of UNESCO activities in the field of ICH, more particularly the *Programme of the Proclamation of Masterpieces of the Oral and Intangible Heritage of Humanity*, and highlighted the importance of inventory-making for the safeguarding of ICH. As a set of operational directives will have to be prepared in the near future to guide the implementation of the Convention, it is already necessary to collect and analyse best practices.

After the opening address by Mr Bouchenaki, Mr Rieks Smeets, Chief of the Intangible Heritage Section of UNESCO, briefly presented the current activities of the Section, and outlined the role and tasks of the future Intergovernmental Committee of the Intangible Cultural Heritage of Humanity ("the Committee"). He referred in particular to the operational directives that will guide the implementation of the Convention. He also stressed that the objective of the meeting in the first place was the exchange and discussion of experiences and ideas, to result – if possible – in the drafting of concluding recommendations.

### 3.1 First Session: SCOPE AND MAKE-UP OF INVENTORIES

#### 3.1.1 Keynote speech by Ms Marcia Sant'Anna

Ms Marcia Sant'Anna, Director of the Intangible Heritage Department of the Brazilian *Institute of Historic and Artistic Heritage* (IPHAN), presented her country's experiences in inventory-making, which go back to the creation in the 1930s of the IPHAN and application of an administrative act called *Tombamento* for the legal protection of cultural heritage, both movable and immovable. The *Tombamento* was based on Western notions of authenticity, including preservation of property as much as possible in its original form, focusing on objects rather than on related social processes. When, in the 1970s, the concept of cultural heritage was broadened to include explicitly intangible assets, it became obvious that living cultural assets were to be protected through specially adapted means, which eventually led to the creation by decree of the *Registry of Intangible Cultural Assets* in 2000.

Through this Registry ICH items are documented and publicized, in a way that takes into account the collective and individual rights linked to that heritage. Considering the dynamic nature of ICH, the Registry must be periodically revised, at least once every ten years. The registered properties are declared "Brazilian Cultural Heritage", which entitles them to be promoted and to receive financial support for safeguarding plans. Parallel to the Registry, a National Programme for Intangible Heritage was established for preserving the country's ethnic and cultural diversity, which included the National Inventory of Cultural References. For this National Inventory, an inventory-making methodology was prepared by IPHAN aimed at the identification of cultural assets, both tangible and intangible. Intangible cultural assets are divided into four categories: "Celebrations", "Forms of Expression", "Craftsmanship or Traditional Knowledge" and "Places or Physical spaces". The local delimitation of inventorying activities may correspond to a village, a district, a zone, an urban sector, a culturally differentiated geographic region or a complex of territories.

The inventory-making methodology comprises three phases: (1) preliminary collection, (2) identification and documentation, and (3) interpretation. The inventories carried out by IPHAN emphasize the cultural references of indigenous people, Afro-Brazilian citizens and groups inhabiting protected urban nuclei, as well as people living in multicultural urban contexts. There is a special focus on cultural properties at risk.

Ms Sant'Anna stressed that an important goal of inventorying ICH is to maintain the country's cultural diversity in a context of homogenizing tendencies, and to contribute through the implementation of safeguarding mechanisms to social inclusion and improvement of living conditions of the tradition bearers. She also

pointed out that lack of awareness at the political level, of financial means and of qualified human resources are the main threats calling into question the success of Brazilian safeguarding efforts. Ms Sant'Anna concluded her intervention by stating that Brazil had designed a preservation system that might be useful for other countries, and that the country was open to proposals for cooperation and exchange.

Following the keynote speech, Mr Fernando Brugman from UNESCO's Intangible Heritage Section presented an analysis of questionnaire items related to the scope and make-up of inventories.

### **3.1.2 Debate, chaired by Ms Marcia Sant'Anna**

Mr Hachi asked whether a hierarchy was established in the Brazilian system between the preliminary collection of information, identification and documentation, and interpretation. The Chairperson explained that identification and documentation were very important, although more costly than just the collection of information. In a second step a selection of the identified elements would be included in the Registry and audiovisually documented. Safeguarding plans are then developed, with particular attention for elements in danger of disappearing. A hierarchy is indeed established, more attention being paid to properties that are included in the Registry.

Answering Mr Llop i Bayo and Ms Santova, the Chairperson further explained that the Brazilian inventory is an instrument used for making known the ICH of the country, and for safeguarding it through registration and safeguarding plans. Importantly, the interpretation is carried out together with the communities concerned, who are involved in the process from the very beginning, for example by asking their representatives to fill in questionnaires. After gathering preliminary information, the completed form is processed and inserted in a databank, which is open to the public. IPHAN furthermore plans to enhance the accessibility of collected information through the Internet. Ms Sant'Anna also referred to a Manual, which includes the questionnaires and forms, and which serves as a guideline for the experts and communities involved in inventorying ICH at regional and local level.

In response to a question by Ms Medina, the Chairperson explained that a national team of IPHAN supervises and trains local experts in the field who are identified through universities and other research networks. The communities are involved in the whole process, including the interpretation of their ICH, and interviewed *in situ*. Ms Sant'Anna pointed out furthermore that the Brazilian system is not generally applicable to every country, but may serve as a model for countries similar to Brazil. In reply to a question from Mr Jacobs about copyright, Ms Sant'Anna answered that Brazil is currently developing legislation to protect collective cultural heritage. At present, every property registered becomes "Brazilian Cultural Property", allowing the communities and practitioners to use this title for promotion and fund-raising purposes.

Mr Machuca noted that developments in Mexico were similar to those in Brazil, mentioning the role of the *Instituto Nacional de Antropología e Historia*, and added that inventorying had been strongly conditioned in the past by nationalism. Mr Bocoum remarked that in Senegal inventorying ICH had started in the early 20<sup>th</sup> century under conditions of colonialism. Mr Marengo added that in his country (Nicaragua), a strong link was developed between ICH and tourism, through support for inventorying by INTUR, the National Institute for Tourism. Mr Hachi remarked that it was necessary to train experts, and that the Algerian authorities intended to set up a Centre for Intangible Heritage. Mr Khakimov wondered why traditional craftsmanship, which was also recognized in the Brazilian system, had been included in the 2003 Convention as a domain of ICH. Ms Sant'Anna explained that the knowledge, skills and social processes involved, as well as their intergenerational transmission, are the subject of safeguarding measures, rather than tangible products.

Mr Govenar asked about updating mechanisms in the Brazilian system, to which the Chairperson answered that there were in principle two options: collecting already existing information and audiovisual material on the one hand, which would demand huge efforts due to the abundance of ICH in the country, and, on the other hand, periodical re-inventorying to check the viability of selected elements of the ICH. She also noted that priorities are established together with the communities concerned, which are given access to all information, allowing them to monitor the development of their own heritage. Referring to the National Heritage Fellowship Programme, which also covers the ICH of immigrant and expatriate groups that live in the USA in inventory-making activities, the Chairperson spoke about a similar approach in Brazil, adducing an example from the city of Sao Paulo, where ICH from sizable minorities such as Koreans, Jews and Italians is taken into account.

Mr La Hausse de Lalouvière remarked that a bottom-up approach could include the risk that neglected or non-powerful minorities were not considered. He also asked how to deal with transboundary ICH. The Chairperson replied that priority groups had been established, such as indigenous groups and Afro-Brazilians. In response to the second question, she replied that together with Colombia, a project had been started on inventorying the ICH of an indigenous community living on both sides of the border. Mr Smeets stressed that the 2003 Convention encourages its States Parties to submit joint proposals, and to cooperate in the implementation of safeguarding measures.

Mr Villarreal wondered how living conditions of communities could be improved through the safeguarding of their ICH. The Chairperson answered that in the action plans of the six ICH expressions that have been registered so far as Brazilian Cultural Property, four lines of action are followed: financial support for the transmission of knowledge, management support focused on traditional craftsmanship, capacity building in the community, and support in finding new markets for certain products. Mr Manetsi remarked that this approach entails a challenge of how to protect ICH from commercialization. The Chairperson replied that

the main threat was mass tourism, and that the Brazilian approach was to avoid commercialization, while strengthening awareness and the sense of ownership of the groups of practitioners concerned.

The observer from the Delegation of Portugal remarked that in many countries there is already ample information and documentation on ICH available. That material, however, was neither gathered, nor archived in a unified way – and for other purposes than inventory-making as understood in the 2003 Convention. Given this situation, she wondered how to start preparing inventories, and how to integrate existing material into the inventories.

The Chairperson pointed out that the Brazilian approach favours gathering all available information in the preliminary collection phase, before going into the field. She added that much information is to be found in other countries, often in those of former colonizers and that Portugal has offered support on this matter. The Chairperson highlighted the importance of such cooperation, also for Portuguese-speaking countries in Africa. In reply to whether a central governmental body was needed within the Ministry of Culture to deal with these issues, she commented that in a country like Brazil a coordinating centralized body is a must.

The observer from the Delegation of Norway inquired about the level of detail needed for specific measures related to inventorying ICH, including the level of protection, especially with regard to the necessary financial means, as well as to the maintenance and follow-up of the inventories. Mr Smeets replied that many questions cannot yet be answered, since it is necessary to wait for the set of operational directives that will guide implementation of the 2003 Convention and that will be prepared by the future Intergovernmental Committee. These directives will no doubt include indications concerning inventory-making which will have the character of recommendations, as the 2003 Convention stresses that each State Party is to draw up one or more inventories in a manner geared to its own situation. The 2003 Convention does not explicitly require preparing a full inventory of all the ICH present in a country. During the expert meeting organized by UNESCO, it was more than once stressed that in many countries full inventories, if at all theoretically possible, cannot be achieved. Mr Smeets indicated that the Committee might wish to take a practical approach, and that it may in certain cases be possible to start elaborating safeguarding measures before having carried out in-depth studies. He then emphasized that activities like the definition and identification of ICH, as well as actual inventory-making, are presented by the 2003 Convention not as goals in themselves, but as first steps in an overall effort aimed at ensuring the viability of the ICH.

Mr Marengo finally wondered how UNESCO could support communities in continuing to transmit their traditions. The Chairperson replied that the main role of UNESCO should be to support action plans for the safeguarding of registered ICH.

## **3.2 Second Session: CRITERIA FOR INSCRIPTION, AND THEIR USE IN STRUCTURING INVENTORIES**

### **3.2.1 Keynote address by Mr Chérif Khaznadar**

Mr Chérif Khaznadar, director of the Paris-based *Maison des cultures du monde*, referred to articles 1, 12, 16, 17 and 31 of the 2003 Convention, which indicate three fundamental tasks involved in inventories: raising awareness, fostering respect for all forms of ICH without hierarchy, and honouring the living/evolving nature of the ICH.

Mr Khaznadar was happy that the term “intangible cultural heritage”, which is free of negative connotations connected with terms such as “folklore”, was gaining – against his expectations – general acceptance. The Representative List to be created in the framework of the 2003 Convention would further promote the prestige of the ICH and the sense of pride on behalf of its bearers and practitioners. The speaker also stressed that by insisting on respect for all ICH, the 2003 Convention discourages value-judgments or the establishment of hierarchies among its various forms. The planned discontinuation of the proclamation of Masterpieces is in line with this approach, given that in order to be proclaimed a “Masterpiece”, an ICH element has to be considered of “outstanding value”. Mr Khaznadar noted that the Representative List would present forms that are included because they are emblematic enough to cover other forms, not because they are considered of higher value to humanity than the others.

Finally, Mr Khaznadar explained that the living and constantly evolving nature of ICH implies that inventories will need to be regularly revised and updated. As opposed to approaches towards physical cultural heritage, no attempts should be made to conserve an element in a particular form, which may be considered as most “authentic”. Mr Khaznadar insisted that the notion of “authenticity”, especially as used with regard to the physical heritage, is inapplicable to the ICH, which has no pure forms. It is very important, he said, to take this into account when inventorying ICH.

Following the keynote speech, Ms Miho Kobayashi from the Intangible Heritage Section of UNESCO presented an analysis of questionnaire items related to the criteria for inscription and their use in structuring inventories.

### **3.2.2 Debate, chaired by Mr Chérif Khaznadar**

Mr Llop i Bayo underlined the importance of documentation and updating in the process of inventorying, stating that an undocumented list would not be helpful for ensuring safeguarding measures. Mr Hachi, referring to the ephemeral nature of ICH, stated that representativity and not historicity, a notion borrowed from physical heritage, should be a major criterion for inscription. Ms Santova remarked that abandoning the criterion of authenticity may lead to the loss of values. In the context of the Bulgarian inventory, “authenticity” was understood as performance in the



“natural/original context” – as opposed to performances by professionals having studied in academic institutions. The Chairperson noticed that consistent use of terminology was in order here. He stated that the term “authenticity” generally implies values incompatible with ICH. He then suggested that another term should be proposed to denote “performance in natural context” and that the Secretariat should prepare a new glossary for the 2003 Convention, which would enable all concerned to use the same language.

Ms Tsurtsunia gave an example from Georgia, where many professional and semi-professional groups perform traditional music. For the purposes of the Georgian inventory, it was decided to consider a performance as “non-authentic” if the group had learned the music from recordings, and “authentic” if the group had learned it in the natural context. Mr Smeets, invited by the Chairperson to take the floor, recalled that the concept of authenticity is widely used in the context of the 1972 Convention, in the sense of “historically correct”. He noted that UNESCO has a number of standard-setting instruments dealing with heritage, and that part of their terminology is shared. UNESCO, in order to be consistent when it approaches its Member States, has to see to it that the same term is not used in different meanings in the context of related Conventions. Referring to professional performances as opposed to those in the “natural context”, Mr Smeets pointed out that the 2003 Convention is rather about safeguarding ICH *in situ*, and that it is as yet an open question whether elements perpetuated by professionals but having lost their function in their communities of origin fall within the scope of the 2003 Convention.

Mr Bocoum called attention to the importance of historical texts. He stated that each element of the ICH comprises both variable and invariable essential characteristics, which have survived the centuries. Historical texts enable us to single out invariable components. Ms Sant’Anna agreed that the notion of “authenticity”, as used in the context of physical heritage, cannot be applied to ICH. She adduced the example of Brazil, which has no “pure”, uninfluenced cultural expressions. Mr Machuca highlighted another aspect of the notion of “authenticity”: it is necessary to distinguish between what is rooted in a cultural tradition and what is artificially created for commercial exploitation. Having a tool enabling such a distinction to be made is essential for inventories of ICH.

The Chairperson reminded that such a “tool” is already present in the 2003 Convention which refers to transmission from generation to generation as an indispensable characteristic of ICH that is to be safeguarded. He noted that an element that has been transmitted by at least two or three generations can be considered as rooted.

Mr Villareal spoke about the importance of clearly defining the purpose of inventories in order to avoid pitfalls and misuses of collected information. Mr Govenar pointed out that identification of ICH implies different levels of subjectivity, within which different perceptions of authenticity may appear. He then raised a question on how inventory-making can take into account those different perceptions and their

evolution. Mr Smeets referred to article 2 of the 2003 Convention that defines the ICH as the cultural manifestations that communities, groups and individuals recognize as part of their heritage. The opinion of the tradition bearers may turn out to be the decisive criterion in determining what is worth inventorying and safeguarding, since, under the 2003 Convention, it is also obligatory for States Parties to seek the cooperation and agreement of communities when inventorying ICH.

The observer from the Delegation of Portugal observed that the concept of “representativity” is not defined in the 2003 Convention; she also asked whether it is up to the States Parties to develop their own criteria for inscribing ICH elements in their inventories. She then pointed out the contradiction between “outstanding value”, a criterion used for the Masterpieces programme, and “representativity” and the absence of hierarchy, the latter two reflecting the spirit of the 2003 Convention, and finally asked how Masterpieces are to be integrated into the Representative List. Mr Smeets replied that the first Intergovernmental Committee will have to prepare two sets of criteria for inscription, one for each of the two Lists established by the 2003 Convention; this will necessarily entail a discussion on “representativity”. He also stated that, according to article 31.2, the Committee will have to prepare a proposal for the insertion of Masterpieces in the Representative List, without prejudging the establishment of new criteria for the Lists mentioned above. The Chairperson further made clear that there is no fundamental incompatibility between the Masterpieces programme and the Representative List, since Masterpieces are proposed by the Member States concerned, which prepare and propose candidature files. For the Representative List, the procedure may be expected to be quite similar.

Mr Marengo explained a Nicaraguan case where the opinions of communities were taken into account when discussing what elements of ICH are representative; after that experts analysed why they were considered representative.

Mr Llop i Bayo insisted that inventories should be established at administrative level, since every community tends to believe that its values are the most important. Mr Jacobs distinguished between passive and active inventories. Having stated that traditional forms of cheese-making are endangered due to strong European regulations on hygiene, he stressed that the inventories can be utilized actively, for instance to exert political pressure. The Chairperson, agreeing that there are cases of ICH elements that are in danger of disappearing due to laws adopted by States, remarked that the Intergovernmental Committee will have to take decisions regarding such cases.

Mr Khakimov, referring to article 5 of the Convention, asked the Secretariat why the Intergovernmental Committee will be composed of 18 States Parties, and what will be their regional distribution. Mr Smeets explained that the governmental experts, when preparing the 2003 Convention, decided they would like to create room for two or three representatives from every region, to ensure geographical balance among the Member States of the Committee. He added that the number of 18 is to be enlarged to 24, once the Convention has 50 States Parties.

Ms Nguyen referred to the difficulty in drawing up a comprehensive inventory in Viet Nam due to problems of identifying and categorizing ICH and due to a lack of knowledge and budget. She asked the Secretariat if it was considered important for Viet Nam to continue making a comprehensive inventory, and invited other experts to share their experience. Mr Smeets, applauding the courageous initiative of Viet Nam to produce a comprehensive inventory in spite of difficulties, recalled that States Parties in the future will be in a position to apply to the Intergovernmental Committee for financial support. He invited Ms Santova to share the Bulgarian way of making a low-budget comprehensive list. Ms Santova explained that multiple-choice questionnaires were initially distributed countrywide at the initiative of the Ministry of Culture and through the network of *Tchitalishteta* (local cultural centres). Bulgaria has a national list in addition to regional lists, which cover six thematic domains. After analysis of the returns, meetings were organized to announce the results to the local communities, whereupon numerous comments were received. After gathering all reactions and organizing a second meeting to “digest” all comments, a second version of the inventory was prepared. Then it was decided that the list will be open-ended and that new cultural expressions fulfilling the criteria can be inscribed. The list is available online in Bulgarian and English.

Mr De Lalouvière, recalling the discussion that stressed the necessity of including what is important for communities in inventories, wondered how the responsible bodies would select elements of ICH when there is a debate on authenticity, or when there is political pressure to include elements that are not historically authentic. He then stressed that the Intergovernmental Committee should note in the file all the objections raised. Mr Miyata explained the Japanese case where classical and historical characteristics of cultural expression are very much respected. Stressing the need to find other terminology than authenticity, he proposed that a meeting be organized on this subject in the near future. Ms Chaudhuri, explaining the situation in India where communities are geographically widespread and their leadership is not easy to identify, stressed the importance of defining the term “community” and wondered whose opinion should be taken into account as regards nominations.

Mr Smeets took note of the proposal from Japan ensuring that the question of authenticity will remain on UNESCO’s agenda. Regarding the term of community, he explained that, according to a group of experts meeting at UNESCO Headquarters in 2002, essential in the definition of a community might be the notion of “a self-ascribed sense of belonging together”. The Intergovernmental Committee will have to define “communities” and “groups” more explicitly, and to give indications as to how they might be involved.

Mr Jacobs, referring to article 11 about identification of the elements of ICH with the participation of communities, groups and NGOs, insisted that communities should participate in an active way rather than being asked merely to give opinions. Ms Seliukaite wondered how to define community in Lithuania where many groups,

such as folklore groups or religious communities do not seem to correspond to the 2003 Convention. She also gave an example of “archaeological craftsmanship” i.e. traditional craftsmanship that is reconstructed by scholars, and revitalized by contemporary artisans. As to authenticity, she stressed that in Lithuania a distinction is made between “living” heritage and “historical” heritage; when living heritage dies out, it becomes historical heritage, which also should be registered and documented, since it may become living heritage again. The Chairperson commented that there is no contradiction with the 2003 Convention, since a person can feel him/herself to be, and may be recognized as being, a bearer of a given tradition, if that tradition was reconstructed, for instance, 60 years ago, and passed on since. He noted that it should be possible to include historical forms which have become living, and living forms which have become historical. Inventories are to be open-ended and updated regularly, so that the ICH presented in them can be reviewed or assessed regularly.

Mr Machuca, coming back to the participation of communities, described a Mexican case where two institutions ensuring such participation have participated in inventory-making, one of which is the Institute of the Rights of Indigenous Peoples. In the case of inventoried musical elements, it has proven possible to reaffirm property rights. He then highlighted that the participation of communities is also important for the sake of cultural diversity as advocated by UNESCO. Mr Llop i Bayo stressed the need also to take into account values and opinions from third parties, since elements of ICH may be endangered because the communities of tradition holders are not interested in their safeguarding.

Ms Nguyen, referring to conical hat making as practised in many regions in Viet Nam, asked if it is more appropriate to include such an ICH element under one title, or separately for every region, when the same tradition exists in different regions. Ms Sant’Anna, facing the same problem, explained that for a specific performance practised all over Brazil with regional differences, it was decided to register each regional expression individually, to highlight the regional characteristics.

Mr Soobarah, observer from Mauritius (Ministry of Arts and Culture), stressed the need to elaborate a guideline on the involvement of communities and wondered if Community Centres which exist in Mauritius can represent communities. Mr Smeets replied that it is up to the Member States to determine how they wish to safeguard ICH within their territory, and how to involve communities and groups. However, the 2003 Convention does give some indications: while article 11 stipulates that the participation of communities is obligatory in identifying ICH elements, article 15 is less categorical in stating that State Parties should *endeavour* to ensure the participation of communities when safeguarding and managing their ICH.

Mr Khakimov mentioned experiences of inventories in different domains of ICH. Having remarked that the situation in Central Asia is complex, he highlighted the need to devise standard questionnaires in the field of folklore and handicrafts, which could be used in many countries. Mr Hachi dwelled on an experience of inventory-making in south-western Algeria, concerning traditional music and dance, practised by

local populations, sometimes religious, sometimes secular. He stressed that no two representations are identical, and that it is important to update inventories regularly, to identify and document all variations and transformations.

An observer from the Delegation of Mexico pointed out that in order to give clear orientations to Member States, it is necessary to have a limited set of flexible and wide-scope criteria; otherwise many elements would be denied access to the 2003 Convention.

Ms Sato, an observer from Japan, remarked that in Japan the transformation of historical forms of ICH is not encouraged, which is also reflected in the criteria for the selection of traditional artisans. She stressed the importance of including the necessity of having a fixed traditional form as a criterion for the inscription of an element in the Lists of the 2003 Convention.

### 3.3 Third Session: ACTORS AND STAKEHOLDERS

#### 3.3.1 Keynote address by Mr Anthony Seeger

Mr Anthony Seeger (UCLA), Secretary General of the International Council for Traditional Music (ICTM), began his address by highlighting the great diversity among nations and peoples, with different kinds of art and cultural forms, as well as different challenges, which make it hard to come up with one single “recipe” for inventory-making. Therefore, it is important to look for general principles while understanding that there is no model type for inventory-making that could be applied to all. The experiences are diverse in the various countries.

Mr Seeger then addressed some issues concerning the Proclamation of Masterpieces programme, underlining that some of them relate quite directly to inventory-making. The varied experiences showed the real importance of the involvement of tradition bearers and communities in the consultation process and of their formal approval. However, this requirement is rarely met for various reasons, including geographical constraints (distance between communities and the capitals) or non-representativity of identified tradition bearers. Even with nomination files that were explicitly supported by the communities, the proposed action plans and their budgets often left out the culture bearers, with most of the funding being reserved for administration. Furthermore, for many candidature files for the Masterpieces programme, national or local scholars had not been consulted. Mr Seeger pointed out that the relationship between central cultural organizations and local practitioners can be a difficult one, as could be observed in the Masterpieces programme, as well as in the present debates.

In the USA, Mr Seeger continued, there is no centralized inventory and the diversity of federal States allows organizations to try out different approaches to inventory-making. There are successful cases of cooperation between local Government agencies and NGOs on one hand, and groups of performers on the other hand, showing that inventory-making can be a truly collaborative venture in which a number of agencies and people are involved.

When the Smithsonian Institution decides to present a programme on a specific country or region for its Folklife Festival, it begins with research on art forms, performances, cuisines, etc. that might translate well into the annual Smithsonian Folklife Festival. Consultation always involves local scholars and ‘local specialists’ who, without having academic credentials, often have a profound knowledge of the traditions and their bearers. The question of representation (“who can speak for the community”) is also prevalent in the USA. The example of American Indian peoples recognized by the US Government through “tribal councils” shows that the division of the members of these communities into “traditionalists” and “non-traditionalists” is problematic, because councils are always composed of “non-traditionalists”. Non-traditionalists are not necessarily the best interlocutors, as they may not be very

knowledgeable of or interested in their traditions and often do not care about inventories or recordings. This shows that consultation of large communities should not be limited to the official representative bodies.

Similarly, a top-down approach (from governmental to local) neglects the importance of understanding and using the local language when inventories are made. Mr Seeger referred in this context to Brazil, where a well organized consultation of local scholars and specialists, national experts and civil society provides good results. Direct consultation with community members is crucial since they can best provide information representative of the entire group. Interviews need to be conducted with all members that may have different information to provide, in particular when a conflict within the community involves opposing interest groups (political, cultural or otherwise). In addition, speaking with women separately from men can provide valuable information in view of gender specificities.

To conclude, Mr Seeger underlined – referring to multinational Masterpieces – the need also to spread consultations beyond national borders. In many cases, collaboration among countries is necessary to discover the current status of a tradition since Intangible Cultural Heritage does not follow national boundaries, and can travel widely.

Following the keynote speech, Mr David Stehl from UNESCO's Intangible Heritage Section Secretariat presented an analysis of relevant questionnaire items related to involvement of communities, actors and stakeholders in inventory-making.

### **3.3.2 Debate, chaired by Mr Anthony Seeger**

Ms Medina, referring to the experience of the Colombian public awareness raising campaign "Patrimonio cultural colombiano, demuestra quien eres" financed by the UNESCO / Japan Funds-in-Trust for the Preservation and Promotion of the Intangible Cultural Heritage, underlined that inventory making requires the participation of all (for example to develop a methodology and assessment criteria, or for the definition of what is intangible heritage). The Colombian experience has also shown a decentralization related problem: while the central government defines cultural policies, local authorities are responsible for the implementation, but they don't know, for instance, the techniques of inventory making.

As an example of a successful nation-wide programme of inventory-making, Mr Govenar mentioned the *American Folklife Preservation Act* passed by Congress in 1976, which led to the creation of the *Folk & Traditional Arts programme* of the *National Endowment of the Arts*. This programme supports local groups and communities in inventory-making through funding NGOs and local governmental agencies. In addition, through the National Heritage Fellowships programme, 300 individuals have attained national recognition of their ICH. They serve as focal points and as strong advocates of inventory-making. Despite the massive data on ICH already collected, no national database has yet been created, and no mechanism has been set up for

communities to know the level of data gathering of their own culture. The complex relationship between cultural (political) leaders and ICH practitioners makes it difficult for communities (local and international) to access the already collected ICH materials.

Mr La Hausse de Lalouvière shared the case of Mauritius which is a small country where a good communication infrastructure has been established and the Internet is widely spread. He advised other countries to set up websites and other forms of information sharing in order to improve access to ICH. Mr Nao, while stressing the need to involve ICH communities and to ensure the quality of data collection, highlighted the difficulties of creating a systematic inventory in Burkina Faso since it is not clear who else can establish such an inventory, if not governmental institutions. While a vast amount of ICH data has already been collected, especially with regard to music, it has been difficult to present it in any systematic manner due to the lack of supporting infrastructure. The example of the music museum of Ouagadougou showed that much has been 'collected', but it cannot be called an "inventory" as much information is still missing or needs to be updated.

On the basis of the experience gained in Mali when inventorying movable and intangible heritage for the development of a cultural map, Mr Togola reported that it is important to bear in mind that local authorities and cultural practitioners may have a different understanding of ICH and that due attention should be paid as to who needs to be contacted while looking for ICH information. The fact that mayors and local administrations often put emphasis on cultural expressions that were already presented within a cultural (entertainment) programme in their community, illustrated this observation. A different interpretation of ICH is given when directly approaching the practitioners and tradition bearers themselves. The appropriate ICH holders need therefore to be contacted and encouraged to participate in inventory-making.

Mr Bocoum pointed out that despite the great diversity among countries and their situations in terms of inventory-making, they all share the need to update the information gathered in earlier times and in a different political context (e.g. colonial period). In Senegal, the method for inventorying cultural heritage is based on "registry cards" [French: "fiches"] that relate to three types of heritage: tangible, intangible, and places of memory. These "cards" are all structured in the same way, and their analysis is showing initial results. Moreover, historical documentation (kept in museums, universities, etc.) is also being examined in order to complete new data being collected today. He also pointed out certain limitations of community involvement, in particular the holding back of information, or the varying degrees of accessibility to information according to different situations.

After congratulating Colombia on its promising initiatives, Mr Llop i Bayo spoke about legal limitations in Spain. In Spain, a law was passed in 1984 for the protection of cultural heritage which does not protect ICH as such, but requests the documentation of such heritage when it is in risk of disappearing. However, no inventories have been made for such ICH in danger. Today, legislation on the protection of cultural heritage has been decentralized to each of the 17 regions; some of



them, including the region of Valencia, have developed specific regulations for the safeguarding of ICH. The concern now is how to select ICH for drawing up inventories on the basis of its representative character and what other criteria should apply.

With regard to the importance of urgently implementing inventory-making, Mr Akibodé mentioned the case of a traditional Cape Verdian musical instrument, the use of which disappeared when the last person who played it died, despite repeated attempts to incite the authorities to intervene. This case illustrates that safeguarding ICH can be impeded by uninterested policy makers, as well as by practitioners who have learned to consider (parts of) their ICH as being backward. Increased awareness-raising is therefore essential.

Mr Villarreal added that usually there are political limitations to the management of ICH, and expressed his appreciation of the 2003 Convention which explicitly recognizes the primordial role of communities and individuals as stakeholders of ICH as well as their involvement in its safeguarding. Ms Chaudhuri from India asked under what conditions an intangible heritage element can be considered as representative. She asked who represents a community and cautioned that various political forces might come into play if something is to be declared, for example, a Masterpiece by UNESCO.

Ms Nguyen remarked that tradition bearers cannot be neglected when speaking of communities. In Viet Nam, the creation of a list of outstanding singing traditions showed that respect for ancestors and the elder generations made it impossible to nominate younger practitioners as “Masters”, independently of how developed their skills already were. Therefore, with reference to UNESCO’s Living Human Treasure programme (LHT), Ms Nguyen asked if the LHT guidelines could be used as a model for the new Convention. Mr Smeets replied that there is no one unified system of Living Human Treasures, and that the future Intergovernmental Committee in charge of implementing the Convention might draw on good practices from the Living Human Treasure system. The Committee will however develop its own guidelines to be approved by the General Assembly of States Parties.

Mr Jacobs wondered whether it would be useful to mention in inventories the names of the people involved (stakeholders such as scholars, promoters, officials, etc.) and whether inventories should be revised periodically. The Chairperson reiterated that an inventory-making exercise cannot be seen as a finished process as ICH is dynamic and constantly changing. Concerning the States’ responsibility in safeguarding ICH, Mr Marengo remarked that governments must be firmly committed to do so, as in an increasingly globalizing world ICH is easily being jeopardized. He wondered therefore whether such political commitment was reflected in the 2003 Convention.

Mr Manetsi pointed out that the transmission of traditional knowledge including language is increasingly becoming difficult due to globalization, as young people may no longer be interested. He gave as an example the efforts made to preserve a language that is being spoken only by eight elderly people in South Africa,

which was unsuccessful as the community's younger generation did not show any interest. Referring to the !Kung San community of South Africa, whose cultural practitioners feel themselves shameful of their own culture, he remarked that in order to safeguard their ICH successfully, the mindset of the people needs to be changed towards a positive attitude to their own culture. The important question is how to make young people become interested in ICH and for whom ICH needs to be preserved. The Chairperson stressed the importance of making young people recognize that their ICH is something to celebrate and be proud of. He also acknowledged that, in some cases, symbolic contribution and remuneration as an incentive are offered to young people.

With regard to the role of communities, Mr Miyata remarked that in spite of its importance, Japanese national law does not require the inventory-making body to obtain permission from the ICH community. He stressed the importance for the general public to understand the conception of the ICH. For the purpose of information sharing, he presented a brochure that explains the inventory-making process in Japan. Mr Nao mentioned that few ICH inventories have been drawn up in African countries, but that there is a strong wish to work urgently on their development. Much data had already been collected during the colonial period, but no systematic inventory had yet been made. He suggested that it might be helpful to approve a single inventory-making format with the understanding that this format needs to be adapted to the situation of each country.

The Chairperson reiterated the importance of sharing both success and failure stories in order to contribute to good inventory methodologies. He then opened the floor to observers.

The observer from the Delegation of Grenada spoke about "authenticity". Concerning intellectual property rights, she suggested that determining what is to be listed as ICH may need to be based on a particular historical context of the ICH as experienced by its creators and owners (both communities and individuals). When considering plans of action for the safeguarding of ICH, an ICH custodian, be it a group, a community, an individual, or a state, needs to be clearly identified in order to avoid a potential conflict over intellectual property-related issues and in order to ensure sustainable development. Inventory-making is closely related to creating complete documentation of the ICH concerned; thus the involvement of a concerned community is vital.

The observer from the Delegation of China mentioned the successful mobilization of various stakeholders all over China to create a strong candidature for the third Proclamation of Masterpieces. The general situation in China is that ICH bearers are getting old, and that the younger generations are not particularly interested in learning about old traditions. In this context, the Chinese government ratified the 2003 Convention in November 2004, which resulted in the creation of a project to protect ICH and the drafting of new legislation. Drawing upon the ratification of the Convention, national, regional, local governments and other authorities have been

mobilized. He stated that in the midst of the conflict between globalization and tradition, the best way to protect ICH is to protect the environment of the cultural bearers.

On the issue of endangerment of ICH and the relationship between communities and authorities, Ms Santova recounted a story of a colleague who had documented a group of women performing an ancient traditional dance during a Bulgarian village festival, until then unknown to researchers. Three years later, the dance in its previous form had disappeared. The strong interest shown by the community in this dance, which had been generated by the researchers, had led to an increased ornamentation and an enrichment of that dance which has thus been transformed into something completely different. Considering the danger of losing ICH, Ms Santova asked for recommendations on how to balance the relationship between researchers and ICH bearers; she also asked whether it is not desirable to document certain elements of ICH for the sake of their preservation.

Ms Medina, after highlighting the importance given in Colombia to participative processes in inventory-making and the management of ICH, remarked that it is not only important to identify communities and their representatives, but also to know how to approach them. Given the impossibility of gathering all communities, Colombia has organized several meetings with community representatives. This has made it possible to identify nine domains of ICH, eight of which relate to the domains proposed by the 2003 Convention. The Chairperson acknowledged that the examples of Colombia are very impressive and exemplary of how a government can give control over the safeguarding of ICH to the communities.

Referring to a question raised by Ms Nguyen, Ms Sato made it clear that in Japan the title of Human Living Treasure is in principle not given to individuals, but is rather used as a tool to recognize the cultural expression and the practitioners' skills to practise this expression. Ms Tsursumia mentioned that the inventorying process itself is of interest to researchers as it enables them to see the evolution of the ICH in question. In the case of Georgian polyphony, there are seven polyphonic schools in different regions where masters teach a new generation. At the same time, as it is popular both in cities and villages, polyphonic singing is constantly being re-created by various actors, causing traditional forms to be changed. Safeguarding and inventory-making therefore need to take into account the different forms enacted and created by various actors of different generations.

Following the point made earlier about the importance of acknowledging political limitations, Mr Metayer commented that if political turnover is frequent, the ICH inventory process could easily be disrupted, making it difficult to continue such an initiative, especially when inventory-making and safeguarding is under state responsibility.

Mr Machuca expressed the hope that inventories will contribute not only to the identification of cultural expressions, but also to their proper use. Both need to be regarded as a whole and should not be dissociated from one another, as (for example)

traditional cultural practices in ecosystems. He warned that dissociating elements of ICH one from another is problematic, as witnessed in the case of traditional medicinal knowledge being used by pharmaceutical companies. With reference to the experience quoted by Ms Santova, he stressed that communities often present their ICH to researchers or tourists in a form that is different from how they practise it themselves.

Recognizing the government as an important actor in inventory-making, Mr Parra expressed the need to inscribe inventory-making in a governmental and institutional policy, and that in order to achieve continuity and consolidation of the system, Colombia was focusing on three pillars: legislation, institutionalization, and information. On her side, Ms Satkauskiene stressed the importance of including the Living Human Treasures system into ICH inventories and explained that the inventory-making structure of Lithuania involves lists of masters, groups and communities, skills and techniques, festivities, spaces of traditional cultures, bearers of tradition, and lists of publications, artefacts, documentation and archives.

Mr La Hausse de Lalouvière asked, stating that there is no mention of extinct cultural groups in the 2003 Convention, whether the Convention is only about living traditions. In reply Mr Smeets explained that while article 2.3 of the Conventions does mention the idea of revitalization, the Convention is essentially about living ICH. It would be up to the Committee to define what revitalization means. The Convention, however, does not seem to cover extinct forms of heritage.

Referring to music collected by researchers in the past, Mr Villarreal asked the Chairperson (as the representative of ICTM) whether or not materials collected in the past could be eventually returned to the original bearers. In response, the Chairperson commented that it is important to give back such collections to the community, and that the National Heritage Program encourages the return of traditional knowledge to the original communities. In the USA, many immigrant artists and scholars occasionally return to their place of origin in order to share learned skills with their home community and take part in further data collection there. The Chairperson pointed out that it is important to recognize that tradition may be stored in different places.

The observer from the Delegation of Grenada cautioned that if ICH is not duly appreciated, it could be used by others who are not the owners of a particular ICH and who may simply be “inspired” by it. She also remarked her country’s effort to collect national legislations and emphasized the importance of paying due attention to the plans of action for the safeguarding of ICH.

The observer from the Delegation of Tunisia commented that his country is making progress in the field of safeguarding ICH, but that despite certain initiatives taken (e.g. tracking down traditional music and carrying out and publishing ICH research projects), it still remains an extremely complex task. He also considered that inventory-making has an intrinsic risk of reducing ICH to something uni-dimensional, and that, as to the question of ownership, certain aspects of ICH are often not specific or exclusive to only one community. He wondered therefore what the methodological approach could be, and expressed his concern about how inventories were going to be exploited/used.

### **3.4 Fourth Session: MANAGEMENT AND OWNERSHIP OF INTANGIBLE CULTURAL HERITAGE**

#### **3.4.1 Keynote speech by Wend Wendland**

Mr Wend Wendland, Head of the Traditional Creativity and Cultural Expressions Section, Global Issues Division of WIPO (the World Intellectual Property Organization), raised a series of questions on the relationship between inventorying intangible cultural heritage and intellectual property (IP) protection, the answers to which depend on (i) what “inventory-making” means in practice; (ii) what is inventoried, and (iii) how and by whom inventory-making is undertaken. IP questions arise at every stage of inventory-making: research, collection, recording, cataloguing, classification, publishing, disclosure, updating, etc.

There are at least four types of elements that can be inventoried: (i) literary, musical and artistic expressions for which neighbouring rights<sup>1</sup> and copyright law could apply; (ii) performances and rituals for which performer’s rights could apply; (iii) signs, indications, marks and symbols for which trademark law could apply, and (iv) know-how and knowledge relating to the patent system. The IP implications of documentation and registration are not the same in copyright law, trademark law, and patent law.

The articles in the Convention related to inventory-making, and intellectual property issues raised by them, touch on a broader discussion of the relationship between the safeguarding of ICH and its legal protection as an IP issue. In the IP sense, “protection” means measures protecting intellectual creations and innovations against acts of misappropriation such as copying, adaptation or public communication, or derogatory uses, which acts could be facilitated by the documentation and dissemination of ICH. This is the case with conventional as well as “traditional” creations, innovations and other materials. “Protection” in this sense is different from safeguarding. Safeguarding, as understood by the Convention, refers to ensuring the viability, the continued use and transmission of ICH. There is possible tension between the preservation of ICH, particularly when it requires documentation and publication, and IP protection of the documented materials. The keynote speaker stressed that IP issues are not, however, an obstacle but, with proper management, may rather create an opportunity to advance the goals of both those who are seeking legal protection as well as of those who advocate safeguarding.

Mr Wendland drew attention to draft provisions currently under discussion at WIPO for the enhanced protection of “traditional knowledge” and “traditional cultural expressions”, which may lead to the development of a new legal instrument or instruments. The draft provisions would protect knowledge and cultural expressions which are creative and characteristic of a community’s cultural identity and heritage. The beneficiaries of this system would be relevant peoples and communities. Exclusive rights (for example, in the form of a right of prior and informed consent<sup>2</sup>) would be

optional, given concerns expressed by many as to property rights in this area; the use of cultural expressions should be fair, not misleading, or derogatory. There would be exclusive property rights in certain limited cases, particularly for expressions of cultural or spiritual significance, or of particular value, for which there could be a registration requirement in the interests of transparency. As Mr Wendland highlighted, the WIPO provisions are intended to and should complement and reinforce safeguarding measures in the intangible cultural heritage field.

Five main questions should be considered:

- (i) Do inventories establish new IP rights? This could be the case as copyright recognizes rights in compilations and collections of data.
- (ii) Could inventory-making infringe upon existing rights? It is therefore necessary for those conducting inventories to make queries as to copyright ownership, etc.
- (iii) Communities are concerned about the activities of archives, registers and field workers who record their materials and make them publicly available not only for purposes such as preservation, transmission and dissemination, etc. because this facilitates their commercialization. Therefore, policies and guidelines could be useful in this domain.
- (iv) Could inventory-making support and promote the protection of traditional expressions, and can the recording of intangible cultural heritage create new IP rights in those recordings that could be used in a positive way to protect the interest of the providers.?
- (v) How can inventories of ICH and emerging *sui generis* (Latin: “unique, constituting a class of its own”) systems be mutually supportive?

Mr Wendland finally informed the meeting that WIPO is collecting existing guidelines, codes of conduct and agreements currently used by museums, archives and libraries, with a view to developing, with all stakeholders, IP-related guidelines and best practices in this area.

The session was opened with an analysis of questionnaire items related to the session’s topic, presented by Ms Françoise Girard from UNESCO’s Intangible Heritage Section.

### **3.4.2 Debate, chaired by Mr Wend Wendland**

Mr Marengo opened the debate by stating that there is no legal protection in his country, Nicaragua, for ICH, and that consequently awareness-raising is needed on the relationship between ICH and IP issues. Mr Seeger recalled that it is necessary to foresee and regulate the use of what is collected right from the conception of an inventory in order to be able to use the collected data for the precise purposes they were collected for.

Concerning the ownership of photographic material, Mr Govenar explained that in the USA some cultural groups claim that it is not the photographer who owns the picture but the person whose picture has been taken. He called for researchers to address this complex relationship and the issue of ownership of images. Mr Wend Wendland responded by stressing the importance of customary law, informing the experts that WIPO had conducted fact-finding missions amongst indigenous peoples in 28 countries to get an idea of their perspective on their needs, concerns and practical experience. It was highlighted that any future legal system should be based upon customary legal systems. He mentioned that there are two ways of using customary law. One is to use it as a legal system. In this case, if there is a misappropriation of traditional knowledge, customary law applies. This solution is difficult to apply because customary laws do not apply to third parties. The other way is to use customary law as a source to solve special cases. Mr Wendland also mentioned the use of a register in the US where federally recognized native tribes can inscribe symbols and words which are important for them and which they do not want to become part of a trade mark. Specially trained patent examiners check patent applications. If a symbol is in the data base, there is a possibility that the trade mark will not be granted.

Following a question from Ms Sant'Anna on how WIPO deals with cases where national laws protecting inventories exist but cannot prevent abuses at the international level, Mr Wendland replied that, according to one point of view, Member States should set up national systems before an international system can be established. Another point of view is that, because it is difficult to establish a law at the national level, international law should first be established. WIPO is dealing with both national and international legal structures. Some countries are currently establishing national *sui generis* systems (Peru, Panama, the Philippines, the South Pacific countries, and South Africa in a draft form). These initiatives help to foster the international debate. However, there is also a strong political push to have international guidelines first.

To a question from Mr Govenar whether ceremonies and rituals conducted in private are protected and how WIPO is dealing with that issue, Mr Wendland explained that trade secret law may apply here. When the ceremony or ritual is strictly private, there is no need for the legal system to intervene because there is no way of misusing it. It can be protected only once it becomes public.

Mr Villareal put forward an example of misappropriation of a traditional story, after which Mr Wendland explained that the idea of a traditional story cannot be protected by copyright but that each presentation of a story may be considered as a new work, which may then be protected by copyright. Story-tellers have no right to prevent others from rephrasing their stories. They may only have a right to stop reproducing their version of the story. When questioned by Mr Marengo on how to prevent somebody claiming IP rights for traditional expressions, Mr Wendland said that, as expressions of folklore are public domain in the law of Nicaragua, Colombia and Panama, no IP right can be claimed. However, in the framework of new legislation, as is the case in Panama, some elements that are now in the public domain

may not remain there. He further explained that the WIPO provisions on this issue are still in draft form and do not yet apply.

Mr Llop I Bayo explained how Spain is dealing with the Mystery Play of Elche, a Masterpiece of the Intangible and Oral Heritage of Humanity. A commission composed of tradition bearers and institutions registers everything related to the Mystery Play so that there is no possibility for unauthorized use. To build rights on the use of these elements is difficult however. In the opinion of the expert, there should not be any financial compensation. Mr Marengo expressed a different point of view on the example of a beer company using images from traditional dancers for an advertising campaign which, when asked by the community concerned to pay, refused to do so. According to Mr Llop I Bayo, the photos taken from the dances and disseminated in the campaign are already a form of assistance. Mr Marengo finally suggested that a balance should be found between the interests of the community and those of the companies. In his comment on these interventions, Mr Wend Wendland argued that benefit sharing can be a way out. It does not necessarily need to be financial but can consist of building schools, providing training, etc.

On the question from Mr Jacobs on how long IP rights last and what advice WIPO could give in this regard for ICH elements to be put on the ICH Lists, Mr Wendland explained that in the WIPO provisions the protection will last as long as the expressions are characteristic of a distinctive cultural identity of a community and that it will be left to national laws to determine until when an expression still meets this criterion. For ICH inventories, a broad guideline could be that the inventories should take into account the IP needs and wishes of the bearers of the expressions documented. Some may want to acquire IP rights or prevent others from using the expression (positive strategy), others will want to prevent the acquisition of IP rights by third parties (defensive strategy). In the latter case, data bases of recorded traditional knowledge, for example, are consulted before a patent is granted. To a question by Mr La Hausse de Lalouvière whether before documenting traditional knowledge written permission should be obtained from the community, and what the practices are in this respect in different countries, Mr Wendland answered that in countries such as Panama, Peru and the Philippines with *sui generis* systems, there would be a legal obligation to obtain permission before documenting or making recordings. In other countries, where *sui generis* law does not exist, there might be a moral obligation, particularly under customary law, to consult the communities whose knowledge is being recorded (foreseen in the draft provisions).

Mr Machuca gave various examples of problems with IP in Mexico. He asked about a possibility to establish a legal system to refuse copyright to third persons and to give permission only to the initial owners or creators, as well as to promote mechanisms to give collective rights to communities and prevent people from getting patents. Mr Wendland spoke about a proposal under discussion in WTO and WIPO that would require applications for patents which are based on traditional knowledge and genetic resources, to disclose the origin of the knowledge and the source, to



provide evidence that the consent of the bearers was obtained and that an agreement has been concluded for an equitable sharing of benefits. It, however, only applies when someone requests a patent, not when the expression is just used, and it does not provide positive protection for the expression itself.

On a question from Ms Chaudhuri whether proposals already exist to treat the process of inventory-making under fair use<sup>3</sup>, Mr Wendland said that there were some examples of countries such as the United Kingdom where copyright laws allow archives and libraries to make copies from their collections. The expert further enquired where the compensation goes when an individual performs traditional art; Mr Wendland argued that copyright law can only protect IP when the authors are known. It cannot protect the rights of a community which is not the author as such, but rather a source of creativity. The community is normally not entitled to take action but can do so as a trust party. The WIPO draft provisions directly establish communal rights. The expert from India also asked whether there would be a way for WIPO to react, in cases where countries have no legal system for IP, to give the community certain rights. In the opinion of Mr Wendland, one possibility would be to use other laws: collective trademark laws have been used for arts and crafts, and unfair competition laws applied to avoid cheap handicrafts. Mr Seeger was concerned about what would change concerning the use of collected data in inventories if the law changes. Mr Wendland explained that, as a general rule, laws do not apply retroactively but only prospectively. As foreseen in the draft provisions, a new law would apply from a certain point in time and current users might continue for a reasonable time before entering into an unlawful situation.

Following a question by Ms Medina on whether inventory-making of traditional knowledge could imply a protection for the community, Mr Wendland remarked that established legal measures should be accessible for the communities. He gave the example of Panama where the registration system for items to be protected is free and legal advice is provided to communities.

Ms Santova wondered who would obtain IP rights in the case where people from a primary community migrated to another place, and thus created a secondary community. Mr Wendland explained that the proposed WIPO *sui generis* system would protect expressions that characterize a particular identity and heritage, which may include contemporary expressions of pre-existing materials. He further explained that expressions could be protectable for secondary communities. If one expression has been used by a community which no longer exists and another group has taken over the expression, it will be protected by IP in the name of the second group. In case of competing claims, the task of the authority would be to use the inventories or the customary law in order to define which community is using the expression at present.

In answer to a question by the observer from Grenada as to what types of inventories authorities should prepare, Mr Wendland suggested preparing inventories that can be used both for IP purposes and intangible cultural heritage safeguarding.

The observer from Mexico asked how collective creations of indigenous communities are recognized and if there is a regulation limiting the period of recognition. Mr Wendland repeated that under existing law, collective creations can be protected if they are contemporary creations or re-creations and if the author is known; however, in practice the authors are often not known. Under current law, the community could register a collective trade mark to prevent others from using the same expression under the same name or, under the 1996 treaty<sup>4</sup>, to get the performances of expressions of folklore internationally protected. The new WIPO provisions will fill the current gaps by providing IP-type protection for communal creativity. It will also apply when an innovative expression relies on a traditional one and where benefit sharing would be necessary under patent legislation.

Ms Sant'Anna enquired as to whether an agreement with the community was needed before including elements of their heritage in an inventory and if an identification of the bearers of ICH could help to deal with IP, to which Mr Wendland answered that the design of an inventory depends on what the community wants to do with it. If the inventory is not only for safeguarding purposes, but also for preventing misappropriation by others through patents, the inventory needs to be prepared accordingly. It should contain information structured in such a way that it can be examined by a patent examiner. WIPO has some experience in this area and technical standards have been developed for traditional knowledge.

The observer from Japan wondered how to do justice to the dynamic character of the intangible cultural heritage under a legal regime. Mr Wendland informed that the existing legal system takes into account inspiration and borrowing to allow for creativity. Ideas are not under protection and can therefore be used. In copyright law, the challenge is to distinguish between legitimate inspiration and inappropriate copying.

Mr Bocoum informed the meeting that in Senegal cultural archives will be digitalized and that thanks to a special clause communities will be rewarded by the Senegalese Copyright Office for the production of CDs. Mr La Hausse de Lalouvière suggested establishing a data base with examples from different countries on how IP issues have already been solved, and to prepare a set of FAQ. Mr Nao asked how financial recognition could be given to communities. Mr Wendland in his answer admitted that this is not an easy issue, but that an authority could represent the community. This authority would exercise their rights, collect the money and distribute it to the communities. The institutions involved in inventory-making and management could be that authority as they best know who the bearers of specific intangible cultural heritage items are.

---

<sup>1</sup> These are moral and economic rights granted to performers who act, sing, deliver, declaim, play in, or otherwise perform literary or artistic works, as well as expressions of 'folklore' or 'traditional cultural expressions', in order to protect their performances.

<sup>2</sup> A right or principle of "free, prior and informed consent" (FPIC) is referred to or implied in several international instruments particularly in the environmental field, such as the United Nations Convention on the Combating of Desertification, 1994 and the Convention on Biological Diversity, 1992. While there is no internationally agreed definition of the principle, it refers in general to the need to obtain the voluntary and informed consent of indigenous peoples before undertaking an act that addresses or affects their interests.

See Report of International Workshop on "Free, Prior and Informed Consent", 17 to 19 January 2005 at [http://www.un.org/esa/socdev/unpfii/news/news\\_workshop\\_fpic.htm](http://www.un.org/esa/socdev/unpfii/news/news_workshop_fpic.htm) and paper submitted by WIPO for this workshop on FPIC in the IP context at [http://www.wipo.int/tk/en/cooperation/documents/indigenous\\_peoples\\_en.pdf](http://www.wipo.int/tk/en/cooperation/documents/indigenous_peoples_en.pdf), available in English, French and Spanish.

<sup>3</sup> A use of copyrighted material that does not constitute an infringement of the copyright provided the use is fair and reasonable and does not substantially impair the value of the work or the profits expected from it by its owner.

<sup>4</sup> WIPO Performances and Phonograms Treaty (WPPT) / Traité de l'OMPI sur les interprétations et exécutions et les phonogrammes.

The workshop was closed with the adoption of the following conclusions and recommendations:

*We, the experts attending the meeting on Inventorying Intangible Cultural Heritage (ICH), which took place in Paris on 17 and 18 March 2005,*

*Expressing our gratitude to UNESCO for providing a forum to discuss issues relating to inventories of ICH, such as scope, criteria for inscription, management, ownership and involvement of actors and stakeholders;*

*Further expressing our gratitude to Norway for its generous contribution to the organization of the meeting;*

*Taking into account that inventory-making is a major safeguarding measure proposed in the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage, and that despite the experience of some States in this field there is a need to systematically develop, or continue to develop accessible inventories in most countries, as well as to exchange experience;*

*Further taking into account that lack of an institutional basis, restricted financial means and insufficient awareness at the community and political levels are seen as commonly shared problems when drawing up ICH inventories;*

*Recognizing that there is a need to create or enlarge capacities at governmental, institutional, research and community levels;*

*Recalling the importance attached in the 2003 Convention to the representative character of intangible cultural heritage and to the need to involve the communities concerned in its identification and safeguarding;*

*Considering the upcoming entry into force of the 2003 Convention and the need to prepare its implementation;*

#### **1. Call upon UNESCO**

- a) to continue its efforts to support the development of training, research, promotion, information and awareness-raising activities and programmes for the safeguarding of intangible cultural heritage;
- b) to study the possibility of organizing regional training seminars with full involvement of UNESCO's field offices;
- c) to continue developing thematic manuals on the different aspects of safeguarding intangible cultural heritage in order to provide relevant guidelines to practitioners, communities, officials, experts and the general public;

- d) to study the possibility of developing an electronic network to facilitate the exchange of information on methodologies for the safeguarding of the intangible cultural heritage among experts and other stakeholders;
- e) to provide adequate resources for the effective implementation of the 2003 Convention;
- f) to organize follow-up expert meetings on the safeguarding, management, selection and documentation of intangible cultural heritage in preparation for the implementation of the 2003 Convention;
- g) to collaborate with the World Intellectual Property Organisation (WIPO) on collecting and disseminating existing practices, and to prepare examples for the design and implementation of inventories of the intangible cultural heritage that take account of the protection of the rights and interests of communities and individuals;
- h) to establish general guidelines for monitoring and evaluating the impact of safeguarding measures on living traditions.

## **2. *Further call upon the UNESCO Member States***

- a) to take concrete measures to raise awareness of the importance of safeguarding intangible cultural heritage in society, especially through training and formal and non-formal education, particularly among young people;
- b) to support capacity-building at governmental, institutional and community levels in the spirit of the 2003 Convention;
- c) to ensure the safeguarding of intangible cultural heritage, and to do so consistently in close collaboration with the communities and groups concerned, particularly by exploring methods of protecting the rights and interests of communities in their ICH, including the sharing of benefits;
- d) to establish guidelines for access to the information stocked in inventories and to manifestations of the intangible cultural heritage that respect the integrity and viability of that heritage, in line with Article 13 of the 2003 Convention.

---

Paris / France, 18 March 2005

**ANNEX I: LIST OF PARTICIPANTS**

---

**EXPERTS**

Charles Samson AKIBODE	Cape Verde
Hamady BOCOUM	Senegal
Shubha CHAUDHURI	India
Alan GOVENAR	USA
Lungten GYATSO	Bhutan
Slimane HACHI	Algeria
Marc JACOBS	Belgium
Akbar KHAKIMOV	Uzbekistan
Chérif KHAZNADAR	France
Philippe LA HAUSSE DE LALOUVIERE	Mauritius
Francesc LLOP I BAYO	Spain
Jesús Antonio MACHUCA	Mexico
Thabo MANETSI	South Africa
Robert MARENCO	Nicaragua
Luz Amparo MEDINA	Colombia
Claude METAYER	Haiti
Shigeyuki MIYATA	Japan
Oumarou NAO	Burkina Faso
Kim Dung NGUYEN	Vietnam
Cesar PARRA	Colombia
Marcia SANT'ANNA	Brazil
Mila SANTOVA	Bulgaria
Vida SATKAUSKIENE	Lithuania
Naoko SATO	Japan
Anthony SEEGER	ICTM, Los Angeles/USA

Irena SELIUKAITE	Lithuania
Hang SOTH	Cambodia
Téréba TOGOLA	Mali
Rusudan TSURTSUMIA	Georgia
Arístides Burgos VILLARREAL	Panama
Wend WENDLAND	WIPO, Geneva/Switzerland
Ahmed YASSIN	Kenya

**OBSERVERS**

Noriko Aikawa	Japan
Igor Bailen	Philippines
Yamelis Linares	Venezuela
Nseir Ghassan	Syria
José Luis Fernández Valoni	Argentina
Carlos Herrera	Peru
Carlos Cueto	Peru
Françoise Medegan	Benin
Alejandra Padron	Venezuela
Feddoul Kammah	United Arab Emirates
Nejjar A.N.	Morocco
Aydin Sefa Akay	Turkey
Yati Grissa	Indonesia
Corinne Magail	Monaco
Ana Zacarias	Portugal
Javier Diaz	Costa Rica
Ernst Iten	Switzerland
Niki Tselenti	Greece
Assia Alakhras	Palestine
Soobarah Gowoothum	Mauritius

Lena Vanelslander	Belgium
Boughaba Kumel	Algeria
Baghli Sid Ahmed	Algeria
G. Helgadóttir	Iceland
Lissan Edith	Benin
D. Blondin-Diop	Senegal
R. Yebali	Tunisia
Abderrahman Ayoub	Tunisia
S. Whitaker	Brazil
Merle Schnatenbach	Germany
Gabriele Fasem	Italy
Maria Walcher	Austria
Jacob John	India
Adriana Valadés	Mexico
Maria Ubach	Andorra
Vera Laccoeuille	St Lucia
Ameraswar galla	Australia
J.Thévenot	ICOM
Svend Poulsen Hansen	Denmark
Malene Nielsen	Denmark
Solveig Verheyleweghen	Norway
Chafica Haddad	Grenada
Claudine de Kendamiel	St Vincent and the Grenadines
Su Xu	China
Carlos Segura	Dominican Republic
N. Lagidzé	Georgia
Nicole Fadel	Djibouti



**UNESCO Secretariat**

Mounir Bouchenaki	Assistant Director-General for Culture
Rieks Smeets	Intangible Heritage Section
Estelle Blaschke	Intangible Heritage Section
Fernando Brugman	Intangible Heritage Section
Françoise Girard	Intangible Heritage Section
Miho Kobayashi	Intangible Heritage Section
Sabine Kube	Intangible Heritage Section
Anahit Minasyan	Intangible Heritage Section
Cesar Moreno-Triana	Intangible Heritage Section
Ariana Morris	Intangible Heritage Section
David Stehl	Intangible Heritage Section
Reiko Yoshida	Intangible Heritage Section
Samira Zinini	Intangible Heritage Section
Edgar Montiel	Culture and Development Section
Fumiko Ohinata	World Heritage Centre
Nilda Anglarill	UNESCO Office Dakar
Montserrat Martell	UNESCO Office Havana
Mohamed Ould Khattar	UNESCO Office Rabat

**Yamato Declaration on Integrated Approaches for Safeguarding Tangible and Intangible Cultural Heritage**

We, the experts assembled in Nara, Japan,

1. express our gratitude to the Japanese organisers and UNESCO for providing a forum to discuss integrated approaches for safeguarding tangible and intangible cultural heritage, and
2. taking into account
  - the International Charter for the Conservation and Restoration of Monuments and Sites (the 1964 Venice Charter),
  - the Convention Concerning the Protection of the World Cultural and Natural Heritage (UNESCO
  - the World Heritage Convention, hereinafter called “the 1972 Convention”),
  - the definition of “Cultural Landscape” established by the World Heritage Committee (1992),
  - the Nara Document on Authenticity (1994);
3. further taking into account
  - the Recommendation on the Safeguarding of Traditional Culture and Folklore (1989),
  - the Proclamation of Masterpieces of the Oral and Intangible Heritage of Humanity (1997),
  - the Convention for the Safeguarding of the Intangible Cultural Heritage (hereinafter called “the 2003 Convention”);
4. recognising that safeguarding intangible cultural heritage is as important as protecting tangible cultural and natural heritage, and that the world community has come to realise that intangible cultural heritage has to be considered and safeguarded in its own right;
5. recalling the definitions of cultural and natural heritage in the 1972 Convention;
6. further recalling that intangible cultural heritage is defined in the 2003 Convention as “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 [... and that ...] 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”;

7. considering that the Nara Document marked an epoch in the conservation of heritage, emphasizing that interpretations of authenticity and their application should be attempted within the specific cultural context;

8. further considering that intangible cultural heritage is constantly recreated, the term “authenticity” as applied to tangible cultural heritage is not relevant when identifying and safeguarding intangible cultural heritage;

9. realising that the elements of the tangible and intangible heritage of communities and groups are often interdependent;

10. further considering that there are countless examples of intangible cultural heritage that do not depend for their existence or expression on specific places or objects, and that the values associated with monuments and sites are not considered intangible cultural heritage as defined under the 2003 Convention when they belong to the past and not to the living heritage of present-day communities;

11. taking into account the interdependence, as well as the differences between tangible and intangible cultural heritage, and between the approaches for their safeguarding, we deem it appropriate that, wherever possible, integrated approaches be elaborated to the effect that the safeguarding of the tangible and intangible heritage of communities and groups is consistent and mutually beneficial and reinforcing;

and we call upon

12. national authorities, international, governmental and non-governmental organisations, and individuals actively engaging in safeguarding cultural heritage to explore and support investigations of strategies and procedures to integrate the safeguarding of tangible and intangible heritage, and to always do so in close collaboration and agreement with the communities and groups concerned;

13. UNESCO to adopt and implement in its programmes and projects, where appropriate, an inclusive and integrated vision of heritage, to support capacity building and to provide guidelines for best practices in the spirit of this Declaration;

14. national authorities and all other stakeholders to take concrete measures for raising awareness of the importance of safeguarding heritage, especially through formal and non-formal education, and for ensuring active local participation in this regard;

15. all stakeholders to take advantage of new information and communication technology in implementing programmes and projects integrating the safeguarding of tangible and intangible heritage;

16. all stakeholders to promote economically rewarding heritage-related activities without compromising the integrity of communities and the viability of their heritage;

17. Member States of UNESCO to ratify at their earliest convenience the Convention for the Safeguarding of the Intangible Cultural Heritage, adopted by the General Conference of UNESCO in October 2003.

Nara, Japan,

International Conference on the Safeguarding of Tangible and Intangible Cultural Heritage: Towards an Integrated Approach, 20-23 October 2004