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United Nations
Educational, Scientific and
Cultural Organization



Permanent Delegation
of the Republic of
Albania to UNESCO

Co-Chairs' Report

Open-Ended Working Group (OEWG) On the Examination of Other Concrete Suggestions for the Reform of the MoW Programme Beyond a Redrafting of the IAC Statutes and of the General Guidelines

1.0. INTRODUCTION

1.1. Preparatory work

The updated Action Plan approved by the Executive Board (205 EX/Decision 8) for the comprehensive review of the Memory of the World (MoW) Programme proposed the creation of an open-ended working group (OEWG) on the examination of other concrete suggestions for the reform of the MoW Programme beyond a redrafting of the Statutes of the International Advisory Committee (IAC) and of the General Guidelines.

A preparatory meeting for the OEWG was held by the UNESCO Secretariat on 7 December 2018 in order to facilitate discussion on the group's terms of reference. The meeting concluded with a recommendation to designate a chairperson, along with six vice-chairpersons representing the Organization's electoral groups, to steer the open-ended working group in its deliberations. Member States were requested to submit proposals for the positions of chairperson and vice-chairpersons of the open-ended working group. Another issue raised concerned whether it was necessary to produce a single legal document for the MoW Programme – an issue that was addressed and settled during the deliberations of the working group.

1.2. Composition of the Bureau

Two further preparatory meetings were held on 22 and 30 January 2019, resulting in the designation by acclamation of two co-chairpersons and six vice-chairpersons of the open-ended working group, as follows:

Co-chairpersons:

- H.E. Mr Ferit Hoxha (Albania)
- H.E. Mr Mounir Anastas (Palestine)

Vice-chairpersons:

- Group I: Greece
- Group II: Lithuania
- Group III: Uruguay
- Group IV: Myanmar
- Group V(a): Ghana
- Group V(b): Algeria

2.0. PARTICIPATION

2.1. Meetings of the OEWG

The first meeting of the open-ended working group, presided by the co-chairs, was held on 14 February 2019. During this meeting, the terms of reference for the working group were adopted and a schedule of up to seven meetings was proposed for the period between February and September 2019. The OEWG then agreed to request the Executive Board, at its 206th session, to extend its mandate until September 2019 since its mandate was expiring in May 2019. Subsequently, at its 206th session, the Executive Board, through its 206 EX/Decision 12, granted the working group's request, while inviting it to expedite its proceedings and deliberations.

In all, the working group held seven meetings on 14 February, 5 March, 25 March, 23 April, 7 June, 27 June and 10 September 2019]. Where possible, these meetings were preceded by meetings of the Bureau members who helped the co-chairs to set the thematic agenda for each OEWG meeting. In addition, the co-chairs took the initiative to organize informal consultations with some Member States, including undertaking bilateral consultations with other Member States.

2.2. Member States' attendance

The number of Member States participating during these meetings was varied. The meetings were attended as follows:

- 14 February: 100 Member States.
- 5 March: 42 Member States.
- 25 March: 51 Member States.
- 23 April: 47 Member States.
- 7 June: 51 Member States.
- 27 June: 35 Member States.
- 10 September: 65 Member States.

On 1 April 2019, the UNESCO Secretariat organized a joint meeting between the IAC members and experts designated by Member States within the framework of the OEWG. A total of 48 Member States attended this meeting, either in their own right or as experts designated by their capitals. Twelve of the 14 IAC members participated in this joint meeting together with the chairperson of the MoW Register Sub-Committee (RSC). The meeting provided a platform for the Memory of the World experts to present an overview of the MoW International Register and to discuss the preliminary results of the online survey on the IAC-led review documents. The survey report is available on the MoW website.

3.0. KEY OUTCOMES OF THE OEWG DELIBERATIONS

The deliberations of the OEWG took place under two main themes: (i) The most appropriate legal framework for the MoW Programme; and (ii) the International MoW Register. Although separated to facilitate focused discussion, it was made clear that these two issues were intermingled.

This section summarizes the key outcomes in each thematic category. The outcomes represent participating Member States' perspectives on issues grouped under each of the two issues above. The outcomes are presented as 'perspectives' because the discussions were conducted in terms of "nothing gets agreed until everything is agreed". While the primary reason for adopting such an approach was to facilitate consensus, we offer, in our concluding remarks, our own perspective on the difficulty of such an approach as a strategy for building consensus.

3.1. The most appropriate legal framework for the MoW Programme

3.1.1. On the proceedings of the new nomination cycle, the following perspectives can be highlighted:

- **Selection and appointment of the IAC Members:** The International Advisory Committee (IAC) members will continue to be selected and appointed by the Director-General in consultation with the National Commissions concerned. The Intergovernmental Body will only take note of their appointment.
- **Opening of the nomination cycle and submissions:** The date of the opening of the nomination cycle will be agreed by the Intergovernmental Body in consultation with the Director-General, who will then be announcing the date. Submissions and contestations could come from anybody but shall pass through the official government channels of Member States.
- **Completeness check:** The MoW Secretariat will be checking the files submitted for completeness. Once the completeness check is finished, and once the RSC has verified the admissibility of the nominated documents, the nomination files are uploaded on the digital/online platform set up for Permanent Delegations to UNESCO, National Commissions for UNESCO and National MoW Committees. This would signal the opening of the period for contestation of any nomination.
- **Mandate and function of the RSC and the IAC:** All complete nomination files will be sent to the RSC for an admissibility check before any further assessment can be undertaken by the RSC and IAC on the basis of the criteria for inscription as set out in the General Guidelines under revision.
- **Decision-making for the non-contested and for the contested nominations:** For the non-contested nominations, the process will involve the RSC and IAC's evaluation of the nomination files according to the criteria set out in the General Guidelines under revision. On the basis of recommendations from the IAC, the Intergovernmental Body would endorse/make decisions for inscription on the International MoW Register.

For contested nominations, despite broad agreement on specific details such as regarding the time of staging a contest, who can contest what and on what grounds, there were divergent perspectives. Primarily, some Member States argued that contested nominations on other than technical grounds should not proceed for evaluation by the RSC/IAC. Rather, they should be kept aside and

immediately after the contest be subject to dialogue. Such dialogue should be between the concerned Member States and without any time-limits. Other Member States argued that the evaluation of nominations by the RSC/IAC should continue, based on the assumption that every nomination should be treated equally by an expert body, regardless of whether the nomination is contested or not and despite the nature of contestation. As for the dialogue ensuing from this process, it should be time-bound and must place an obligation on the concerned parties to initiate and conclude the dialogue process, including, if needed, through mediation. A key argument here was that an uncontrolled, unmediated process of dialogue might result in one Member State exercising “veto” power against another Member State indefinitely.

A counter argument was that there was no way of knowing when the process of dialogue could conclude, given the complexity and sensitivity of some issues and that, therefore, a time-bound process could be pointless and counterproductive. An additional argument about mediation, particularly for those Member States who argued for reposing such mediation in the UNESCO Secretariat, was that the Secretariat had no mandate, nor was it equipped, to mediate in any Inter-State process of dialogue. The Geoparks model was used to reinforce this perspective, arguing that it was up to the concerned Member States to come up with a solution, and not the Secretariat, RSC, IAC or the Executive Board – all of which were not mandated to interfere in Inter-State matters. Under this argument, involvement by any of these bodies would amount to “politicization”.

Another issue closely related concerns the status of the nominations contested on non-technical grounds during the process of dialogue. Member States were divided on a proposal to constitute a “Waiting List” where such files would be kept until the contests are resolved. Some Member States argue that after a contest on non-technical grounds, such a nomination must not be kept on the online platform where other nomination files are stored. Other Member States argue that they should be considered as pending nominations and excluding them from the platform would prejudice the outcome of the dialogue process.

- **Public announcement of inscriptions:** Once the IAC recommendations have been transmitted to the Intergovernmental Body through the Director-General and have met the final positive decision by the Intergovernmental Body, they are announced and uploaded on the MoW website as inscriptions on the MoW International Register.

3.1.2. On the question related to the governance model under which the MoW Programme will be operating, and in particular, which structure or body could play the role of the Intergovernmental Body, Member States had a common perspective on the need to establish a hybrid governance model, which includes independent experts and an intergovernmental body. Such independent experts would continue to constitute the International Advisory Committee as a Category 5 classification of meetings.

With respect to which structure or body could play the role of the Intergovernmental Body, two options received the attention of Member States. In an email survey launched by us on 11 June 2019, 23 Member States were in favor of the Executive Board playing the role of the Intergovernmental Body, while 13 Member States were in favor of the Intergovernmental Council of the Information for All Programme (IFAP). Some Member States were not flexible with their

decision in the choice of the Intergovernmental Body. Throughout the meetings, it was highlighted that the Intergovernmental Body would not deal with contested nominations. Since some Member States were not flexible with their choice of either the Executive Board or the IFAP Council, it was decided that the final decision between the two options would be referred to the Executive Board. Regardless of the outcome, it was agreed that if the Executive Board is chosen, it will 'endorse' recommendations and if it is the IFAP Council, it will 'make decisions' on the recommendations.

3.1.3. On the function and mandate of the Intergovernmental Body, the OEWG agreed that such a body would:

- Take note of the selection and appointment of the members of the IAC;
- Follow up progress on the implementation of the MoW Programme activities;
- Determine the opening of the nomination cycle in consultation with the Director-General who will announce the dates; and
- Endorse/Decide inscriptions for the MoW International Register on the basis of the IAC recommendations.

3.1.4. Regarding the legal framework of the MoW Programme, it was established, with clarification from the UNESCO Secretariat, that there was no need for a single legal document, as the Programme's legality was derived from the existing Statutes of the IAC and the General Guidelines. Consequently, it was clarified that the Statutes of the IAC and the MoW General Guidelines, currently under revision, would, once approved by the UNESCO Executive Board and endorsed by the UNESCO General Conference, constitute the legal basis for the MoW Programme's operations. On the other hand, it was further clarified that such documents as the Rules of Procedure and the Code of Ethics would be established by the IAC itself, with the approval of the UNESCO Director-General.

3.2. The nomination process for the International MoW Register

Perspectives on this aspect dovetailed with some of those already highlighted above. In summary, key conclusions included:

- **Nomination of documents for possible inscription:** Nominations, including joint nominations, may be submitted by any person or organization only through the official channel as defined by the National Commission for UNESCO or the government body in charge of relations with UNESCO and involving the MoW National Committee, if applicable. Regarding submission of nominations by international organizations, the attention of Member States was drawn to the need for consistency with current practice, which includes possible submission of nominations by international non-governmental organizations, in accordance with the Directives concerning UNESCO's partnership with international non-governmental organizations. In such cases, nominations could be submitted directly through the UNESCO Secretariat, bearing in mind that such nominations, if they concern Member States, should be approved first by such Member States.
- **The development of a new digital/online platform for hosting submitted nomination forms:** The platform would be open to Member States to enable them to exercise their oversight responsibility. Member States would exercise their own judgment as to which interested non-public actor could be granted access to the platform. This point, however,

needs to be balanced against the need for the UNESCO Secretariat to grant to the general public access to nomination forms, particularly given the fact that the Member States agreed that anyone could submit a nomination in line with the criteria for inscription in the General Guidelines under revision.

- **Admissibility check:** All nomination files will be sent to the RSC for admissibility verification once their completeness is confirmed by the Secretariat. After the RSC's admissibility verification, the nomination files will be uploaded on to the digital/online platform at a specific date announced to Member States in advance.
- **Comments, contestations:** There will be a fixed period for submitting comments, additional information, including contestations to nominations and a fixed period for replies by Member States concerned.
- **A two-track nomination process:** A two-track nomination process for the MoW International Register emerged from the deliberations of the OEWG. The first track involves non-contested nominations, which, if cleared by the Secretariat and deemed admissible by the RSC, would proceed for evaluation by the Register Sub-Committee (RSC) and by the International Advisory Committee (IAC), and eventually reach the Intergovernmental Body for endorsement/decision-making. The second track involves nominations contested either on the basis of the threshold for admissibility or on the basis of criteria for inscription specified in the General Guidelines under revision. For nominations contested for reasons associated with the threshold for admissibility and criteria for inscription – e.g. authenticity, integrity, world significance, etc. – the RSC may be requested to examine them with a view to resolving the issues contested, in order to get them back on the first track and thus proceed with their evaluation accordingly. On the other hand, nominations questioned on other grounds – that is to say, for reasons other than the threshold for admissibility and criteria for inscription specified in the General Guidelines under revision – by a UNESCO Member State would be subject to a process of dialogue. As noted above, the terms, timing and scope of this category of dialogue, along with the possible outcomes, still constitute a sticking point for Member States.
- On the issue of the status of the contested nominations in relation to the digital/online platform, some Member States supported the idea that such nominations should be altogether removed from the platform, while others argued that they should remain for possible re-introduction in the following nomination cycles, should circumstances change.

4.0. CONCLUDING REMARKS: OBSERVATIONS AND RECOMMENDATIONS

Given the fact that the foundational documents upon which the deliberations were based included the revised Statutes of the IAC and the revised General Guidelines, there was a request for the UNESCO Secretariat to further modify these in line with the key outcomes of the OEWG – a process that the Secretariat carried out over the summer in time for a consultation meeting held on 4 September with a small group of Member States, including the Bureau representatives, and the final meeting of the OEWG held on 10 September 2019. In between these two meetings, as co-chairs, we took time to meet two Member States particularly affected by some of the perspectives reflected in the two documents. This meeting demonstrated to us the extent of the divergence of opinion between them. This was subsequently shared with the rest of the participating Member States during the final meeting of the OEWG. That meeting reinforced the differences of opinion on fundamentally three key issues, as follows:

- At what stage does the RSC/IAC embark upon an assessment of nomination files? Should it be as soon as the admissibility verification has been completed and the nomination files uploaded on the Member State-exclusive digital/online platform? Should it be after all the contested nomination files have been identified and isolated from the rest? Should it be throughout the process up until it is time for the Intergovernmental Body to undertake its endorsement/decision-making?
- What should be the modalities of the dialogue proposed for nominations contested on other grounds than those associated with the threshold for admissibility and the criteria for inscription, as specified in the General Guidelines under revision?
- What should be the status of such contested nominations *vis-à-vis* the Member States-exclusive digital/online platform?

These questions lie at the very heart of the comprehensive review process and need to be addressed.

Although these were the key outstanding issues, the fact that Member States adopted the “nothing gets agreed until everything is agreed” strategy meant that there was a lack of clarity as to how much progress had actually been made on all other issues and an impossibility to capitalize on that perceived progress. As such, this approach to consensus-building became more of a stumbling-block than a productive negotiation tactic, particularly given the fact that it tended to move things slowly by repeatedly covering old ground. More importantly, any Member State, even if their perspective had no traction with the other participating Member States, could simply argue “nothing gets agreed until everything is agreed,” resulting in a form of negotiation paralysis.

Accordingly, for the future, our proposal is that, while there is need for equal respect of Member States within the framework of these deliberations, there is no reason why arguments should be treated with equal respect. It is important to evaluate which arguments are more important and deserve collective agreement. Once such arguments are identified, they should be “locked in” at each stage of the negotiation in order to allow for progress on other, less important arguments, thereby facilitating cost-effective use of time and decision-making.

Against this background, at its seventh and last official meeting, the OEWG agreed to recommend to the Executive Board, alongside the Secretariat’s Consolidated Report on the Comprehensive Review of the MoW Programme, the following:

1. The mandate of the OEWG should be prolonged in the form of a limited-participant working group (LPWG) beyond the timeline of the Action Plan.
2. Participation in the LPWG will be limited to three Member States per electoral group.
3. Each electoral group will accordingly select such Member States – one of whom may be a non-member of the Executive Board – with one of the three tasked to report back to the electoral group.
4. The focus of the LPWG should be to build consensus on the pending issues, based on the progress made so far by the just-ended OEWG, within the framework of the comprehensive review of the MoW Programme.

Co-chairpersons

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