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United Nations
Educational, Scientific and
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Organisation
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pour l'éducation,
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Организация
Объединенных Наций по
вопросам образования,
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منظمة الأمم المتحدة
للتربية والعلم والثقافة

联合国教育、
科学及文化组织

Diversity of
Cultural Expressions

Diversité
des expressions
culturelles

Diversidad
de las expresiones
culturales

Разнообразие форм
культурного
самовыражения

تنوع أشكال التعبير
الثقافي

文化表现形式
多样性

CONFERENCE OF THE PARTIES TO THE CONVENTION ON THE PROTECTION AND PROMOTION OF THE DIVERSITY OF CULTURAL EXPRESSIONS

Fifth ordinary session
Paris, UNESCO Headquarters, Room II
10-12 June 2015

Item 12 on the provisional agenda: Digital issues and their impact on promoting the diversity of cultural expressions

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Pursuant to Decision 8.IGC 12, this document provides an overview of the work undertaken on digital issues in the framework of the Convention, provides a summary of the debates of the Committee and, on this basis, proposes a framework of action for the 2015-2017 period.

Decision required: paragraph 10

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1.   In December 2014, the Intergovernmental Committee for the Protection and Promotion of the Diversity of Cultural Expressions (hereafter referred to as 'the Committee'), requested the Secretariat to submit a report summarising the work undertaken on digital issues in the framework of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (hereafter referred to as "the Convention") as well as the debates of the Committee (Decision 8.IGC 12). This report features as an Annex to this document.

2.   The debates of the Committee began in December 2012 at its sixth ordinary session when concerns were raised about technological developments since the adoption of the Convention, the impact this has had on the cultural value chain model (creation, production, and distribution of diverse cultural expressions), and the potential implications of the digital revolution for decision-making in the culture sector. It was observed that such challenges were relevant to all Parties and it was therefore proposed that the Convention's governing bodies exchange good practices in this area. It was also proposed to add this issue to the future work of the Committee as a means to ensure that the implementation of the Convention is modern, effective, and dynamic and that the current challenges to promote a diversity of cultural expressions are included on the agenda of the Convention's governing bodies.

3.   The fourth ordinary session of the Conference of Parties concurred with the observations and decisions taken by the sixth ordinary session of the Committee (Decision 6.IGC 17). It added that maintaining the sovereign right of States was imperative in the design and implementation of cultural policies that support the diversity of cultural expressions in the digital age. The Parties also reiterated the core message of the Convention recognising the dual nature of cultural goods and services and stressed the importance of respecting this nature whatever the technology used. The Parties and civil society were invited to begin an exchange of good practices by sending information to the Secretariat on aspects of digital technologies that have an impact on the Convention. They were also invited to make proposals for future action to be examined by the seventh ordinary session of the Committee (Resolution 4.CP 13, para. 6). Finally, Parties were invited to read a report that was prepared by the International Network of Lawyers for the Diversity of Cultural Expressions providing preliminary reflections on the implementation of the Convention in the digital age[1].

4.   Implementing Decision 6.IGC 17 and Resolution 4.CP 13, para. 6, the Secretariat distributed a questionnaire in October 2013 to identify priority areas of action that could inform the Committee's future work plan on digital issues and the impact they may have on the implementation of the Convention[2]. Thirty-five Parties and nine civil society organizations responded to the survey[3]. The priority areas of action were compiled following an examination of references to digital technologies in the text of the Convention and its Operational Guidelines. The five specific areas for consideration by the Parties were identified as:

  - Policies and measures to promote diverse cultural expressions;
  - Education and raising public awareness;
  - Incorporating culture into sustainable development;
  - International cooperation for development;
  - Preferential treatment for developing countries.

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[1]   Guèvremont, V., *Preliminary reflection on the implementation of the Convention on the Protection and Promotion of the Diversity of cultural Expressions in the digital age*, June 2013. Available at http://www.ficdc.org/cdc3524?lang=en

[2]   Letter from the Secretary of the Convention to the Permanent Delegations of the Parties to the Convention (2 October 2013, Ref.: CLT/CEH/DCE/13/L-132).

[3]   The Parties: Albania, Germany, Argentina, Australia, Austria, Azerbaijan, Bosnia-Herzegovina, Canada, Costa Rica, Côte d'Ivoire, Spain, Estonia, the Former Yugoslav Republic of Macedonia, Hungary, Iceland, Italy, Latvia, Madagascar, Mauritius, Mexico, Niger, New Zealand, the Netherlands, the Syrian Arab Republic, the Republic of Moldova, the Czech Republic, Romania, the United Kingdom of Great Britain and Northern Ireland, Serbia, Slovakia, Sweden, Tunisia, Ukraine, Uruguay and the European Union.
Civil society organisations: Cultures & Traditions, French Coalition for Cultural Diversity, Chad Coalition for Cultural Diversity, International Federation of University Women (IFUW), IMPALAmusic, Njock Njock, International Network for Cultural Diversity (INCD), the international scientific association "Unión Latina de Economía Política de la Información la Comunicación y la Cultura" (ULEPICC) and European Broadcasting Union (EBU).

The first area – policies and measures to promote diverse cultural expressions – was selected by the majority of respondents of the questionnaire as their top priority for future action.

5.   In addition, the Secretariat invited Parties and civil society to submit discussion papers to inform the Committee's reflections. The Secretariat received three papers from Parties and four from civil society organizations[4]. They were presented during an open forum held during the seventh ordinary session of the Committee[5]. The papers and discussions addressed a range of issues, in particular, the need for modernising national cultural policies to the digital environment that address not only support for new forms of creativity, generating interest and demand for local digital content, but also new ownership trends in the cultural industries. It was emphasized that the new policies and/or digital strategies to promote the diversity of cultural expressions should be designed in cooperation with civil society. In addition, a series of issues for future consideration were identified that promote:

- the objectives of the Convention in other international forum that address digital issues;
- access and participation of individuals and social groups in the new digital environment by addressing barriers of access to technology and the low levels of computer literacy;
- access to digital marketplaces for artists and cultural professionals from developing countries including support for activities to promote and raise visibility of new content generated from the global South;
- rights and freedoms in the digital environment as a precondition for the diversity of cultural expressions.

6.   In order to foster the exchange of information and good practise, the seventh ordinary session of the Committee invited the Parties that were to submit their periodic reports in April 2014 and in April 2015 to pay particular attention to the impact of digital issues on the implementation of the Convention (Decision 7.IGC 5). It also invited the Secretariat to analyse all relevant information contained in the quadrennial periodic reports submitted by the Parties and other relevant sources (Decision 7.IGC 13). In accordance with this Decision, the Secretariat commissioned a transversal analysis of the periodic reports received. This analysis was presented to the eighth ordinary session of the Committee in December 2014 (see Document CE/14/8.IGC/INF.5).

7.   At the request of Canada and France[6], an item on digital issues was included on the provisional agenda of the eighth ordinary session of the Committee. During this discussion, Parties reaffirmed the technological neutrality of the Convention and its continued relevance. Therefore, it was deemed unnecessary to modify the Convention. The Committee members and observers put forward that the governing bodies and stakeholders should work together on a framework that could take the form of operational guidelines. This framework could take into account not only infrastructure issues, but also fundamental issues of freedom of expression in the digital age as well as fair remuneration of creators and performers from online revenues. It should, in particular, take into account international cooperation programmes and activities as this will undoubtedly have an impact on the implementation of Convention principles of equitable access, openness and balance. It was agreed that this framework should provide examples of positive rather than protectionist measures and be forward looking and flexible taking into account lessons learnt from the last decade. Finally, the Committee was encouraged to focus its actions given that the scope of issues raised by the governing bodies since 2012 is wide and to take into consideration the different levels of impact that digital issues have on different countries.

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[4] Documents received by the Secretariat from Canada, France, the German National Commission for UNESCO, the International Network of Lawyers for the Diversity of Cultural Expressions , the Canadian Coalition for Cultural Diversity and the international scientific association "Unión Latina de Economía Política de la Información, la comunicación y la Cultura" (ULEPICC). The background documents are available at the following address: https://en.unesco.org/creativity/
[5] See detailed report on the seventh ordinary session of the Committee, CE/13/7.IGC/3, para. 351-358.
[6] See Working Document 'Current state and action to address the challenges posed by digitisation' (CE/14/8.IGC/12), eighth ordinary session of the Committee, December 2014.

8.   Following its discussion on this item, the Committee took several decisions that requested the Secretariat to:

- continue its work on this theme, including its transversal analysis of the quadrennial periodic reports and to include the results of this analysis in the biennial global monitoring report on the implementation of the Convention and its report monitoring the impact of Articles 16 and 21;

- submit to the fifth ordinary session of the Conference of the Parties a document providing an overview of the work undertaken on digital issues in the framework of the Convention, along with a report on the Committee's discussions;

- continue its exchanges with the Communication Sector as well as other international organizations concerned, experts and civil society and keep the Committee informed of its progress;

- organize an exchange session on the challenges associated with the implementation of the Convention in the digital age to be held prior to the fifth ordinary session of the Conference of the Parties;

- submit to the fifth ordinary session of the Conference of the Parties a proposal to mandate the Committee, in consultation with the Parties, to prepare, for its ninth ordinary session, draft Operational Guidelines on digital issues and the diversity of cultural expressions that take into account, in particular, international cooperation (Decision 8.IGC 12).

9.   At this session, the Conference of the Parties is invited to examine, debate and analyze the information provided in the annexed report including proposed activities that could form a future action plan for the Committee to pursue during the 2015-2017 period, including the possible preparation of draft operational guidelines. This action plan was developed on the basis of the debates of the governing bodies and information collected to date. The full implementation of this action plan will require extra-budgetary resources.

10.   The Conference of the Parties may wish to adopt the following resolution:

DRAFT RESOLUTION 5.CP 12

The Conference of the Parties,

1.   *Having examined* document CE/15/5.CP/12 and its Annex;

2.   *Takes due note* of the report in Annex, including the proposed action plan 2015-2017;

3.   *Requests* the Committee to continue its work in this field, including the production of draft Operational Guidelines, and to submit the results of its work to its sixth ordinary session;

4.   *Requests* the Secretariat to continue its work in this field by including an analysis of digital issues in the biennial global monitoring report based on the quadrennial periodic reports and other sources and in its biennial report monitoring the impact of Articles 16 and 21;

5.   *Also requests* the Secretariat to continue exchanging with the Communication Sector as well as international organizations and civil society organizations whose work on digital issues may impact the implementation of the Convention.

ANNEX

Report on digital issues and their implications for the implementation of the Convention

> "(…) the 2005 Convention is more than a legal instrument; it is the ABC of the creative new economy, our multiple identities and our diverse and connected societies".
>
> *Director-General of UNESCO*
> *38th session of the General Conference, 2013*

This report provides an overview of the action taken by the governing bodies and Secretariat on digital issues and what it means for future action to implement the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (hereafter referred to as 'the Convention').

It first looks at how digital issues were addressed when the Convention text was drafted. It then examines how digital issues are taken into account within the Convention and its Operational Guidelines and summarizes reflections by the governing bodies of the Convention before concluding with a summary of suggestions put forward during the debates that could form a potential action plan for the next two years.

1. Digital issues and drafting the Convention

The preliminary draft of the Convention presented to UNESCO Member States for comment in July 2004 features terms such as 'information and communication technologies'[7] and 'transfer of technology'[8]. It is important to highlight the fact that Annex 2 to the preliminary draft, which was not retained at the end of the negotiation process, included a non-exhaustive list of cultural policies. This list included two developments relating to the digital environment at the time: the first referring to the 'information society'; and the second relating to improving 'new media' by means of 'policies designed to support access to new technologies'[9].

Whilst the list of cultural policies no longer features in the text of the Convention, references to digital technologies have been incorporated over the course of the negotiation process, particularly in the framework of the work undertaken by the drafting committee in December 2004 on the definition of 'cultural diversity'. Indeed, the 2004 preliminary draft made reference to the definition as featured in the 2001 Universal Declaration on Cultural Diversity[10] and made no reference to digital issues. In order to position the Convention within the digital environment of the time, the drafting committee wished to specify that the various links in the cultural value chain, namely

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[7] See Preamble to the preliminary draft of the Convention (2004): "*Noting* that while the processes of globalization, which have been facilitated by the rapid development of **information and communication technologies**, afford unprecedented conditions for enhanced interaction between cultures, these same processes also constitute a threat to diversity and carry with them a risk of impoverishing cultural expressions" (para. 11). Available at https://en.unesco.org/creativity/.

[8] See Article 12) g of the preliminary draft of the Convention (2004) – Objectives regarding rights and obligations in relation to international cooperation: "(…) to introduce incentive measures for the transfer of technology and know-how, notably in the areas of cultural industries and enterprises".

[9] See Annex 2, of which the following policies were alluded to:
*" Promoting pluralism, cultural and linguistic diversity in and for the **information society**: policies that educate and train children in the use of **new media technologies**; develop research on the relationship between culture and its dissemination in the media and through **new communication services**;*
*(…) Enhancing and supporting **new** and traditional **media**: support local/national production and distribution; develop innovative funding systems and foster the complementarity between public and private initiatives; support **access to the new technologies**;"*

[10] The Declaration, however, unlike the Convention, includes specific references to the digital sphere, notably Article 6, which states that "equal access to art (...), **including in digital form**, and the possibility for all cultures to have access to the means of expression and dissemination are the guarantees of cultural diversity".
Available at www.unesco.org. For a comprehensive examination of the provisions of the Declaration that refer to the digital sphere see V. Guèvremont, 2013, p.14.

creation, production, dissemination, distribution and enjoyment, were conveyed "**whatever the means and technologies used**"[11].

This clarification therefore adapted the concept of cultural diversity featured in the 2001 Declaration to the scope of the Convention, whilst also adapting the Convention to the principle of technological neutrality.

The technologically neutral stance adopted by the Convention requires its provisions and operational guidelines to be implemented regardless of the environment, whether physical or virtual, within which the cultural expression in question is produced or distributed. This enables Parties to take into account the specific features of the digital cultural sphere when adopting policies and measures designed to promote the diversity of cultural expressions.

2. Digital issues in the basic texts of the Convention

The Convention, as it has been adopted, makes no explicit reference to the term 'digital'. In the text of the Convention, reference is made to new technologies in four places:

- the Preamble, where reference is made to "the rapid development of information and communication technologies";
- Article 12 (d), which refers to "the use of new technologies" in the context of international cooperation;
- Article 14 (b), where reference is made to "the use of technology" in the framework of cooperation for development;
- Article 14 (c), which refers to "technology transfer" to encourage Parties to support the emergence of dynamic cultural sectors, especially in the areas of cultural industries and enterprises.

The absence of any explicit reference to digital issues does not mean that the rights and obligations of the Parties, whether at national (Articles 6, 7 and 8) or international levels (Articles 12, 14 and 16 in particular), with regards to education and public awareness (Article 10), civil society (Article 11) or international coordination and consultation (Article 21), should only be exercised and enforced in the physical world of cultural goods and services. Parties are to consider the way in which the Convention will be applied to cultural goods and services in digital environments, and regardless of the technological means used to create, produce, distribute or access such goods and services.

The Operational Guidelines that have been approved by the Conference of the Parties since 2007, include only one reference to the term 'digital', which can be found in Article 10 on education and public awareness[12]. A number of them also refer to the digital environment, notably Articles 7, 13, 14 and 16, as illustrated below.

In the framework of *public policies*, the Operational Guidelines relating to Article 7 encourage the Parties to:

- adopt measures and policies designed to promote the diversity of cultural expressions that are better suited to **the new technological environment**;

- encourage the transfer of information and expertise with the aim of helping professionals in the culture sector and in the cultural industries, and young people in particular, to acquire the necessary knowledge and skills to enable them to take full advantage of the opportunities presented by these **new technologies**.

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[11] This expression also features in the principles of the Operational Guidelines associated with Article 7, see para. 1.5.
[12] See para. 4 of the Operational Guidelines on education and public awareness, which encourage the Parties to identify the skills required to train professionals in the cultural industries, "particularly related to digital expertise".

With regards to the *integration of culture into sustainable development*, the Operational Guidelines on Article 13 invite Parties to take the following into account:

- the use of **new technologies** and the reinforcement of **network-based communication systems**.

In terms of *cooperation for development*, the Operational Guidelines pertaining to Article 14 encourage the Parties to undertake various activities designed to encourage the emergence of a dynamic cultural sector in developing countries by means of the following:

- the introduction of incentives to encourage the **transfer of technologies (hardware/software)** and expertise (through training programmes), particularly in the fields of cultural industries and enterprises;

- support for the exchange of information on business models and promotion and distribution mechanisms, both new and existing, on **evolving information and communication technologies**;

- regular assessments of **evolving technological needs** in terms of both infrastructure and skills development;

- the provision of fair and favourable conditions for **technology transfer** to developing countries;

- facilitating **access to new information and communication technologies** with regards to production and distribution/dissemination and encouraging the use thereof;

- dialogue and regular exchange between **information and communication technology experts** and governmental and non-governmental players in the cultural sector;

- the adoption of appropriate measures to facilitate the **joint development of technologies** for the benefit of developing countries;

- the introduction of fiscal incentives designed to increase the contribution of the private sector to the development of **technological innovations** in the culture sector.

With regards to *preferential treatment*, the Operational Guidelines on Article 16 encourage the Parties to introduce legal and institutional frameworks, including bilateral, regional and multilateral agreements and programmes:

- providing technical assistance, including equipment acquisition, and facilitating **the transfer of technology and expertise** for the purposes of exporting cultural goods and services from developing countries to markets in developed countries.

3. Summary of the reflection by the Convention governing bodies on digital issues

Since the Convention was adopted ten years ago, web based communication has revolutionised the way in which cultural goods and services are produced, distributed and consumed including through a new generation of multimedia and connected devices such as smartphones, tablets, e-readers, etc. New business models have emerged for streaming cultural content and new web companies pose challenges to traditional regulatory and fiscal systems. Many regions still lack the necessary infrastructure (devices, connectivity or slow connectivity), creators do not always have the necessary technical expertise, cultural industries are sometimes slow in exploring the potential of new business models, and there is a lack of concrete evidence of whether digital technologies and platforms have really made access to culture, simpler, faster and cheaper for everyone.

The complexity of the challenges that Parties face in terms of implementing the Convention in the new digital environment emerged through discussions held during the seventh and eighth ordinary sessions of the Committee.

These exchanges made it possible to observe global trends, such as:

- digital technologies have changed the value chain for the creation, production, distribution and access to cultural goods and services. For example, they enable artists and cultural professional to bypass traditional intermediators and/or distribution channels and interact directly with the public and their potential audiences or customers. The various roles played by artists and other professionals in the culture sector may require them to create, produce and even distribute their own cultural goods and services. The current challenge for creators and performers is to receive fair remuneration from online revenues;

- entry of new digital actors into the cultural goods and services value chain has brought about profound changes in the distribution networks that had previously been specific to the cultural industries, challenging their very foundations. These actors are distancing themselves from traditional economic channels by drawing cultural goods and services towards their own platforms, regardless of the medium through which they are conveyed (material or virtual);

- the digital environment has significantly enhanced the availability of cultural content where infrastructure, skills and stable Internet connections are available, providing permanent access to cultural expressions. It is hypothesised that this content has become more diverse because of the new creative possibilities that digital technologies offer. The availability of diverse content is, however, still dependent upon the strategies implemented and the choices made by new digital players;

- the digital environment challenges the regulatory and financial (including fiscal) systems put in place to ensure the availability of cultural goods and services for which new policies and measures are requires. The Convention advocates a transversal approach, given the impact that trade, competition, telecommunications and intellectual property rights policies have on the emergence of regional, national, and local markets for cultural goods and services. It requires cooperation not only between ministries but also with public cultural institutions and small-medium and micro sized professional companies working in the digital cultural industries;

- the necessity to implement and adapt communication infrastructure to overcome digital divides and inequalities;

- rising concerns on issues of freedom of expression in digital environments.

During these exchanges, *several areas of action* were identified for the Parties to consider as part of their future efforts to implement the Convention:

- adapt national policies regarding cultural goods and services to the digital environment;

- implement international cooperation mechanisms designed to promote the diversity of cultural goods and services within the digital environment at the global level;

- provide technical assistance for the introduction and implementation of policies and measures to support the production and distribution of digital cultural content in developing countries;

- promote the objectives of the Convention within other international bodies, and those responsible for trade, intellectual property rights and telecommunications in particular;

- build infrastructure to facilitate access for all individuals to a wide range of cultural content in digital environments.

4. Transversal analysis of the quadrennial periodic reports

The Committee requested the Secretariat to conduct a transversal analysis of the quadrennial periodic reports to collect information and examples on how Parties are dealing with digital issues. This report was presented to and examined by the Committee during its eighth ordinary session.

In short, the report[13] identified a wide range of challenges that could be taken into consideration in the context of the rights and obligations of Parties to introduce policies and measures relating to the creation, production, distribution and access to cultural goods and services. It reaffirms the debates of the governing bodies, confirming the significant changes to the cultural value chain and the necessity to introduce new policies and regulations in the future. It emphasises the new forms of market concentration that new digital players occupy among several links of the chain that put smaller players at risk. Amazon is used as an example to illustrate this point stating: "Amazon no longer operates as just an online bookstore, but also as a publisher, a seller of devices such as the Kindle, a social network for recommending books and a printer, as well as a provider of cloud-computing services". In this context, the report indicated that the challenges for 'users' range from privacy due to permanent monitoring of consumer data, to lack of discoverability due to control of algorithms that make recommendations to consumers.

It also highlighted a number of measures that the Parties have put in place in order to take advantage of the opportunities and overcome the challenges that digital issues pose. For example, measures to support digital literacy programmes as a means to promote equitable access to culture or measures to promote digital creativity such as the modernisation of certain sectors of publishing, music or cinema as well as to support new forms of electronic art. In terms of international cooperation, it provides examples of how Parties have facilitated the transfer of technology, including infrastructure (hardware and software) and expertise for the development of digital networks / systems. The report noted the unique role of the International Fund for Cultural Diversity providing support to projects that involve digital training and technology transfer as well as multimedia arts production.

In conclusion, the report identified several issues of relevance for the future implementation of the Convention for all Parties ranging from the emergence of new giants in cultural markets to the rapid progress of big data and social media to the increasing dynamism of the digital south that necessitates a rethinking of cooperation strategies.

5. Collecting and sharing information and good practices

The Committee agreed that it is important to continue to collect and share information and good practises on the way in which Parties address digital issues in their policies to promote diverse cultural expressions. To this effect, the Committee adopted revised Operational Guidelines on Article 9 and, in its Annex, included a revised framework for quadrennial periodic reports. The revised framework includes a new section asking Parties to provide an overview of the cultural policy context including information on digital issues: "Parties shall describe the key objectives and priorities of their current cultural policy and the impact the Convention has had in their formulation or reformulation. They will also report on the opportunities and challenges to promote the diversity of cultural expressions in a digital environment."The revised Guidelines and framework are submitted to the fifth ordinary session of the Conference of the Parties for approval in June 2015.

In addition, information on digital issues and the Convention was collected through the questionnaires on the impact of Articles 16 (preferential treatment) and 21 (international consultation and coordination) as well as by the Secretariat. It found that while the status of digital cultural goods and services within international trade agreements is still in its infancy, a multilateral work programme on e-commerce has been under way for nearly fifteen years at the World Trade Organization (WTO). The aim is to have the electronic delivery of services brought within the scope

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[13] See O. Kulesz, *UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions*: *Analysis of Parties' periodic reports and contemporary digital trends*, CE/14/8.IGC/INF.5, November 2014.

of the General Agreement on Trade in Services (GATS). This initiative notably addresses the classification and registration of new services that could be incorporated in an e-commerce framework that may also include cultural services.

During this period, it has become increasingly common for a chapter devoted specifically to e-commerce that deals with 'digital products' be included in regional and bilateral agreements. The status of cultural goods within such agreements can, nevertheless, vary in that they are either excluded, included or partially excluded or included, which begs a number of questions that could be explored in the future:

- How should cultural goods and services be classified within agreements for the purposes of applying the principle of technological neutrality associated with the Convention?
- What approaches do the Parties wish to highlight with regards to the status of cultural goods and services within such agreements?
- What impact do trade arrangements in other sectors, and in the fields of telecommunications and intellectual property rights in particular, and those that apply to grants have on cultural goods and services?

6. Initiatives undertaken by Parties and other Convention stakeholders

The Parties and other stakeholders have undertaken various initiatives on the implications of digital issues on the implementation of the Convention such as:

- commissioning **discussion papers and studies**[14] on the implications of digital issues on the implementation of the Convention. This includes a 2015 study undertaken by the Centre for Research on Integration and Globalisation (CEIM)[15];
- **adoption of declarations** by civil society organizations that affect various cultural industries notably the Unión Latina de Economía Política de la Información, la Comunicación y la Cultura (ULEPICC) Declaration on the audiovisual industries[16] (2013) or the International Declaration of Independent Publishers[17] (2014).

In the framework of their respective activities, **international organizations have undertaken various initiatives focusing on digital issues**. For example, the International Organization of the Francophonie (OIF) adopted the 'Horizon 2020' strategy for the digital French-speaking world at the Kinshasa Summit in 2012. In 2014, heads of state and government adopted the Dakar Declaration, in which they underline the "impact of digital technologies on the cultural environment and the need to take this into account in national policies and cooperation activities, in relation to the implementation of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions based on technology neutrality" (para. 33). Finally, in 2015, the OIF published

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[14] See, for example: CEIM information bulletin entitled 'Culture, commerce et numérique', January 2015; Kulesz, O., 2014. (available at http://fr.unesco.org/creativity/sites/creativity/files/8%20IGC-INF%205_Digital_EN.pdf; RIJDEC, Guèvremont, V. et al., *Implementation of the convention on the protection and promotion of the diversity of cultural expressions in the digital age: challenges priority actions and recommendations*, background paper, November 2013. (available at http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/pdf/Rapport_du_RIJDEC_Final_EN.pdf; Report by L. Beaudoin, *Convention on the Protection and Promotion of the Diversity of Cultural Expressions 2005 : impacts of the digital era*, OIF, April 2014, Guèvremont, V., *Preliminary reflection on the implementation of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions in the digital age*, June 2013 (available at www.ficdc.org/cdc3524?lang=en); French background paper, *Convention on the Protection and Promotion of the Diversity of Cultural Expressions in the digital age*, June 2013 (available at http://fr.unesco.org/creativity/sites/creativity/files/nonpapier_initiative_FR_conv2005etnumerique_v25_10_2013.pdf); f); Canadian background paper, *La diversité des expressions culturelles à l'ère du numérique : réflexion québécoise et canadienne*, June 2013, (available at http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/pdf/Contribution_Canada_Qebec_Final-EN.pdf; French National Commission for UNESCO, *Diversité culturelle à l'ère du numérique. Glossaire critique*, December 2014.

[15] "Pour une culture en réseaux diversifiée – Appliquer la Convention sur la protection et la promotion de la diversité des expressions culturelles à l'ère du numérique", February 2015, Montreal.

[16] Available at http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/pdf/ULEPICC_Final.pdf

[17] Available at http://www.alliance-editeurs.org/IMG/pdf/international_declaration_of_independent_publishers_2014-8.pdf

a report entitled *Etat des lieux de la Francophonie numérique*[18]*,* emphasising, among other things, the "introduction of appropriate legal frameworks, the networking of national players, the encouragement of public-private partnerships, the preferred use of free and open source software and support for entrepreneurship among young people and women in the IT sector".

The Council of Europe at its Ministerial Conference in 2013, adopted a final declaration in which ministers invited the organization to become "a platform for the exchange of experience and good practice to policy-makers, practitioners and civil society, on the impact of digitization on culture and examine common European guidelines for promoting (…) the democratic management of culture whilst paying particular attention to ensuring citizens' access to and participation in the cultural sphere in the digital age". This platform for exchange on culture and digitization was created in July 2014 and has identified the issue of "improving information and monitoring with regards to cultural policies and their implementation in terms of digitization" as one of a number of areas of concern for future work undertaken by the Council of Europe. A draft Recommendation on culture and the digital sphere is currently being prepared.

There is also a great deal of work and reflection on digital issues taking place within other international organizations of relevance to the Convention, including by the International Telecommunications Union (ITU)[19], the World Intellectual Property Organization (WIPO)[20], the World Bank[21], the United Nations Conference on Trade and Development (UNCTAD)[22], the United Nations Development Programme (UNDP) and the Organization for Economic Cooperation and Development (OECD)[23]. The work of other major forum, such as the United Nations Group on the Information Society and the World Summit on the Information Society, are also relevant for the discussions of the Convention's governing bodies.

Various **activities designed to raise awareness** of digital issues and the Convention have recently taken place, for example:

- the theme of the 24th edition of the Pan-African Film and Television Festival of Ouagadougou (FESPACO) held in March 2015, was 'African cinema: production and distribution in the digital age'[24];
- the Chaillot Forum entitled 'Future of Culture, Future of Europe', in April 2014, proposed to promote the diversity of cultural expressions in the digital environment[25];
- the conference of the European Coalitions for Cultural Diversity entitled 'How to adapt fiscal policies applying to cultural and audiovisual goods and services in the digital era', held in Brussels in February 2014;

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[18] Available at http://www.francophonie.org/IMG/pdf/isoc-rapport_francophonie_numerique2014_web.pdf

[19] Notably as part of its current work on ways of ensuring fair access to communication infrastructures and more specifically in the framework of the discussions that are being held within the *Commission d'Etudes concernant les Services de Radiodiffusion* ('Radio-broadcasting Services Research Commission'), see: http://www.itu.int/en/ITU-R/study-groups/rsg6/Pages/default.aspx.

[20] For the particular case of the reflection undertaken by the Standing Committee on Copyright and Related Rights (SCCR) on radio-broadcasting bodies with the aim of "updating the protection of radio-broadcasting bodies, which have related rights, in response to digital and other technologies and the increasing use of the Internet", see: http://www.wipo.int/copyright/en/activities/broadcast.html

[21] Notably in the framework of its programme to provide financial support for the development of infrastructures such as fibre optic installations for promoting high-speed Internet access in various developing countries, see: http://www.banquemondiale.org/fr/news/feature/2012/05/21/a-loan-from-the-world-bank-helps-gabon-to-extend-network-coverage-in-bandwidth-capacity-and-reduce-costs-of-communications-services.

[22] See, for example, the Information Economy Report entitled 'Unlocking the Potential of E-Commerce for Developing Countries', UNCTAD, 2015. Available at http://unctad.org/en/PublicationsLibrary/ier2015_en.pdf.

[23] With regards to reflection on taxation and the digital sphere, for example, see the 2014 report: http://www.oecd.org/tax/addressing-the-tax-challenges-of-the-digital-economy-9789264218789-en.htm or for reflection on the part of the Working Party on Communication Infrastructures and Services Policy see 'The Development and Diffusion of Digital Content', *OECD Digital Economy Papers*, No. 213, OECD Publishing. Available at http://dx.doi.org/10.1787/5k8x6kv51z0n-en.

[24] See http://www.africine.org/?menu=art&no=12826.

[25] The Director-General of UNESCO, in her address to those attending the event, firmly maintained the neutrality of the Convention with regards to the digital environment and participated in ministerial discussions on these issues in the margins of the Forum.

- the 1st Palais de Tokyo Forum entitled 'Players in the cultural and digital spheres' held in Paris in December 2014;
- an international seminar on cultural diversity in the digital age and the cultural industries held in Madrid in November 2014.

Several conferences marking the tenth anniversary of the Convention will focus on digital issues and the Convention. These include, for example, the Creative Industry International Conference, held at the University of Utara in Kedah, Malaysia, on 3-4 April, the Conference entitled 'The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions: ten years after its adoption, issues and challenges for cultural policies of States?' to be held at Laval University in Québec, Canada, on 28-30 May, and the Celebration of the 10th anniversary of the Convention devoted specifically to digital issues to be held in Mons, Belgium, on 25 October 2015.

7. Next steps

A framework of action for the next two years could be proposed by the Conference of Parties. It could be based on the information gathered, the discussions and the decisions made by the Convention's governing bodies and Recommendation 7 of the IOS report, which suggests continuing to "explore the implications of changes brought about by digitization for the effective implementation of the Convention" and invites "the Parties to examine, design and exchange emerging policies and practices in this context"[26].

The Parties could:

- consider mandating the Committee to work on the production of draft Operational Guidelines on digital issues. As seen in section 2 of this report, reference to digital issues, including new communication and information technologies mainly encourage Parties to introduce policies and programmes for new skills development, provision of infrastructure and expertise. The new transversal guidelines could, in addition, address issues raised by the governing bodies such as:
  a) public policies and measures to support the digital cultural goods and services value chain;
  b) trade agreements and the flow of digital cultural goods and services (e-commerce);
  c) new approaches to international cooperation that engage local digital players;
  d) the key principles of the Convention in the digital age;

- systematically provide information on the opportunities and challenges to promote the diversity of cultural expressions in a digital environment in their quadrennial periodic reports and consultations undertaken in the framework of Article 16 and 21. In particular, sector specific strategies that encourage implementation of the Convention in the digital age;

- consult with other international actors concerned by digital issues such as those responsible for trade, competition, intellectual property and telecommunications sectors to promote awareness of the Convention and share this information with the Parties;

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[26] Available at http://www.unesco.org/en/creativity/. Other relevant recommendations from the report with regards to the digital sphere include the following:
Recommendation "1 Facilitate and encourage Parties and all stakeholders of the Convention, including intergovernmental organizations and civil society organizations, to share good practices in key areas (e.g. design and implementation of cultural policies and legislation; integration of culture in sustainable development strategies; strengthening of the cultural dimension in international development policies; international agreements in the field of trade), by systematising and disseminating information available in quadrennial periodic reports and from other sources. (Intergovernmental Committee / Secretariat)"
Recommendation "3 Encourage Parties to consider the implications of the 2005 Convention as regards cultural governance (coordination within national governments, relationships between different tiers of government, public-private dialogue, participation of civil society, etc.) in their respective areas of influence and to foster the exchange of good practices and the provision of technical assistance focusing on this area. (Intergovernmental Committee / Secretariat)"
Recommendation "8 Encourage Parties to pay particular attention to the conditions of cultural industries and to the role of civil society actors in their countries, and consider the adoption of long-term strategies to address needs identified. (Intergovernmental Committee / Secretariat)"

- create an interministerial group on digital issues and the Convention (culture, trade, telecommunications, competition, etc.) and include representatives of civil society in this group;

- facilitate the participation of civil society actors in the debates of the governing bodies held at UNESCO Headquarters.

The Committee could:

- prepare draft Operational Guidelines on digital issues with a view to presenting them to the Conference of the Parties for approval at its sixth ordinary session, should the Conference of the Parties so decide;

- take advantage of Article 23.7 of the Convention (and Article 6 of its Rules of Procedure) which enables it to invite public or private bodies and individuals to attend its meetings at any time with a view to consulting them on specific matters, in this case the impact of the digital issues on public policies to promote cultural goods and services.

International organizations could:

- continue to gather relevant information and data at their disposal relating to digital issues that might have an impact on the fields and interests of the Convention;

- inform the governing bodies of the latest developments in their work on digital issues that might have an impact on the implementation of the Convention.

Civil society organizations could:

- continue their reflection on digital issues and contribute to the debates of governing bodies through written submissions (information documents) or through their active participation in Committee sessions held at UNESCO Headquarters;

- continue to raise awareness of digital issues through the organization of events and the production of communication tools relating to such issues;

- contribute to the production of quadrennial periodic reports by the Parties, providing evidence on the opportunities and challenges brought about by digital environments to artists and professionals working in the cultural sphere.

The Secretariat could be asked to:

- continue its efforts to gather and analyse information from the quadrennial periodic reports, from activities to monitor the impact of Articles 16 and 21, from activities undertaken to monitor the 1980 Recommendation concerning the Status of the Artist, as well as from other relevant sources;

- include digital issues in the global monitoring framework being developed on the implementation of the Convention;

- continue to cooperate with the Communication Sector and to consult with other IGOs concerned by digital issues and operating in fields relating to the interests of the Convention, such as the ITU, WIPO, the WTO, as well as with the OIF and the Council of Europe.