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منظمة الأمم المتحدة  
للتربية والعلم والثقافة

联合国教育、  
科学及文化组织

# Intangible Cultural Heritage

## 2 EXT COM

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Paris, 11 February 2008  
Original: French

### UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

### INTERGOVERNMENTAL COMMITTEE FOR THE SAFEGUARDING OF THE INTANGIBLE CULTURAL HERITAGE

Second Extraordinary Session  
Sofia, Bulgaria, 18 to 22 February 2008

**Item 7 of the Provisional Agenda: Formal and procedural conditions concerning the incorporation of items proclaimed “Masterpieces of the Oral and Intangible Heritage of Humanity” in the Representative List, notably the Masterpieces present in the territories of States non party to the Convention**

#### CORRIGENDUM

Paragraph 2 of the annex to Decision 2.EXT.COM 7 should read “This incorporation is *enforceable against* all States [...]” instead of “This incorporation is *binding on* all States [...]”.



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#### Summary

In conformity with paragraph 6 of Decision 2.COM 14 taken in Tokyo at the second ordinary session of the Committee, this document presents a proposal relating to formal and procedural conditions concerning the incorporation in the Representative List of items proclaimed “Masterpieces of the Oral and Intangible Heritage of Humanity”, notably those present in the territories of States non party to the Convention.

**Decision required:** paragraph 6

1. Article 31 of the Convention for the Safeguarding of the Intangible Cultural Heritage (*“the Convention”*) provides that “the Committee shall incorporate in the Representative List of the Intangible Cultural Heritage of Humanity the items proclaimed ‘Masterpieces of the Oral and Intangible Heritage of Humanity’ before the entry into force of this Convention”.
2. At the conclusion of discussions at the Tokyo meeting, the Committee, reaffirming its position taken at its first ordinary and extraordinary sessions, decided that in conformity with Article 31 of the Convention all items that had been proclaimed “Masterpieces of the Oral and Intangible Heritage of Humanity” are to be automatically incorporated into the Representative List of the Intangible Cultural Heritage of Humanity (*“the Representative List”*) immediately upon the establishment of that List (Decision 2.COM 14, paragraph 3).
3. In paragraph 4 of Decision 2.COM 14, the Committee decided that “States whose items proclaimed Masterpieces are incorporated into the List, regardless of whether they are States Parties or States non party to the Convention, enjoy all rights and are subject to all obligations included within the Convention as regards only the items proclaimed Masterpieces referred to above, on the condition that, in case of States non party, they so consent in writing; it being understood that these rights and obligations cannot be invoked or applied separately from each other”.
4. The Committee further requested the Director-General to submit to the present session “a document containing proposals for procedural and formal conditions under which States non party to the Convention will be able to exclude their items proclaimed Masterpieces from incorporation into the List, taking into account particularly the relevant provisions of the Vienna Convention on the Law of Treaties, as discussed by the Committee at its second ordinary session” (paragraph 5 of Decision 2.COM 14).
5. The Committee further decided to adopt the procedural and formal conditions concerning the implementation of the provisions mentioned in its Decision 2.COM 14 (paragraph 6 of Decision 2.COM 14) at the present session.
6. The Committee may wish to adopt the following decision:

**DRAFT DECISION 2.EXT.COM 7**

The Committee,

1. Having examined Document ITH/08/2.EXT.COM/CONF.201/7;
2. Recalling Articles 16 and 31 of the Convention;
3. Further recalling its Decisions 2.COM 6 and 2.COM 14;
4. Decides to adopt the formal and procedural conditions contained in the Annex below;
5. Launches an appeal to the States non party to the Convention concerned to consider the ratification of the Convention without delay.

**ANNEX to Decision 2.EXT.COM 7: Formal and procedural conditions concerning the incorporation of items proclaimed “Masterpieces of the Oral and Intangible Heritage of Humanity” in the Representative List**

|    |  |
|----|--|
| 1. | In accordance with Article 31.1 of the Convention, the Committee shall automatically incorporate in the List foreseen in Article 16 of the Convention all the items that had been proclaimed “Masterpieces of the Oral and Intangible Heritage of Humanity” before the entry into force of the Convention, following the adoption of the present Operational Directives by the General Assembly of the States Parties.   |
| 2. | This incorporation is binding on all States having present on their territories one or several items proclaimed Masterpieces, whether or not they are party to the Convention. Concerning the States non party whose items proclaimed Masterpieces have been incorporated in the List, they shall enjoy all the rights and assume all the obligations included within the Convention as regards only those items present on their territories, on the condition they so consent in writing, it being understood that those rights and obligations cannot be invoked or applied separately from each other. |
| 3. | All States non party having present on their territories items proclaimed Masterpieces shall be notified about the adoption of the present Operational Directives which require that these items be placed on an equal footing with elements inscribed in the future, in accordance with Article 16.2 of the Convention, and governed by the same legal regime for monitoring, transfer from one List to the other or withdrawal, according to the modalities foreseen by these Operational Directives.  |
| 4. | Through the abovementioned notification, States non party will simultaneously be invited by the Secretariat to express, before a reasonable deadline established by the Committee, their explicit consent in writing to accept the rights and assume the obligations contained in the Convention in accordance with paragraphs 2 and 3 above.  |
| 5. | The written notification of this acceptance by the State non party shall be addressed to the Director-General acting in his capacity as Depositary of the Convention, and constitutes submission of the items proclaimed Masterpieces concerned to the full legal regime of the Convention.  |
| 6. | In the case that a State non party to the Convention has not provided written consent to accept the rights and assume the obligations under the Convention concerning items present on its territory and inscribed on the Representative List, the Committee shall have the right to withdraw from the List the element or elements concerned.   |
| 7. | In the case that a State non party to the Convention has not responded to the notification or keeps silent on its intent, or in the case of absence of an explicit indication of its consent after the deadline established by the Committee, its silence or lack of response will be considered by the Committee as a refusal justifying the application of point 6 above, unless circumstances beyond its control prevent it from notifying its acceptance or refusal.   |

|    |  |
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| 8. | In the case that an item proclaimed Masterpiece incorporated in the List is found to be on the territories of both a State Party and a State non party to the Convention, it shall be considered as benefiting from the full legal regime established by the Convention, it being understood that the other State non party shall be invited by the Committee to consent to the obligations foreseen by the Convention. In the absence of an explicit indication of its consent, the Committee shall have the right to recommend that the State non party refrain from undertaking any act that might harm the item proclaimed Masterpiece so concerned. |
| 9. | The Committee shall report to the General Assembly of the States Parties on the measures undertaken in this respect according to the modalities and formalities foreseen by the present Operational Directives.  |

## ANNEX 1: Vienna Convention on the Law of Treaties (Extract)

| <b>Vienna Convention on the Law of Treaties (Extract)</b>   |  |
|---|--|
| <b><u>Section 4: Treaties and Third States</u></b>  |  |
| <b>Article 34 : General rule regarding third States</b>   |  |
|   | A treaty does not create either obligations or rights for a third State without its consent.   |
| <b>Article 35 : Treaties providing for obligations for third States</b>                             |  |
|   | An obligation arises for a third State from a provision of a treaty if the parties to the treaty intend the provision to be the means of establishing the obligations and the third State expressly accepts that obligation in writing.  |
| <b>Article 36 : Treaties providing for rights for third States</b>                                  |  |
| 1.  | A right arises for a third State from a provision of a treaty if the parties to the treaty intend the provision to accord that right either to the third State, or to a group of States to which it belongs, or to all States, and the third State assents thereto. Its assent shall be presumed so long as the contrary is not indicated, unless the treaty otherwise provides. |
| 2.  | A State exercising a right in accordance with paragraph 1 shall comply with the conditions for its exercise provided for in the treaty or established in conformity with the treaty.   |
| <b>Article 37 : Revocation or modification of obligations or rights of third States</b>             |  |
| 1.  | When an obligation has arisen for a third State in conformity with article 35, the obligation may be revoked or modified only with the consent of the parties to the treaty and of the third State, unless it is established that they had otherwise agreed.   |
| 2.  | When a right has arisen for a third State in conformity with article 36, the right may not be revoked or modified by the parties if it is established that the right was intended not to be revocable or subject to modification without the consent of the third State.   |
| <b>Article 38 : Rules in a treaty becoming binding on third States through international custom</b> |  |
|   | Nothing in articles 34 to 37 precludes a rule set forth in a treaty from becoming binding upon a third State as a customary rule of international law, recognized as such.   |

## ANNEX 2: Items proclaimed Masterpieces by UNESCO

| Annex 2 (a) : List of items proclaimed Masterpieces |   |
|---|---|
| Albania   | Albanian Folk Iso-Polyphony (2005)  |
| Algeria   | The Ahellil of Gourara (2005)   |
| Armenia   | The Duduk and its Music (2005)  |
| Azerbaijan  | Azerbaijani Mugham (2003)   |
| Bangladesh  | Baul Songs (2005)   |
| Belgium   | The Carnival of Binche (2003)   |
| Belgium and France                                  | Processional Giants and Dragons in Belgium and France (2005)  |
| Belize, Guatemala, Honduras and Nicaragua           | Language, Dance and Music of the Garifuna (2001)  |
| Benin, Nigeria and Togo                             | The Oral Heritage of Gelede (2001)  |
| Bhutan  | The Mask Dance of the Drums from Drametse (2005)  |
| Bolivia   | The Carnival of Oruro (2001)<br>The Andean Cosmivision of the Kallawaya (2003)                      |
| Brazil  | Oral and Graphic Expressions of the Wajapi (2003)<br>The Samba de Roda of Recôncavo of Bahia (2005) |
| Bulgaria  | The Bistritsa Babi – Archaic Polyphony, Dances and Rituals from the Shoplouk Region (2005)          |
| Cambodia  | The Royal Ballet of Cambodia (2003)<br>Sbek Thom, Khmer Shadow Theatre (2005)                       |
| Central African Republic                            | The Polyphonic Singing of the Aka Pygmies of Central Africa (2003)                                  |
| China   | Kun Qu Opera (2001)<br>The Guqin and its Music (2003)<br>The Uyghur Muqam of Xinjiang (2005)        |
| Colombia  | The Carnival of Barranquilla (2003)<br>The Cultural Space of Palenque de San Basilio (2005)         |
| Costa Rica  | Oxherding and Oxcart Traditions in Costa Rica (2005)  |
| Côte d'Ivoire                                       | The Gbofe of Afounkaha - the Music of the Transverse Trumps of the Tagbana Community (2001)         |
| Cuba  | La Tumba Francesa (2003)  |

|                                |   |
|--------------------------------|---|
| Czech Republic                 | Slovácko Verbuňk, Recruit Dances (2005)   |
| Dominican Republic             | The Cultural Space of the Brotherhood of the Holy Spirit of the Congos of Villa Mella (2001)<br>The Cocolo Dance Drama Tradition (2005)       |
| Ecuador and Peru               | The Oral Heritage and Cultural Manifestations of the Zápara People (2001)   |
| Egypt                          | The Al-Sirah al-Hilaliyyah Epic (2003)  |
| Estonia                        | The Kihnu Cultural Space (2003)   |
| Georgia                        | Georgian Polyphonic Singing (2001)  |
| Guatemala                      | The Rabinal Achí Dance Drama Tradition (2005)   |
| Guinea                         | The Cultural Space of Sosso-Bala (2001)   |
| India                          | Kutiyattam, Sanskrit Theatre (2001)<br>The Tradition of Vedic Chanting (2003)<br>Ramlila - the Traditional Performance of the Ramayana (2005) |
| Indonesia                      | The Wayang Puppet Theatre (2003)<br>The Indonesian Kris (2005)  |
| Iraq                           | The Iraqi Maqam (2003)  |
| Italy                          | Opera dei Pupi, Sicilian Puppet Theatre (2001)<br>The Canto a tenore, Sardinian Pastoral Songs (2005)   |
| Jamaica                        | The Maroon Heritage of Moore Town (2003)  |
| Japan                          | Nôgaku Theatre (2001)<br>Ningyo Johruri Bunraku Puppet Theatre (2003)<br>Kabuki Theatre (2005)  |
| Jordan                         | The Cultural Space of the Bedu in Petra and Wadi Rum (2005)   |
| Kyrgyzstan                     | The Art of Akyns, Kyrgyz Epic Tellers (2003)  |
| Latvia, Estonia and Lithuania  | The Baltic Song and Dance Celebrations (2003)   |
| Lithuania, supported by Latvia | Cross-crafting and its Symbolism (2001)   |
| Madagascar                     | The Woodcrafting Knowledge of the Zafimaniry (2003)   |
| Malawi                         | The Vimbuza Healing Dance (2005)  |
| Malawi, Mozambique and Zambia  | The Gule Wamkulu (2005)   |
| Malaysia                       | Mak Yong Theatre (2005)   |
| Mali                           | The Cultural Space of the Yaaral and Degal (2005)   |



|                           |  |
|---------------------------|--|
| Mexico                    | The Indigenous Festivity dedicated to the Dead (2003)  |
| Mongolia                  | The Traditional Music of Morin Khuur (2003)  |
| Mongolia and China        | Urtiin Duu - Traditional Folk Long Song (2005)   |
| Morocco                   | The Cultural Space of Jemaa el-Fna Square (2001)<br>The Moussem of Tan-Tan (2005)  |
| Mozambique                | The Chopi Timbila (2005)   |
| Nicaragua                 | El Güegüense (2005)  |
| Nigeria                   | The Ifa Divination System (2005)   |
| Palestinian territories   | The Palestinian Hikaye (2005)  |
| Peru                      | Taquile and its Textile Art (2005)   |
| Philippines               | The Hudhud Chants of the Ifugao (2001)<br>The Darangen Epic of the Maranao People of Lake Lanao (2005)   |
| Republic of Korea         | The Royal Ancestral Ritual in the Jongmyo Shrine and its Music (2001)<br>The Pansori Epic Chant (2003)<br>The Gangneung Danoje Festival (2005) |
| Romania                   | The Căluș Ritual (2005)  |
| Russian Federation        | The Cultural Space and Oral Culture of the Semeiskie (2001)<br>The Olonkho, Yakut Heroic Epos (2005)   |
| Senegal and Gambia        | The Kankurang, Manding Initiatory Rite (2005)  |
| Slovakia                  | The Fujara and its Music (2005)  |
| Spain                     | The Mystery Play of Elche (2001)<br>The Patum of Berga (2005)  |
| Tonga                     | The Lakalaka, Dances and Sung Speeches of Tonga (2003)   |
| Turkey                    | The Arts of the Meddah, Public Storytellers (2003)<br>The Mevlevi Sema Ceremony (2005)   |
| Uganda                    | Barkcloth Making in Uganda (2005)  |
| Uzbekistan                | The Cultural Space of the Boysun District (2001)   |
| Uzbekistan and Tajikistan | Shashmaqom Music (2003)  |
| Vanuatu                   | Vanuatu Sand Drawings (2003)   |
| Viet Nam                  | Nha Nhac, Vietnamese Court Music (2003)<br>The Space of Gong Culture (2005)  |
| Yemen                     | The Song of Sana'a (2003)  |

|          |                                    |
|----------|------------------------------------|
| Zambia   | The Makishi Masquerade (2005)      |
| Zimbabwe | The Mbende Jerusarema Dance (2005) |

**Annex 2 (b) : Items proclaimed Masterpieces not found on the territories of States Parties to the Convention** (12 February 2008)

|                         |  |
|-------------------------|--|
| Bangladesh              | Baul Songs (2005)  |
| Colombia                | The Carnival of Barranquilla (2003)<br>The Cultural Space of Palenque de San Basilio (2005)          |
| Czech Republic          | Slovácko Verbuňk, Recruit Dances (2005)  |
| Georgia                 | Georgian Polyphonic Singing (2001)   |
| Guinea                  | The Cultural Space of Sosso-Bala (2001)  |
| Iraq                    | The Iraqi Maqam (2003)   |
| Jamaica                 | The Maroon Heritage of Moore Town (2003)   |
| Malawi                  | The Vimbuza Healing Dance (2005)   |
| Malaysia                | Mak Yong Theatre (2005)  |
| Palestinian territories | The Palestinian Hikaye (2005)  |
| Russian Federation      | The Cultural Space and Oral Culture of the Semeiskie (2001)<br>The Olonkho, Yakut Heroic Epos (2005) |
| Tonga                   | The Lakalaka, Dances and Sung Speeches of Tonga (2003)   |
| Uganda                  | Barkcloth Making in Uganda (2005)  |
| Vanuatu                 | Vanuatu Sand Drawings (2003)   |

**Annex 2 (c) : Items proclaimed Masterpieces in one or more States Parties and one or more States non party** (12 February 2008)

|   |   |
|---|---|
| Benin, <u>Nigeria</u> , Togo              | The Oral Heritage of Gelede (2001)  |
| Ecuador, <u>Peru</u>                      | The Oral Heritage and Cultural Manifestations of the Zápara People (2001) |
| Gambia, <u>Senegal</u>                    | The Kankurang, Manding Initiatory Rite (2005)                             |
| Malawi, <u>Mozambique</u> , <u>Zambia</u> | The Gule Wamkulu (2005)   |