TERMS OF REFERENCE

OPEN-ENDED WORKING GROUP (OEWG) ON THE EXAMINATION OF THE MOST APPROPRIATE LEGAL FRAMEWORK FOR THE MEMORY OF THE WORLD (MoW) PROGRAMME

Background

The Executive Board invited the UNESCO Secretariat to submit to its 205th session an updated action plan for the comprehensive review of the Memory of the World (MoW) Programme. Accordingly, the updated action plan was presented to and endorsed by the 205th session of the Executive Board. *Action step 2* of the said action plan consists in 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. In this regard, the action plan, as amended through 205 EX/Decision 8, provides for the creation of an open-ended Working Group (OEWG) to examine the most appropriate legal framework for the MoW Programme.

Overview of the MoW Programme

The MoW Programme is governed through the following key documents:

1. The *General Guidelines to Safeguard Documentary Heritage* (Revised Edition 2002) provide a broad framework for the operation of the Programme, including a definition of 'Memory of the World', objectives of the Programme, background to its establishment, the character of the Programme as professional and/or expert-driven, its vision and mission, the (three) registers of the Programme, etc.

2. The Statutes of the International Advisory Committee (IAC) provide a specific regulatory framework for the Programme, namely an **advisory committee** to oversee the work of 'Memory of the World.' While the *General Guidelines* (see Section 5.2 of the General Guidelines) specify the work of this advisory committee, it draws its legal status from Part H (V) of the UNESCO Basic Texts (**Advisory committees**), which also provides for the committee's definition, convening, participation, voting, relationship to the Director-General, etc.

3. In turn, Article 8 of the *Statutes* empowers the IAC to establish its own Rules of Procedure, which are approved by the Director-General.

4. Furthermore, in 2011, the IAC adopted an Ethics Protocol to guide both its work and that of the Register Subcommittee. The IAC-led review has since resulted in a Code of Ethics with a more expanded scope than the 2011 Ethics Protocol.

5. The normative framework for the MoW Programme is reinforced by the 2015 *Recommendation concerning the preservation of, and access to, documentary heritage, including in digital form*. It places the MoW Programme in broader context of national and international cooperative mechanisms for the identification, preservation, accessibility and legislation of documentary heritage. More importantly, it

regulates national reporting on the implementation of the Recommendation within the governing frameworks of the UNESCO Executive Board and General Conference, and in accordance with UNESCO's Constitution.

Initial review led by the IAC

The updated action plan endorsed by the 205th session of the Executive Board highlights the fact that the deliberations of the Working Group – as an integral part of the comprehensive review – should be based on the work done by the IAC.

In summary, the IAC-led review sought to revise the modalities of implementation of the Programme as a means for further strengthening of the Programme by improving its visibility, human and financial resource mobilization, as well as transparency and dialogue among its stakeholders. More specifically:

- As part of this review process, a consultation website, open from May through October 2016, invited all relevant stakeholders to participate in this review process. Forty-six substantial responses were received, 27 of which were from National Commissions for UNESCO.
- The final report was submitted to the Director-General of UNESCO on 30 June 2017. The same report was eventually presented to the Executive Board during its 202nd session. In receiving the report, the Executive Board, in its Decision 202 EX/15, invited the IAC to continue, in consultation with Member States, the review of the MoW Programme.
- In April 2018, the IAC Chair formally notified the UNESCO Secretariat of the conclusion of the IAC-led review, presenting three documents as key outcomes of that process: revised General Guidelines; revised Statutes of the IAC; and a Code of Ethics for MoW.

These documents, along with comments from the Office of International Standards and Legal Affairs as well as the Ethics Office, are now online and accessible at: https://en.unesco.org/programme/mow.

Composition of the Working Group

In its Decision 205 EX/8, the Executive Board agreed to an open-ended format for the Working Group. At its meetings held on 22 and 30 January 2019, the OEWG agreed to designate H.E. Mr. Ferit Hoxha, Ambassador and Permanent Delegate of Albania to UNESCO and H.E. Mr. Mounir Anastas, Ambassador and Alternate Permanent Delegate of Palestine to UNESCO as Co-Chairpersons of the OEWG, and the representatives of Greece, Lithuania, Uruguay, Myanmar, Ghana and Algeria as Vice-Chairpersons, representing the respective electoral groups. The MoW Programme Secretariat will assist the Working Group in its deliberations and reporting.

Principles

In accordance with Decision 205 EX/8, the Working Group will adopt an open-ended format for its discussion, in a spirit of dialogue, taking into account the work initially conducted by the MoW Programme's IAC.

Mandate

The Working Group will be expected to examine the most appropriate legal framework to govern the MoW Programme, including specifying such elements as the International Register, the MoW Programme's vision and objectives, organs of the

programme, principles and procedures for registration of documentary heritage, and any other task which would enable the Working Group to reach its goals.

In fulfilling its mandate, the Working Group will focus its deliberations on the following main issues:

- Reflect on the nomination and inscription process for the **MoW International Register with a view** to increasing the transparency of the nomination process in general and suggest possible solutions for the handling of contested nominations;

- Reflect on options for the most appropriate **legal framework for the MoW Programme**, including related matters as specified in the description of the Action Plan as adopted by the 205th session of the Executive Board, as well as on the overall nature of the Programme and its governing structure; and

- Adopt the final report of the Working Group and make recommendations for future action.

Work modalities

In conformity with the main issues identified in the mandate and with a view to conducting a purposeful and focused discussion, the Co-Chairs will propose a specific thematic agenda for each meeting, which will be notified in advance. In conformity with the timeline of the OEWG, the number and the frequency of its

meetings will largely depend on the progress made in dealing with issues at hand. In any event and if need be, and taking into account the necessary resources and costs involved, the OEWG would hold six to seven meetings between February and September 2019.

The Working Group will hold a joint meeting with the 14 IAC members, foreseen to take place in March 2019.

The UNESCO Secretariat will prepare the minutes of the meetings and the progress report to be submitted to the Executive Board at its 206th session.

Outcome

The Working Group will aim at providing, as part of a consolidated report of the finalization of the comprehensive review, a set of recommendations on the most appropriate legal framework to govern the MoW Programme, including specifying such elements as the International Register, the MoW Programme's vision and objectives, organs of the programme, principles and procedures for registration of documentary heritage, etc. The consolidated report will be presented to the 207th session of the Executive Board, while a progress report will be presented to the 206th session.

Timeline

The Working Group's Terms of Reference will expire after the submission of the final consolidated report to the Executive Board in October 2019.