**CONVENTION FOR THE SAFEGUARDING OF THE
INTANGIBLE CULTURAL HERITAGE**

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

**Twelfth session**

**Jeju Island, Republic of Korea**

**4 to 9 December 2017**

**Item 13 of the Provisional Agenda:**

**Report of the informal ad hoc working group**

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| **Summary**At its eleventh session, the Committee, by its Decision 11.COM 10, established an informal ad hoc working group to examine ‘issues related to the consultation and dialogue between the Evaluation Body and the submitting States, the decision-making process of the Committee concerning nominations, proposals and requests’. This document presents the deliberations and recommendations of such working group.**Decision required:** Paragraph 4 |

1. At its eleventh session, the Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage (the ‘Committee’) decided to ‘establish an informal ad hoc working group, to be convened by the Chair of the next session of the Committee, which would meet intersessionally to examine the issues related to the consultation and dialogue between the Evaluation Body and the submitting States, the decision-making process of the Committee on nominations, proposals and requests, as well as any other issue in order to strengthen the implementation of the Convention’ ([Decision 11.COM 10](https://ich.unesco.org/en/Decisions/11.COM/10), paragraph 13).
2. The Committee requested that the recommendations of the informal ad hoc working group be submitted to it at its twelfth session, with a view to presenting the revisions to the Operational Directives to the General Assembly. The annex of this document, as prepared by the group, reports its deliberations and recommendations.
3. Within the same decision (paragraph 12), the Committee also requested that the Secretariat ‘propose a procedure, to the next session of the Committee, which would include an intermediary step in the evaluation of files, thus allowing submitting States to respond to preliminary recommendations that the Evaluation Body would have addressed beforehand to the Secretariat’. The proposal by the Secretariat, which was discussed by the informal ad hoc working group, is presented in document [ITH/17/12.COM/12](https://ich.unesco.org/doc/src/ITH-17-12.COM-12-EN.docx).
4. The Committee may wish to adopt the following decision:

DRAFT DECISION 12.COM 13

The Committee,

1. Having examined document ITH/17/12.COM/13,
2. Recalling Decision 11.COM 10,
3. Also recalling Chapters I.8 and I.10 of the Operational Directives,
4. Commends the work of the informal ad hoc working group and takes note of its report;
5. Notes in particular the view expressed by the Evaluation Body about the need to give time, at least until the end of the 2019 cycle, for a number of adjustments introduced in the evaluation process to take effect, before considering the establishment of a formal ‘dialogue’ process;
6. Decides to submit the report of the informal ad hoc working group to the General Assembly at its seventh session;
7. Also decides to extend the mandate of the informal ad hoc working group to allow it to continue reflecting on how to improve the governance of the Committee, including the dialogue mechanism, as well as on other issues within its mandate.

**ANNEX**

**Report by the informal ad hoc working group to the Committee**

#### Mandate

1. Pursuant to the [Decision 11.COM 10](https://ich.unesco.org/en/Decisions/11.COM/10), the informal Ad-Hoc Working Group was established ‘to examine issues related to the consultation and dialogue between the Evaluation Body and the submitting States (hereafter referred to as the ‘Dialogue’), the decision-making process of the Committee on nominations, proposals and requests (hereafter referred to as ‘decision-making’), as well as any other issues in order to strengthen the implementation of the Convention, and to submit its recommendations to the Committee at its next session’.
2. The Ad-Hoc Working Group, chaired by the Chairperson of the twelfth session of the Intergovernmental Committee (hereafter, the ‘Committee’), convened on 16 February for the first time, to discuss the agenda and the composition of the Group. Subsequent meetings of the Group composed of the Committee members took place on 27 February, 10 May, and 27 September. Two meetings, held on 2 June and 23 October, were open-ended to which all State Parties to the Convention were invited, so as to make the debates as participatory and inclusive as possible. The Secretariat of the Convention for the Safeguarding of the Intangible Cultural Heritage was present for the meetings.
3. The Evaluation Body (hereafter, the ‘EB’) was also consulted. At the third Working Group meeting on 10 May, two experts from the EB were invited to share their expertise. The fifth meeting convened on 27 September became a joint one, with all twelve members of the Evaluation Body and many Committee members debating the matter.
4. In addition, the Group also organized six drafting group meetings between April to September, chaired by H.E. Mr. Anastas Mounir, Ambassador of Palestine and attended by the Committee members. The debates of the drafting group complemented the discussion of the Working Group by building on the ideas put forward during the Working Group meetings and developing them further.

#### Consultation and Dialogue between the Evaluation Body and the Submitting States

#### Background Information

1. The Committee at its eleventh session recognized the necessity for a channel of communication between the EB and the submitting States. The proposal was made, in the belief that the examination of nomination files, particularly to the Representative List of the Intangible Cultural Heritage of Humanity (hereafter, the ‘Representative List’), should be undertaken in an inclusive manner. Files with minor/technical issues requiring clarification or provision of additional information could be considered through the Dialogue, in order to allow for more comprehensive consideration of relevant files before Committee meetings.
2. At its 11th session, the Committee as well as observers and representatives of the EB welcomed the introduction of the new mechanism in principle. As a result, the Committee adopted a decision requesting the Secretariat to present a proposal on the Dialogue (Decision 11.COM 10 para 12). Moreover, an informal Ad-Hoc Working Group was created to present its recommendations with regard to issues within its mandate to the next session of the Committee (Decision 11.COM 10 para 13).

#### Key areas of discussion

1. The work of the Ad-Hoc Working Group focused on the contents of the Dialogue, on the basis of the preliminary proposal presented by the Secretariat which concerns mainly a modified timeframe of the examination cycle to fit in the Dialogue, and the outcome of the discussion will guide the EB in putting into practice the new communication mechanism between the Body and the States.
2. The Group began by affirming that the process should be simple with minimal cost implications in order to minimize additional workload to the Secretariat and to the EB. With this in mind, The Group addressed the first question, i.e., if the Dialogue should involve a limited number of criteria depending on the nature of the criterion (distinction of substantive/technical criteria and a threshold criterion[[1]](#footnote-1)). But the proposal did not win a majority support. Rather, many viewed that establishing a hierarchy among the criteria is beyond the mandate of the Working Group and all criteria, being of equal value, should be subjected to the Dialogue.
3. Closely linked to the question of criteria is the number and nature of questions linked to the criterion (what kind of and how many questions are most optimal for the Dialogue), considering the resources of the Secretariat and the tight schedule for the examination process. Members were of the opinion that the answers provided could be clarification and/or minor additional information only. The majority considered that a maximum of two questions are appropriate.
4. However, some maintained that the content of the dialogue should be based on the nature of the criterion, rather than a limited number of questions. It should also be noted that some member States preferred allowing up to 5 questions (one per each criterion) so as to make the Dialogue more comprehensive.
5. The condition under which nomination files will be subjected to the Dialogue process was also a fundamental question to be addressed. The members were of the view that including all files with unsatisfied criteria in the Dialogue will render the process unmanageable for the Secretariat and the EB. The Group proposed that files with unsatisfied criteria, only when the EB considers that a limited answer could change its recommendation/evaluation of the file, shall be included in the Dialogue process.
6. The Group also reflected upon other ways to simplify the process with a view to alleviating the burden for the Secretariat and the EB. Most members found it appropriate to put a limitation on the number of words to the answers provided by the States to which the EB addressed the questions through the Dialogue, and the Group agreed that the answers should not exceed 150 words per question.
7. The EB at the fifth meeting on 27 September, however, suggested that the Committee take a step back and reconsider the timing of the application of the Dialogue process. The EB members stated that it would be better if the Committee wait at least one more examination cycle, so as to allow time to assess the impacts of the measures taken to improve the examination process, such as modified application form for R5, and extension of the referral option to all listing programs.
8. Reactions from the WG members towards the suggestion were divided. Some member States eagerly accepted the proposal for the Committee to be more prudent in implementing the new measure. Others were less receptive to the idea, maintaining that the Dialogue will serve as a useful tool to facilitate much needed communication between the States and the EB and thus help to make the process more inclusive and limit politicization.

#### Recommendations

1. Recalling the recommendation of the EB on the need to allow time to assess the impacts of the initiatives recently introduced to reinforce the evaluation process and to adapt to them before adding further changes. The EB, therefore, recommended the Committee to postpone making any decision on the Dialogue mechanism until the next cycle (2019/20).
2. The Committee, at its 12th session, shall discuss the outcome of the WG conclusions and may extend the mandate of the Ad-Hoc WG until its following 13th sessions with a view to building upon the discussion of the Working Group. The Committee shall also report to the 7th session of the General Assembly in 2018. The GA may take any appropriate decision thereon. If its mandate is extended, the WG will further reflect on ways to improve governance of the Committee and will consider other issues mentioned in this report that has been raised during the meetings of the WG but not completely addressed.
3. **Brief conclusion of the WG on Dialogue (postponed proposal):**
4. The Evaluation Body may initiate the Dialogue for nominations files in need of clarification and/or minor additional information, when the Body considers that a limited answer could change its recommendation/evaluation of the nomination file.
5. The information submitted by the submitting States during the Dialogue process should be limited to clarification or minor/technical additional information.
6. The Evaluation Body may ask questions on all criteria, one question per criterion and up to 2 questions for each file that is selected for the Dialogue.
7. The revised Operational Directives (I.8. 27) in accordance with the above-mentioned proposals will be as follows:

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| I.8 Evaluation of files |
| 27. On an experimental basis, a dialogue process is established between the EB and the submitting State(s) of files that have unsatisfied criterion (a) required for the inscription on the Representative List of the Intangible Cultural Heritage of Humanity.The EB shall include in the dialogue process files in need of clarifications and/or minor additional information and only when it considers that a limited answer could change the recommendation/evaluation of the file.The Evaluation Body shall send, to submitting State(s) of files selected for the process of Dialogue, through the Secretariat, question(s) on two criteria maximum out of the five for clarification and/or minor additional information. Two questions maximum, with one question only per criterion, may be addressed by the EB to the concerned State(s).The questions of the EB shall be sent electronically by the Secretariat to the concerned State(s) within a week from the EB meeting in April/May Year2.State(s) shall answer, electronically through the Secretariat, within 3 weeks from the date the Secretariat transmitted the questions of the EB to them. For each answer, a maximum of 150 words is allowed. |

#### Decision-making process of the Committee

#### Background information

1. During recent sessions, the Chairpersons tended to seek a broad agreement through active expressions of support in order to establish consensus for amendments to decisions concerning nominations, proposals or requests that would reverse the recommendations of the EB regarding a nomination. However, a State Party, after the tenth session of the Intergovernmental Committee in Windhoek, raised a question on how the Chairperson interprets a ‘broad agreement’ to rule that a consensus was reached.
2. Upon request from the State Party, the eleventh session of the Committee examined the ‘*clarification on the decision making process concerning inscription, selection, or approval of nominations, proposals and requests’* (11.COM 8). After an extensive discussion, the Committee adopted a decision ‘*recommending the Chairperson of the Committee, in case of amendments on a draft decision recommended by the Evaluation Body, to privilege decision-making by consensus through evaluating both supports and objections to the draft decision under consideration*’ (Decision 11.COM 8).
3. It was suggested that the change in the decision making, applied from the eleventh session in Addis Ababa, lowered the psychological barrier for the Committee in overturning the recommendations of the EB, and the Committee ended up reversing 15 out of 19 referrals recommended by the EB to inscription, in examining the nominations to the Representative List. The situation led the Committee members to conclude that the new working method had to be reviewed.
4. **Key areas of discussion**
5. A Committee member proposed a ‘decision making by steps’, which gained general support from the members of the Group. In order for the Committee to adopt an amendment to decisions on nominations, proposals and requests, the Chairperson should firstly seek a ‘relative support[[2]](#footnote-2) without any objection or concern’. If any member raises an objection or concern to the proposed amendment, the Chairperson should then seek an ‘active broad support[[3]](#footnote-3)’.
6. Nonetheless, two members of the Committee expressed their reservations, arguing that the Committee should revert to the previous system of seeking a broad support in adopting decisions to reverse the recommendations proposed by the EB. They added that they are not going to block the consensus on this matter.

#### Other issues

1. **Introduction of a ‘deferral option’**
2. A few Member States proposed that the Working Group discuss introducing ‘to defer’ as an intermediary step between ‘to refer’ and ‘not to inscribe’. The deferral option would differentiate files having less than two criteria not met with those having three to four criteria unsatisfied, and work as a psychological deterrent to those lobbying to have their nomination inscribed to the List. Even though ‘deferral’ is a borrowed term from the 1972 World Heritage Convention (hereafter, the ‘WHC’), the term should be distinguished from that of the WHC in terms of its concept[[4]](#footnote-4).
3. On the other hand, the Secretariat pointed out that the new category would further complicate the examination process, as the 2003 Convention has a different examination cycle from that of the WHC and the additional category would further burden the EB by requiring substantive justification. In this regard, the EB asked the Committee to provide them with guidance on what distinguishes referral from deferral, stating that taking a mathematical approach may not be appropriate.
4. Some States expressed strong reservations and questioned about the effectiveness. The Secretariat underlined that the deferral option in the World Heritage Convention distinguishes itself from referral in a more substantive way than instrumental. Furthermore, it did not change the tendency to reverse the recommendations of the advisory body.
5. The Group was unable to reach a consensus and decided to suspend the debate on this particular topic for the time being. The Committee may revisit the issue the next time it revises the Operational Directives.
6. **Reconsidering the nature of the Representative List**
7. There were also suggestions by some member States to re-conceptualize the nature of the Representative List to be more inclusive (so-called ‘Wikipedia approach’), even though the Working Group did not have enough time to pursue the issue further. The question will necessitate a more comprehensive approach towards the implementation of the Convention, and require reconsidering the whole process of examination and decision-making procedures as well as the roles of the advisory body.
8. **Other matters to improve the work of the Committee**
9. One Committee member wanted to touch upon the election of the EB and stated that the Committee should accept a clean slate for the election. The current practice requires that each electoral group present minimum two and up to three candidates for the election of the EB. No Committee member expressed objection to the proposal, while the Group encouraged each electoral group, whenever possible, to avoid a clean slate.
10. Another proposal was put forward that the EB shall turn over the decision to the Committee by making no recommendations, in exceptional circumstances when the Body has very divided opinions and difficulty reaching a consensus on a nomination file. A few members were skeptical about the idea and expressed their concerns that the change could have negative consequences (possibility of abuse).
11. A member of the EB during the consultation with the Working Group underlined that capacity building programs to assist States in preparing nomination files should be reinforced in parallel with measures to improve governance of the Committee.
12. **Recommendations**
13. Underlining the Committee’s prerogative to make its own choice with regard to the election of the Evaluation Body, the Committee encourages electoral groups, whenever possible, to present multiple candidates (between two and three), while also accepting a clean slate for the election.
14. The Evaluation Body may abstain from making its recommendation for the file(s), in an exceptional case when/if the members of the Body have very divided opinions and thus have difficulty establishing a consensus. [There was no consensus in the Working Group concerning this recommendation, with at least one member strongly opposed to this paragraph.]
1. . (An) Essential criterion(a), which, if unsatisfied, would send the nomination file directly to non-inscription (or referral). [↑](#footnote-ref-1)
2. . At least a third of the members of the Committee shall take the floor to declare its support without any objection or concern expressed by any other member. [↑](#footnote-ref-2)
3. . More than half of the members of the Committee (at least 13) shall take the floor to declare its support. [↑](#footnote-ref-3)
4. . Some suggested changing the term ‘referral’ and ‘deferral’ to ‘soft referral’ and ‘referral’ to prevent confusion with those in the WHC. [↑](#footnote-ref-4)