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# Intangible Cultural Heritage 2 COM

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UNITED NATIONS EDUCATIONAL, SCIENTIFIC  
AND CULTURAL ORGANIZATION

INTERGOVERNMENTAL COMMITTEE  
FOR THE SAFEGUARDING OF THE INTANGIBLE CULTURAL HERITAGE

Second Session  
Tokyo, Japan, 3 to 7 September 2007

**Item 3 of the provisional agenda: Adoption of the draft Summary Records of the first extraordinary session of the Committee**

## Summary

This document comprises the draft summary records of the First Extraordinary Session of the Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage. The decisions adopted by the Committee and the list of participants appear in an annex.

The First Extraordinary Session of the Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage ("ICH") took place, at the invitation of the Chinese authorities, from 23 to 26 May 2007, at the Crowne Plaza Chengdu, in China. UNESCO thanks the authorities of the host country, the Ministry of Culture of the People's Republic of China, the Province of Sichuan, the Municipal Bureau of Culture of Chengdu and the Permanent Delegation of China to UNESCO.

Delegations from the 24 Member States of the Intergovernmental Committee took part in the meeting: Algeria, Belarus, Belgium, Bolivia, Brazil, Bulgaria, Central African Republic, China, Estonia, France, Gabon, Hungary, India, Japan, Mali, Mexico, Nigeria, Peru, Romania, Senegal, Syrian Arab Republic, Turkey, United Arab Emirates, Viet Nam.

The following took part as observers:

- delegations from 17 States Parties not members of the Committee: Azerbaijan, Cambodia, Egypt, Ethiopia, Greece, Iran (Islamic Republic of), Lithuania, Luxembourg, Mauritius, Mongolia, Morocco, Oman, Panama, Republic of Korea, Slovakia, Spain, Tunisia;
- representatives from 12 UNESCO Member States, not parties to the Convention: Austria, Bahrain, Benin, Germany, Italy, Kenya, Malaysia, Saudi Arabia, South Africa, Switzerland, Thailand, United States of America;
- representatives from Macao (China), Associate Member of UNESCO;
- three non-governmental organizations: ICOM, Mediterranean Diet Foundation, Traditions for Tomorrow.

The Intangible Cultural Heritage Section of UNESCO acted as Secretary to the meeting.

*[Wednesday 23 May 2007, 11.00]*

## **AGENDA ITEM 1: OPENING OF THE FIRST EXTRAORDINARY SESSION OF THE INTERGOVERNMENTAL COMMITTEE FOR THE SAFEGUARDING OF THE INTANGIBLE CULTURAL HERITAGE**

### **[Official opening ceremony]**

1. The session opened with an official ceremony presided over by **H.E. Mr SUN Jiazheng, Minister of Culture of the People's Republic of China**, and **Ms Françoise Rivière, Assistant Director-General for Culture and Representative of the Director-General of UNESCO**, in the presence of Mr Zhou Heping, Vice-Minister of Culture of the People's Republic of China and Mr Ge Honglin, Mayor of Chengdu.
2. In his opening speech, **H.E. Mr SUN Jiazheng** welcomed the participants to China. He paid tribute to UNESCO and to its efforts in the field of culture, in particular for the adoption of the Convention on the Safeguarding of the Intangible Cultural Heritage. Recalling the immense richness of China's intangible cultural heritage, he stressed the supreme duty to safeguard it and pass it on to future generations. In conclusion, he spoke of his conviction of the

impact to be achieved by this extraordinary session, whose results would certainly create the foundations needed for the establishment of operational directives that would enable the effective implementation of the Convention.

3. **H.E. Mr JIANG Jufeng, Governor of the Province of Sichuan**, extended to all delegates his warmest welcome to Sichuan Province. He declared how happy Sichuan province and China were to host this session in light of China's long history, rich resources and unique ICH resources. He recalled that a safeguarding network for ICH has been established as well as a heritage listing system at the provincial and national levels. In conclusion, he paid tribute to UNESCO and the Committee for having accepted the invitation of China. This will allow China to learn from the experiences of other countries and will give important references for future action.
4. The **Chairman of the Executive Board of UNESCO and Vice-Minister of Education of the People's Republic of China, H.E. Mr Zhang Xinsheng**, warmly welcomed all participants to China and to Sichuan Province. He recalled that the purpose of this extraordinary session is to anchor the Convention's normative capacity through the further refinement of several necessary modalities. Stressing that China has developed and inherited a very rich and vast culture that is both tangible and intangible, he recalled that China has been at the forefront of international efforts to protect and promote ICH. He emphasized that modern life, including globalization and internationalization, brings both positive and less beneficial realities to the fore, in particular with regard to ICH which had become threatened with virtual extinction and is in grave need of protection. He expressed his conviction that the best vehicle for globalization is culture, the rich diversity of which is recognised as a source of mutual enrichment and innovation. He considered that this is the only way to promote UNESCO's founding principle to build peace in the minds of others. He concluded by wishing the Committee all success in its work.
5. In his speech by video-projection, **Mr Koïchiro Matsuura** paid tribute to China for hosting this extraordinary session of the Intergovernmental Committee. He recalled that, with its exceptional and rich living heritage, China could be proud that four of its traditional expressions had been proclaimed Masterpieces of the Oral and Intangible Heritage of Humanity. Underlining the exemplary nature of action taken by China to promote its intangible heritage, he saluted its commitment to safeguard it by implementing concrete and effective measures as well as by acts of international solidarity. The Director-General expressed his satisfaction at the efforts made by all those, including UNESCO, who today make it possible for the protection of heritage, in all its forms and in all its expressions, to be taken into account in national cultural and development policies. He concluded his speech by wishing this extraordinary session every success and once again thanking the People's Republic of China for its great generosity.
6. Speaking next, **Mme Françoise Rivière** thanked the Chinese authorities for their warm welcome, recalling the magnificent performance that they had organized for the opening ceremony of the International Festival of ICH. She said how happy she was that this session was being held in China, the sixth State to have ratified the Convention, and was particularly delighted at the presence of the President of the Executive Board of UNESCO, Mr Zhang Xinsheng, who had so brilliantly guided the work of the 176<sup>th</sup> session of the Executive Board. Speaking of the role played by heritage in the context of the sustainable development of the planet, respecting the future as well as the

present, she recalled the great steps taken since the Convention came into effect. The Representative of the Director-General then stressed the importance of the tasks awaiting the Committee in the course of this session, with the conviction that its competence and commitment will enable the work begun in Algiers to be completed so as to promote a heritage for which all have responsibility in the name of all humanity.

## **AGENDA ITEM 2: ELECTION OF THE MEMBERS OF THE BUREAU OF THE FIRST EXTRAORDINARY SESSION**

*Document ITH/07/1.EXT.COM/CONF.207/2*

*Draft decision 1.EXT.COM 2*

7. The Delegation of **Algeria** thanked China for hosting this session and allowing the Committee to continue its deliberations begun in Algiers on many essential questions that are essential for the implementation of the Convention.
8. The Delegation of **Japan**, supported by the Delegations of **Brazil, Syria, Gabon, Turkey** and the **United Arab Emirates**, proposed the election as Chairperson of the session, H.E. Ambassador Wang Xuexian, Ministry of Foreign Affairs of the People's Republic of China. The Chairperson was elected by acclamation.
9. The Delegation of **Japan** then proposed that, to ensure continuity, the Rapporteur and the four Vice-Chairs elected at the end of the first ordinary session also be elected as members of the Executive of this extraordinary session. The Committee approved this proposal by acclamation.
10. The Committee thus elected the Executive of its first extraordinary session and named H.E. Ambassador Wang Xuexian (Group IV) Chairperson and Mr Ousman Blondin Diop (Senegal, Group V(a)) Rapporteur. **Belgium** (Group I), **Bolivia** (Group III), **Estonia** (Group II) and **Syria** (Group V(b)) were elected Vice-Chairs.
11. The **Chairperson**, after thanking the Member States of the Committee for his election, stressed the need to pursue the discussions begun at the first ordinary session, rather than reopening debates. He then announced the first meeting of the Bureau at 14.30.

## **AGENDA ITEM 3: ADOPTION OF THE AGENDA**

*Document ITH/07/1.EXT.COM/CONF.207/3*

*Draft decision 1.EXT.COM 3*

12. The agenda was adopted unchanged.

## **AGENDA ITEM 4: ACCREDITATION OF OBSERVERS**

*Document ITH/07/1.EXT.COM/CONF.207/4*

***Draft decision 1.EXT.COM.4***

13. Introducing item 4, the **Chairperson** stated that Macao had requested observer status, but that Article 8 of the Rules of Procedure of the Committee did not provide for the participation of Associate Members of UNESCO. The document corresponding to this agenda item had consequently been revised as ITH/07/1.EXT.COM/CONF.207/4 Rev.2, including a revised decision 4 Rev. This agenda item led to a debate on the status and rights of observers. At the end of the debates, the **Chairperson** proposed that the NGOs and the Associate Member that had made a written request prior to this extraordinary session be admitted, on an extraordinary basis, as observers. However, he stressed the need to agree in the future on a specific procedure for this question. The draft decision 1.EXT.COM.4 was then adopted after the suspension of Article 8 of the Rules of Procedure.

*[Wednesday 23 May 2007, 14.30]*

***Draft decision 1.EXT.COM 12***

14. The **Secretary**, at the request of the President, informed the Committee that at the end of each session, according to Rule 43 of the Rules of Procedure, a report is to be adopted by the Committee in the form of a list of the decisions taken during that meeting. Article 44 speaks about the summary record, to be produced by the Secretariat, for adoption by the Committee at the opening of its next session. The summary record of the first ordinary session was sent to the States Parties in January 2007, and corrections received subsequently from them have been introduced in the text. The text has been sent to the States parties as an information document for this session, since the Secretariat had in mind that the summary record might be approved at the next ordinary session. Since Rule 44 does not exclude adoption at an extraordinary session, the Secretariat had prepared draft decision 1.EXT.COM 12, and the Committee welcomed the opportunity to adopt the summary record of its previous meeting at this time.
15. The President declared the summary record and draft decision 1.EXT.COM 12 adopted.

**AGENDA ITEM 5: DEBATE ON THE NATURE OF THE LISTS PROPOSED BY THE CONVENTION FOR THE SAFEGUARDING OF THE INTANGIBLE CULTURAL HERITAGE AND ON THE PROCEDURES FOR NOMINATIONS AND INSCRIPTIONS**

***Document ITH/07/1.EXT.COM/CONF.207/5***

***Draft decision 1.EXT.COM.5***

16. The **Chairperson** opened the discussion by pointing out that on this item a general debate was needed. Inasmuch as the Convention already has clear provisions for the lists, the debate should lead to a broad understanding on their interpretation, which will facilitate the following day's discussion on the criteria for inscription on the Lists.
17. The **Secretary** introduced the document, recalling that the Convention asks for the establishment of two lists for which not only criteria for inscription are to be

discussed, but also several issues concerning the submission and evaluation of proposals for inscription. The document contains several sets of questions, the first concerning the relations between the lists, such as, may elements be proposed for simultaneous inscription on both Lists or may elements switch between the two Lists. Another set of questions asks whether inscriptions should be limited in number and whether inscriptions should be of limited duration. The Secretariat wishes to solicit opinions of States Parties on these and other questions mentioned in the document so as to structure a future document about procedures for nomination and inscription. The Secretary further remarked that the present document benefited from the input of the first Committee session in Algiers, where discussions focused mainly on the Representative List, from the comments received from States Parties, such as were reflected in paragraphs 41, 42 and 45 of the synthesis document, and from a recent expert meeting, made possible with the generous support of the Government of **India**, the report of which was made available to the Committee. He called attention to one of the meeting's findings, i.e. that both lists should be treated at an equal level, neither being subsidiary to the other.

18. The **Chairperson**, on behalf of the Committee, expressed his gratitude to the **Indian** Government for having hosted the expert meeting. Before opening the floor, he proposed that, in order to save time, the Committee discuss the questions contained in the present document by clusters and not individually, starting with point 3.a. "Relations between the two lists".
19. The Delegation of **Nigeria** asked whether any studies or advisory material can guide the Committee in making its choices and opting for the most appropriate solutions. The **Secretary** responded that the studies available do not deal directly with the rather practical points under discussion; instead they are often of a rather theoretical and philosophical nature that might not really inform the discussions that will need to be quite practical with a view to the Operational Directives. He also recalled that in the future, NGOs or expert meetings might be asked to advise on specific points. The Delegation of **Nigeria** replied that it would be good to have some possible choices, as well as definitions of the implications of these choices, which would make it easier for the Committee to make up its mind.
20. With reference to the points raised under point 3.a., the Delegation of **India** emphasized that articles 16 and 17 of the Convention clearly confirm that there will be two lists, and that requests for inscription have to be submitted by States Parties. It added that an element on the Representative List may also need urgent safeguarding and could therefore be inscribed simultaneously on both lists. Finally, the Delegation stressed that an element should not remain on the Urgent Safeguarding List once it is safeguarded, but that the transfer to the Representative List should not be automatic.
21. The Delegation of the **United Arab Emirates**, comparing the safeguarding of ICH with the conservation of endangered animals, insisted on the importance of having an action plan that should be monitored with the aim of getting an ICH element off the Urgent Safeguarding List and onto the Representative List. The Delegation of **China** concurred that safeguarding is the aim of both lists, but emphasized that States Parties should be able to propose elements for inscription on both lists.

22. A large number of States Parties agreed with the Delegation of **India** that there should be two equal and independent lists. This was explicitly emphasized subsequently by the Delegations of **China, Bolivia, Romania, Estonia, Mexico, Algeria, Senegal, Japan, Bulgaria, Gabon, the United Arab Emirates, Hungary**, and, among the Observer Delegations, **Lithuania, Luxembourg and Egypt**.
23. Several viewpoints were expressed concerning a possible interrelation between both lists and mobility from one list to the other. The Delegation of the **Central African Republic** considered that an element on the Urgent Safeguarding List, once safeguarded, should be moved to the Representative List without having to be resubmitted for inscription, since inscription constitutes an intervention that ascribes and recognizes a certain value to an ICH element. The Delegation of **Bolivia** concurred that an element should be transferred automatically to the Representative List, considering that an element on the Urgent Safeguarding List is already representative. The Delegation of **Japan** later supported this position, underlining that no new nomination for inscription should be required if an element, after its safeguarding, also satisfied the criteria of the Representative List.
24. The Delegation of **Romania** disagreed, emphasizing that two separate lists imply two different sets of criteria, since "representativeness" and "urgency" are two different notions. If successfully safeguarded, an element may not qualify for inscription on the Representative List. However, if both sets are satisfied, simultaneous inscription on both lists should be possible. The Delegation of **Mexico**, however, rejected the possibility that an element may be inscribed on both lists simultaneously, considering this to be a contradiction.
25. The Delegation of **Estonia**, supported by those of **Gabon and Hungary**, argued that making a clear distinction between the two lists is in order by recalling the importance of the communities which would have to give their agreement when an element is resubmitted for inscription on the Representative List. The Delegation of **Algeria** stressed that the lists should not be conditioned on one another and underlined that transferring an element from the Representative List to the Urgent Safeguarding List should not be regarded as a punitive action.
26. Following the position of the Delegation of **Bolivia**, the Delegation of **Senegal**, supported by the Delegation of the **United Arab Emirates**, stressed that the Representative List is of a far more global scope, arguing that an ICH element is necessarily representative since the international community can only support inscription if the community concerned considers it as representative. Given that not all ICH that is representative is also threatened, all elements should first be inscribed on the Representative List. It would then be necessary to identify those elements that need to go to the Urgent Safeguarding List.
27. The Delegation of **Japan**, supported by the Delegations of **France, Belgium** and the **Central African Republic**, pointed out that it is difficult to discuss this issue without knowing the inscription criteria yet. They considered that the Urgent Safeguarding List is the far more important one, and suggested, for procedural matters, that a State Party should indicate on which list it wishes to inscribe a nominated element. If an element is inscribed on the Urgent Safeguarding List, then the specific criteria need to be met. Once the threat is not present anymore, no automatic transfer should occur, but rather an

evaluation of the element in order to establish whether it meets the criteria of the Representative List.

28. In light of the remark made earlier by the Delegation of **Estonia**, the important role of the communities was raised by several speakers. The Delegations of **Romania, Bulgaria** and **Gabon** raised the issue of procedures that need to be clear when deciding on which list an element is to be inscribed. They all stressed that the agreement of the community is important; the Delegation of **Gabon** further considered that if assignment to a specific list will be the task of the Committee, the State Party needs to be consulted on this matter.
29. The Delegation of **Brazil** expressed the opinion that communities are the main difference between intangible and tangible heritage. It is therefore important to look at the conditions under which ICH is enacted and to see whether it still has a social function; an expression that is not enacted anymore cannot be imposed on a community, since it would become artificial. Moreover, there is a need for qualitative criteria to select those elements that need safeguarding, including the definition of priorities, since not everything can be safeguarded. The Delegation of the **Central African Republic** concurred, adding that an element that is not regarded as representative and about to disappear should not be safeguarded.
30. The **Chairperson** opened the floor to the Observers. The Delegation of **Lithuania** (Observer) supported the remarks of the Delegations of **Romania, Bulgaria** and **Gabon** regarding the clarity of procedures and criteria, which is particularly important to communities. The Delegation of **Luxembourg** (Observer) spoke in favour of two separate lists based on one single definition of ICH, understanding that such a definition should ascribe to ICH a universal value that would be reflected in the Representative List. In reply to this, the Delegation of **Algeria** cautioned that the notion of "universal value" is to be avoided since ICH is a profound part of the identity of a community and it would be a contradiction to speak in this context of universal value. The Delegation of **Egypt** (Observer) noted that given the diverging notions and understandings of safeguarding, all elements should first go on the Representative List, following which the Committee should identify those elements that are in urgent need of safeguarding. The Delegation of **Greece** (Observer) considered that safeguarding should also contribute to reducing feelings of shame or inferiority among communities and increase the value of expressions that have suffered repression, control, limitations, etc.
31. The **Chairperson** summarized some of the main tendencies expressed in the debates: there is general agreement that there are two lists for one purpose, i.e. to safeguard the ICH of mankind. He further noted that the majority was not in favour of an automatic transfer from the Urgent Safeguarding List to the Representative List, while recognizing that an element on the Representative List may at some point need urgent safeguarding. He further recalled that the Convention indicates that it is for the State Party to decide on which list an element should be inscribed.
32. The Delegations of **France** and **Estonia** pointed out that the discussion already revolved around the criteria. The Delegation of **Estonia** recalled that if an element were to be transferred from the Representative List to the Urgent Safeguarding List, a management plan should be provided when nominating an element for the Representative List, requiring the State Party concerned to take



care of that ICH element. The Delegation of the **Central African Republic** supported this by noting that the criteria of the Urgent Safeguarding List should make it clear that an element has to be representative of the community and that this community wants it to be safeguarded.

33. The Delegation of **Bolivia** expressed the view that the two lists have in common that both are about elements that are exceptional, and this exceptionality makes them representative, it being understood that this does not imply universality. This exceptionality is based on the uniqueness of an element insofar as it represents a specific community. The main distinctive aspect to consider is the endangerment the ICH is facing, but celebrating those elements that are dead should be avoided. He also urged considering that safeguarding takes a lot of time.
34. The **Chairperson** then closed the discussion on this first cluster, recalling that no decision needed to be taken, and proposed to discuss points 3.b. and c. figuring in the document under discussion, together.
35. The Delegation of **France** pointed out that both points are connected with the question relating to the obligations and constraints for UNESCO and the Secretariat that an inscription would imply, in particular the financial implications. Supporting the view of the Delegation of **Bolivia**, following which an inscription should be perpetual, the Delegation of **France** insisted that no delisting of an element should occur, unless its presence blocks or hinders other ICH elements to be supported and benefit from assistance. However, if no financial implications and follow-up are to be considered for the Representative List, then the list should be open. It is not conceivable that, given the need for safeguarding and the huge amount of ICH elements, there should be a limit. The Urgent Safeguarding List however is different, since there is the question of urgency. The need of limitations may arise with limited management capacities of the Secretariat, the Committee and the ICH fund.
36. The position of **France** was explicitly supported by the Delegations of **India, Romania, China, Belgium, Turkey, Gabon, Bulgaria** and **Algeria**. However, while supporting the idea of an open Representative List, the opinions diverged with regard to the Urgent Safeguarding List. The Delegations of **India, Bolivia, China, Turkey**, the **United Arab Emirates, Gabon, Bulgaria** and **Algeria** were in favour of both lists being open, while other Delegations such as those of **Japan, Romania**, and **Belgium** considered that the Urgent Safeguarding List in particular should not be an open list due to financial constraints and limited capacities for monitoring and reporting. The Delegation of **Mexico** expressed the view that it is UNESCO's duty to put into place the capacities for monitoring, reporting, as well as for evaluations and inscriptions. In this respect, this question is directly linked to the issue concerning consultative bodies.
37. The **Representative of the Director-General**, proposing a comparison with the experience of the World Heritage List, stressed that financial implications for the States Parties were different from those for the Secretariat in terms of monitoring and reporting costs. The Delegation of **France** replied by emphasizing that inscription on the List of World Heritage in Danger is determined by the Committee, while it is the contrary for the 2003 Convention for which it will be up to the States Parties to choose themselves, and take the appropriate initiative to ask for inscription on one or the other list. The Delegation of **India** also replied that contrary to the World Heritage List, which

is founded on the concept of "outstanding universal value", the 2003 Convention is based on representativeness. It further spoke in favour of an open Urgent Safeguarding List.

38. The Delegation of **Bolivia** suggested thinking about what could have been done to save large and great monuments if only financial limitations had been considered. It can be expected that certain filters will create themselves throughout the inscription process. The Delegation of **Belgium** supported this view, pointing out that the priorities will be determined by the nominations and the communities.
39. The Delegation of **Estonia** argued against an open list and rather for a list with a limited number and duration of inscription. An inscription also means putting the community concerned under pressure by placing them and their ICH in a positive spotlight. The Convention may change world culture; therefore it is important to give communities the chance and the liberty of letting an expression evolve in its own manner. It further spoke particularly against the use of the negative term "de-listing", among other terms, to which the Delegation of **Japan** agreed. In this context, a limited duration of inscription would establish a fixed duration on the Representative List without the negative connotation of de-listing.
40. The Delegation of **Japan** was of the view that a long Representative List was to be favoured instead of a short one in order to have as many ICH elements from around the world listed as possible. However, this does not mean that an infinite list was favoured, and it proposed to consider the possibility of establishing a time constraint by which an element could go automatically into a database, an honorary position, after a certain period (e.g. ten years). It further did not support an open Urgent Safeguarding List, due to the financial implications and constraints, which was supported by the Delegations of **Romania** and **Belgium**. In this respect, it was emphasized that monitoring is not necessary for the Representative List, but that it is necessary for the Urgent Safeguarding List, allowing the Secretariat to save resources and remain operational.
41. The Delegation of **China** particularly underlined the importance of the Urgent Safeguarding List, stressing that in terms of safeguarding not much has been achieved yet compared to tangible heritage, and that therefore priority must be given to the Urgent Safeguarding List. The Delegation of **Turkey** concurred and cautioned that limiting the lists might mean that some elements will not receive the Convention's support. The Delegation of **Algeria** warned also of the risk of missing the birth of new elements throughout the Convention's existence if the Representative List were not open.
42. The Delegation of **Hungary** declared that, in principle, both lists must be open and unlimited, but that this openness may not be supported when taking into account the constraints of the nomination procedures and financial resources. One might therefore conclude either that an open list is practically not possible, or that this will depend on practical questions. In addition, continuous applications could also be envisaged, with an examination of inscriptions at specific moments (e.g. every two years), upon which it could be decided whether to continue active support, or whether to redirect it into an honorary space.

43. The Delegation of the **United Arab Emirates** broadly supported these remarks, underlining that it would be hard for the outside public to understand the concept of de-listing. Moreover, when discussing constraints of financial or human resources, it should be borne in mind that the act of listing can give a huge boost to an element and a community and can help to fill gaps in resources.
44. The Delegation of **Gabon** argued that the Urgent Safeguarding List is dynamic insofar as the safeguarding measures will change the elements, which will keep the list shorter than believed at this time. For the Representative List, the criteria and the methods of the Committee for evaluating nominations might help limit the number of inscriptions. This was supported by the Delegation of **Bulgaria** which considered that de-listing would do more harm than good, and supported the idea of an honorary list. It further stated that a safeguarding plan should be submitted for the Urgent Safeguarding List on which the element concerned by that plan would stay for the duration of the action plan; a re-evaluation after that could then determine whether further safeguarding is needed, or if a new safeguarding plan should be submitted.
45. The Delegation of **Algeria** argued in favour of a balanced Representative List with an equitable geographical representation incorporating all forms of expressions of ICH. With regard to the Urgent Safeguarding List, it should be open but set certain priorities. It further stated that for both lists, it is clear that it is the State Party that will propose inscription on one list or the other, and that will ensure the follow-up.
46. The **Chairperson** closed the discussion on these two clusters of questions, summarizing that there is an overwhelming majority in favour of an open-ended Representative List, while two Delegations have expressed certain reservations and conditions of this openness. He further noted that the Urgent Safeguarding List calls for certain priorities and should respond to questions relating to management and the future nomination procedure. He suggested that the Committee may want to think of empowering different regions and experts, or of some other means to save time and money and share tasks of management instead of leaving everything to the Secretariat in Paris.

*[Coffee break]*

47. The **Chairperson** re-opened the discussions on item d. relating to nominations and e. on inscription procedures, considering that not much discussion is needed for point d. since Article 23.2 of the Convention clearly invites States Parties to apply jointly for inscribing an element they share.
48. The Delegation of **Japan** requested the Secretariat to provide clarification on what is meant by "technical assessment by the Secretariat" under point 3. e. The **Secretary** informed that this is about technical verification of candidature files in order to make sure that all requested elements had been provided for a full dossier. An evaluation is not to be done by the Secretariat. The question here is therefore to know whether, in case of a "light" procedure for the Representative List, the Committee wishes to require simply that a technical inspection of the dossier is to be carried out before the dossier will be sent to the Committee.

49. The Delegation of **India**, supported by those of **France, Bolivia, Algeria** and **Syria**, pointed out that the Convention assigns only an advisory role for NGOs; these could therefore advise and assist in the evaluation of this list, but dossiers should be evaluated by the Committee itself. As to the Urgent Safeguarding List and cases of extreme urgency, the Delegation of **India** drew attention to article 17.3 which lays down that the State Party is competent to propose safeguarding measures. As to the technical support for the preparation of dossiers, technical and financial support should be foreseen by the Committee.
50. The Delegation of **Bulgaria** insisted that it is rather experts and the specific expertise which should have the main focus. These experts, apart from that, can well be members of NGOs. The Delegation of **Estonia** wished to have a comment on this point by the Legal Adviser. The **Legal Adviser** replied that, regarding the inscription procedure, article 17 of the Convention gave the Committee the authority to decide on the evaluation modalities and conditions to seek advisory assistance. He emphasized, however, that there is a certain difference with article 17.3. While nominations are usually submitted by the States Parties, the Convention foresees for the case of extreme urgency that this may be done "in consultation" with the States Parties. This means that the Committee can have other sources of information regarding the understanding of an extremely endangered element and the measures to be taken before consulting the State Party concerned.
51. The **Chairperson** then closed the debate on item 5. and draft decision 1.EXT.COM.5 was adopted as amended.

[Thursday 24 May 2007, 09.30]

**AGENDA ITEM 6: CRITERIA FOR INSCRIPTION ON THE LIST OF INTANGIBLE CULTURAL HERITAGE IN NEED OF URGENT SAFEGUARDING AND ON THE REPRESENTATIVE LIST OF THE INTANGIBLE CULTURAL HERITAGE OF HUMANITY**

*Document* ITH/07/1.EXT.COM/CONF.207/6

*Draft decision* 1.EXT.COM.6

52. The **Chairperson** opened the debate by recalling that a preliminary discussion of criteria for the Representative List was held in Algiers, but not the Urgent Safeguarding List. The **Secretary** introduced the document by noting that it proposes first a set of draft criteria for inscription on the Urgent Safeguarding List and a revised set of criteria for the Representative List. As the Committee decided, the Secretariat will be presenting a document in the Japan session outlining draft procedures by which States Parties may request that an element be listed on one or the other list. That request from the State Party—a *proposition* or nomination file—will be transmitted to the Committee by the Secretariat, perhaps with an assessment or evaluation provided by experts or NGOs, for the Committee's decision whether to inscribe the element on the given list or not. As States Parties prepare their requests or nomination files and as the Committee itself examines those requests and decides on inscription, it will obviously be useful that all have clear criteria to guide their work. The document under discussion now presents two sets of criteria that seem to be in harmony with the understandings the Committee reached

yesterday that the two lists should be of equal status, that they should be largely independent of one another, and that their criteria should be for the most part similar, but distinct in certain respects.

53. These criteria, the **Secretary** continued, have evolved as a result of several previous discussions, outlined in the document, and particularly the Committee's previous discussions at its first session in Algiers; secondly, the written comments received subsequently from States Parties, and thirdly, the expert meeting held in April in **India**. One clear indication from the debates in Algiers and the written comments was that the number of criteria previously presented to the Committee was excessive, and thus the present document reduces the criteria to essential elements. Although previous discussions and the written comments focused on the Representative List, the strong sentiment of a number of States Parties was that the Urgent Safeguarding List criteria should be considered in their own right, and that was confirmed by the debates yesterday, and thus the document proposes to consider first those criteria before turning to the revised criteria for the Representative List. The **Secretary** then presented the proposed criteria for the Urgent Safeguarding List and provided some background on how each point developed.
54. The **Secretary** explained that the first proposed criterion for the Urgent Safeguarding List, identified as U.1., asks that an element proposed for listing meet the definition of intangible heritage embedded in Article 2 of the Convention. The draft criteria considered in Algiers restated that definition in a number of separate criteria and in terms that sometimes diverged from the language of the Convention, while the current draft refers only to the Convention itself. The document under discussion does not propose that the Committee could require that a proposed element fall within one of the domains that are offered as illustrations in Article 2.2 of the Convention. In the written comments several States Parties supported the previous draft's criterion requiring that an element fall within one or more of the domains mentioned in the Convention, while other States wished to define additional domains, and yet others noted that the Convention itself presents these domains as illustrative and not exhaustive. It seems that requiring membership within one or more of the domains would contradict the language of Article 2.2 which explicitly states that the list of domains given there is not exhaustive.
55. The second criterion for the Urgent Safeguarding List ("U.2"), the **Secretary** continued, addresses the urgency—or, in accordance with Article 17.3 extreme urgency—of the need for safeguarding of the element. Here the Secretariat turned to Article 2.3, the definition of safeguarding, to understand that if safeguarding is ensuring the viability of heritage, an urgent need would arise in situations where that viability was threatened or at risk, despite the best efforts of the concerned communities and States. Committee members yesterday mentioned a number of times that many elements of heritage are indeed at great risk, and States Parties in their written comments, and experts in the **India** meeting, emphasized how central this list thus becomes to the fundamental purpose of the Convention. Article 17.3 provides that, in cases of extreme urgency, the Committee may wish to inscribe elements on the Urgent Safeguarding List with the consent of the concerned States Parties. The same article asks that the Committee propose objective criteria to distinguish such cases of extreme urgency, and thus the proposed criterion U.2. offers a single criterion with two conditions: either the viability of the element is at risk, or, to distinguish cases of extreme urgency, that risk is so grave that the very survival of the element is unlikely in the absence of immediate safeguarding.

56. The third criterion, the **Secretary** explained, asks that the request from the State Party specify safeguarding measures that can reasonably be expected to enable the concerned community, group or individuals to ensure the viability of the element in question, providing of course that they have favourable conditions to do so. This criterion—like the first—seems almost self-evident; if the purpose of the Convention and particularly of the Urgent Safeguarding List is to encourage appropriate safeguarding measures, a request from a State Party for inscription of an element should reasonably be expected to include the elaboration of such safeguarding measures, in the form of a plan or programme—particularly one that might be the basis for the provision of international assistance, as provided in Article 20.
57. The **Secretary** continued by noting that proposed criterion U.4. asks that the request demonstrate that the element is being proposed following the widest possible participation of the concerned community, group or individuals. In the Committee's discussions in Algiers and especially in the written comments, a number of States insisted that the Convention demands no less than that. Other States pointed out that the Committee should not specify any particular form in which such consent should be expressed, in view of the diverse legal regimens in place in different States and in view of a number of real practical questions about how such consent is to be determined and demonstrated and in view of the absence for the time being of how the Committee wishes to view "community". The proposed criterion does not prejudge that consent be demonstrated in any single manner, but the Committee over time will likely learn through practice and through its own deliberations how best to assess whether consent has been demonstrated.
58. The fifth proposed criterion, U.5., was one of those previously seen by the Committee with reference to the Representative List, the **Secretary** recalled. Here the Committee might wish to affirm its recognition that if inclusion on an inventory is a prerequisite for inscription on one of the lists, inventories are always works-in-progress and that the Committee in no way requires that a State Party have completed its inventorying obligations under Articles 11(b) and 12 of the Convention.
59. Finally, draft criterion U.6. would apply only in cases of extreme urgency, where the initiative for inscription might begin not from the concerned States Parties but, for instance, from the Committee itself. Article 17.3 requires that the Committee may inscribe an element in such a case, "in consultation with the State Party concerned" and the Committee discussed that point yesterday. The Committee may wish at some later time to consider how such requests for inscription would begin, and the mechanisms through which the requesting party or the Committee itself would carry out that mandatory consultation, but for the moment the draft criterion simply reiterates the condition as required by the Convention itself. The **Secretary** concluded by reviewing the annex to the working document, which presented a synoptic comparison of the criteria for the two lists.

***[Criteria for inscription on the List of Intangible Cultural Heritage  
in Need of Urgent Safeguarding]***

**Criterion U.1.**

60. The **Chairperson** suggested, following the decision of the Bureau, that the Committee discuss the criteria one by one, noting that not every detail need be debated; some are self-evident. For some others where there are divergent views, the Committee can have a full debate. He then opened the debate on criterion U.1., which requires that the element constitutes intangible heritage as defined in the Convention.
61. The Delegation of **Bolivia** welcomed the reference to the definition in the Convention but wished the Committee to keep in mind that ICH is a living phenomenon and therefore definitions must evolve.
62. The Delegation of **Estonia**, referring to the explanatory notes, pointed out that the third point offered the choice between “[is not incompatible] [is compatible]” and proposed to keep the positive formulation. The Delegation of **India** noted that the first choice is a double negative, which makes an affirmative statement, and the **Chairperson** concurred with the Delegation of **Estonia**’s suggestion to use the positive formulation.
63. The Delegation of **Japan** supported reliance on Article 2, noting that in that article the word “community” is repeated several times which should be interpreted in a flexible manner. The definition’s reference to “transmitted from generation to generation” raises the problem of how to prove this transmission; in many cases clear evidence on the transmission of an element will not be available. To exclude elements without clear evidence would be unfair, the Delegation continued; the community’s own perception of transmission should prevail.
64. The **Chairperson** recalled that many delegations have slightly different views on how to interpret “communities”; the Committee’s views have been noted by the Secretariat. He further remarked that the criteria should be clear, and called for other views on criterion U.1.
65. The Delegation of the **United Arab Emirates** asked the Committee to consider clearly whether urgent safeguarding will cover elements that have been through a bottleneck and even lost. Can such elements be resurrected, if they have been lost, the Delegation asked?
66. The **Secretary** responded that the Committee is free to decide how to interpret “revitalization”, but recalled that the Convention implies that any element needs safeguarding in some degree; Article 2.3 offers a gamut of safeguarding measures from light to heavy. These criteria assume that there is a difference between routine safeguarding and urgent safeguarding. The Convention makes the difference between urgency and extreme urgency in terms of an *immediate threat*. The **Secretary** continued by replying to the Delegation of **Bolivia** that a preliminary glossary had been prepared in 2002 at the request of the Dutch National Commission of terms that might be used in the Convention; in June 2002 an international expert meeting, organized by UNESCO, elaborated those definitions. But they were decided before the definitions of the Convention itself were set. The Secretariat welcomes, he continued, guidance from the Committee suggesting how to proceed; the Committee may propose that experts could meet to revise the glossary

67. The **Chairperson** reiterated the question from the Delegation of the **United Arab Emirates**, about elements that have been extinguished and whether those should be revitalized. In response, the Delegation of **Brazil** suggested that the issue of "revitalization" is very delicate. Heritage is transmitted and continued from generation to generation, and in the field of ICH it has been largely considered that historic continuity gives an orientation. In Brazil, transmission based on at least three generations is fundamental for ICH.
68. The Delegation of **Gabon** returned to the issue of the glossary, noting that at the expert meeting in **India** the experts recommended finding a way to organize the revision of the glossary.
69. The Delegation of **Japan** expressed deep appreciation to the Secretariat for providing clear criteria, continuing that given the variety of ICH forms everywhere, and the degree of unknown factors the Committee will have to deal with in the future, the Committee will have to stay flexible in establishing criteria, not trying now to anticipate every possible situation. The Committee should anticipate that in the future a revision and adaptation of the criteria may be necessary. The criteria should not define what domains of ICH will be selected, the Delegation continued, since new forms or elements may face us in the future. About revitalization, the Committee should rather think of what situation can make us face that issue, rather than trying to define what revitalization means. The Delegation of **Japan** wished to maintain this simple set of criteria, and as the Committee accumulates experience it can further specify things in the future. Also, when speaking of transmission from generation to generation, the Committee should not fix a specific number of generations; this differs from one area to another. The Committee should also remain flexible with definition of communities and determining the consent of the communities; these should remain flexible, the Delegation concluded, so the Committee can respond to specific situations.
70. The Delegation of the **United Arab Emirates** noted that the Committee could well discuss how to get something *on* the Urgent Safeguarding List, but how does an element get *off* the list? There are two ways off the list, the Delegation continued, either it will recover and move back to the Representative List, or the other route is that the Committee will have to declare that heritage extinct. Will the Committee let elements accumulate on the Urgent Safeguarding List indefinitely, the Delegation concluded?
71. The Delegation of **Estonia** supported the position of the Delegation of **Brazil** regarding the duration of three generations, and supported the suggestion of the Delegation of **Gabon**, proposing to organize a working group on definitions. In response to the Delegation of the **United Arab Emirates**, the Delegation of **Estonia** explained that both lists should stay separate and there should be no automatic transfer from the Urgent Safeguarding List to the Representative List; both lists should be separate. The Delegation of **France** also supported the Delegations of **Gabon** and **Estonia** to organize quickly the revision of the glossary, if possible before the Committee session in Japan; this would permit the Committee to move faster and to give more visibility to the Convention. The Delegation of **Belgium** supported the positions taken by the Delegations of **Brazil** and **Gabon**; the Delegation of **Algeria** also supported **Gabon's** suggestion of a working group on the glossary to clarify the terms employed in the Convention.



72. The Delegation of **Mexico** returned to the question of transmission “from generation to generation”, suggesting that this not be emphasized and that, instead, the Committee should speak of historical continuity and rootedness within a group. Transmission from generation to generation returns again to the problem of continuity, it concluded.
73. The Delegation of **India** intervened to address a few issues raised by the Delegation of the **United Arab Emirates**, noting that they seem to concern criterion U.2. rather than U.1. The Delegation of **India** reminded the Committee that ICH is constantly regenerated and recreated, meaning that if an element is inscribed, it can only be because it currently exists and is facing threats of not existing in the future. The Committee is discussing criteria for inscription, not removal. The answer to the Delegation of the **United Arab Emirates** is contained in criterion U.2., **India** concluded.
74. The Delegation of **Nigeria** joined in commending the Secretariat for the quality of the criteria presented, but worried that the definition in U.1. is vague and ambiguous as it is already included in the Convention. Therefore, the Delegation of **Nigeria** supported the Delegation of **Gabon** for the creation of a working group, but its work should be a continuing enterprise; it will be an evolving exercise and process. The Delegation of **Nigeria** concluded by supporting the position of the Delegation of **Japan** to keep the process flexible so the Committee does not tie its hands. The Delegation of **Romania** rose to support the Delegations of **Gabon** and **France**, noting that the report of the expert meeting in **India** does not mention the proposed glossary meeting. The Delegation reminded the Committee that in **India** it was agreed upon that it is quite important to establish a clear glossary.
75. The **Chairperson** cautioned that the Committee was winding up in a general discussion, so it should try to focus on the criteria one by one; if the Committee was going to reopen discussion on things the Committee already discussed in Algiers it may never complete anything. But the Committee has a proposal on the table, to establish a working group on definitions. Can the Committee make a decision on that, the **Chairperson** asked?
76. The Delegation of **Brazil** rose to clarify that its previous intervention was on the question of continuity, not on the issue of definitions. Of course it would be desirable to reach agreement on definitions, but the Delegation wondered whether that is feasible. The Committee is now at the stage of implementing the Convention; immediate action is necessary on the part of governments and the Committee has the very urgent task of establishing criteria for the lists. If the Committee is to wait for a negotiating process which is dependent on many variables and many questions, the Delegation of **Brazil** cautioned, the Committee might delay the urgent tasks that are as hand.
77. The **Secretary** was recognized to comment that the proposed draft criteria are written as much as possible in simple language, trying to avoiding technical terms, as ICH itself and thinking *about* ICH are diverse and evolving. The Secretariat is happy to receive comments on the explanatory notes, he explained, because they will help us to elaborate the documents for the session in Japan. The Secretariat would be happy to organize a glossary meeting, and the budget is there. The **Secretary** offered to distribute the glossary as it already exists; the Committee will see there that many of the terms will indeed involve much discussion, as already suggested by the Delegation of **Brazil**.

78. The **Representative of the Director-General** continued by noting that the criteria submitted for the Committee's formal approval, the sections in grey, should be simple and flexible; for the explanatory notes and definitions, this should be a scientific task that can be carried out in the future to clarify its views and decisions. The Secretariat could organize such a working group, she continued, but it should not be a precondition for the adoption of the criteria. It would be scientific work that would proceed in parallel, but these definitions should not be subject to a formal decision of the Committee, otherwise the Committee will be stuck at the beginning for a long time. The Committee has seen from the elaboration of the Convention that reaching broad international agreement on definitions is a very difficult task and should not delay the Committee's work, she concluded.
79. The Delegation of **India** supported the Delegation of **Brazil**'s concern about the complexity of definition. The definition of ICH is already articulated in the Convention, **India** continued; an Intergovernmental Committee or a small expert group cannot redefine the terms of a Convention that has already entered into force. The proposal for an expert meeting in New Delhi came because in Algiers there was confusion about the criteria; now the Committee has very clear criteria and, as the Secretary noted, additional explanations. The Delegation of **India** believed that this expert meeting would only complicate things; now the time has come to be action oriented, it argued.
80. The Delegation of **Japan** expressed support for the Delegation of **Brazil** and the **Representative of the Director-General**, doubting that the Committee could expect any improvement in one or two meetings for a new glossary. The Committee Members all know the ambiguities on any specific word, and can revisit this later after gaining some experience. Otherwise the Committee will waste time in philosophical discussions, the Delegation of **Japan** worried.
81. The Delegation of the **Central African Republic** agreed with the Delegations of **Brazil, India** and **Japan** that the Committee is now implementing the Convention and new definitions are not necessary at this point. The Secretariat has done a good job of providing clear criteria, the Delegation of the **Central African Republic** noted, with explanatory notes that help people to understand these criteria. However, the Delegation expressed its worry when the Committee says that an element should meet *all* of the criteria; when talking of urgency, the Delegation concluded, the Committee should specify a minimum set of criteria that an element could meet without satisfying all of them at the same time.
82. The Delegation of **Belgium** reminded the Committee that the Convention is also about dialogue about ICH; it is important to keep on talking about concepts and definitions and it is always a good idea to discuss what the Committee means and how different countries think about ICH. The Delegation of **Syria**, by contrast, supported the Delegations of **Brazil, India** and **Japan**, noting that the Convention is not perfect, but the Committee needs to move on in its work or it will never finish.

83. Rising to defend the glossary suggestion, the Delegation of **Gabon** warned that if the Committee thinks it is the only ones who need to understand, then the Committee should do the whole work, including preparing the nominations. But, the Delegation continued, if the Committee itself cannot agree on things, how can States Parties know how to respond? This doesn't mean absolute definitions are needed, but general guidelines on key issues such as "representativeness" and "community". If not, how can States implement this Convention in the field, the Delegation wondered.
84. The **Chairperson** responded that in the formulation of the Convention, there must have been some clear understanding of the text; else wise how could States have ratified the Convention? The Committee should have some basic understanding, but that does not mean the Committee should exclude discussion; dialogue should continue, he suggested, but the Committee should return to the proposal at hand.
85. The Delegation of **France** rose to reassure the Committee that it is talking about ICH that is passed on from generation to generation, and the Committee now has the same duty to future generations, to clarify its footsteps so others can follow. The Committee should follow the process of ICH itself by considering transmitting it to future generations. Some Committee members have the continuity of having seen the development of this concept, the Delegation recalled, and the Committee has the duty to pass it on to future generations. Just as ICH evolves, understandings of ICH and concepts also evolve; the Committee cannot freeze them in time. It is therefore indispensable to consider that a glossary provides today's understanding of those terms the same way it served at the time of the drafting of the Convention to provide a common framework of interpretation. The Committee should reflect anew on the evolution of the terms, the Delegation of **France** concluded, and this reflection need not slow down the work of the Committee, but should help to preserve its footsteps.
86. The Delegation of **Bolivia** suggested that the Committee could conciliate both positions by envisaging a continuous revision of the glossary addressing the Committee, the States Parties, the communities, etc. As this is a continuing exercise it need not delay the Committee's work on criteria. The glossary should always be under revision, serving as a reference document for the Committee and for States and communities. Both tasks should proceed in parallel.
87. The Delegation of **Japan** supported the Delegation of **Bolivia**, recalling that there is a record of discussions by experts and Member States. It would be useful if the Secretariat could come up with an idea on how to give shape to the glossary based on prior discussions, the Delegation of **Japan** suggested, consolidating the wisdom the Committee has accumulated in the past. The Delegation concluded that the Committee can discuss in the future how to continue work on the glossary.
88. The Delegation of **Brazil** recalled to the Committee that under international law, the terms of the Convention should be understood on the basis of the words in the Convention and the context of their meaning at the time the Convention was adopted. Now the Committee is at the implementation stage, and if a glossary was prepared at the negotiation stage and was useful for the negotiators, at this point it would be impractical and cumbersome to define the

terms of the Convention. That is for the States to do through practice, in light of the negotiations of course. None of the Committee Members are the owners of the Convention, the Delegation continued, it belongs to the States Parties and the Committee shouldn't discuss the issue.

89. The Delegation of **Nigeria** supported the Delegations of **Brazil, India, Bolivia**, and others considered that the glossary issue should stay on the table, but it shouldn't stop discussion of the criteria. The concerns raised by the Delegation of **Gabon** are very real, but this should be a continuous process and the Committee should not allow the glossary issue to keep it from moving forward.
90. The Delegation of the **United Arab Emirates** supported moving on with the implementation of the Convention. That does not underestimate the concern that the Committee should be careful about how terms are to be understood. If the Committee runs into difficulties, a working group can discuss things; some governments have been working in this area for a long time and some are just beginning, but the Committee should not make it difficult for itself.
91. The **Chairperson** concluded that no working group is now desired. But the dialogue should continue, the **Chairperson** continued. The **Chairperson** expressed doubt that the terms of reference of this extraordinary session would allow the Committee to redefine terms of the Convention; there are clear international law procedures. Recalling the Committee to its Agenda, the **Chairperson** observed that the criteria before the Committee have taken on board comments in Algiers and those submitted by States Parties; the Committee's task is to adopt two sets of criteria, as amended.
92. The **Chairperson** asked the Committee to consider the criteria one by one, asking if there were further comments on criterion U.1. Seeing none, he declared U.1. adopted and opened the discussion on U.2.

#### Criterion U.2.

93. The Delegation of **India** recalled that criterion U.2., together with the definition in Article 2 of the Convention, provides an answer to the earlier question of the Delegation of the **United Arab Emirates**; U.2. sufficiently meets those concerns. The Delegation of **Senegal** supported criterion U.2. as it gives evidence of the implication of the community. However, when extreme urgency is addressed, the community is not mentioned anymore. This is problematic as it implies that this Committee can come up with extremely urgent safeguarding action, but where are those to carry it on?
94. The **Secretary** commented that article 17 deals in fact with two different situations: urgency and extreme urgency (17.3). The Secretariat has tried in U.2. to bring together Article 17.1 and 17.3 of the Convention, and the draft criteria use "or" to indicate that either the first sentence or the second sentence of the criterion is applicable. He further recalled that before the **India** expert meeting, a third set of criteria existed for cases of extreme urgency, but the **India** experts suggested to simplify the system so as to avoid complication.
95. The **Chairperson** suggested that the word "or" between the two options presented by this criterion is not helpful. It should be eliminated and the two

paragraphs should be combined into one, in his view. The Delegation of **Morocco** (Observer) shared the concerns expressed by the Delegation of **Senegal** suggesting that "or" could better be replaced by "and/or" to resolve the problem, because both possibilities could exist at the same time.

96. Concerning the explanatory note, the Delegation of **Mali** suggested that it should state that recent or ongoing efforts are not an obligation; there will be occasions where prior efforts are not possible; they should be optional in the explanatory note. The **Chairperson** clarified that the Committee is not taking a decision on the explanatory notes but suggestions such as those from the Delegation of **Mali** will be noted. Continuing to focus on "efforts", the Delegation of **Tunisia** (Observer) requested clarification on the second part of the first element of U.2., saying "despite the efforts..." – if an element is in peril, why not simply move to safeguard it? The **Secretary** responded that the Convention asks States Parties to take the "necessary measures", and experts have mentioned time and again that no ICH can be safeguarded unless communities are part of that process; they must be motivated.
97. The Delegation of **India** commented that the term "despite" refers to the community or group, which might create a problem, as it implies that proof or evidence would have to be provided to demonstrate that the community has made efforts to safeguard in order to fit the criterion. If a State Party or community is unable to prove that it has made such efforts, it would not be eligible to be listed. The **Secretary** called the Committee's attention to the last sentence of the explanatory note that raises the possibility of flexibility in the Committee's considerations of this criterion. He further took the opportunity to note that the explanatory notes in paragraphs 13 and 15 provided similar flexibility in a case of extreme need of safeguarding.
98. The Delegation of **Gabon** supported the Delegation of **Senegal** as it should be understood that the role of communities is to be reflected also in the case of extreme urgency. Sometimes, a community may wish to let an element die, but NGOs or anthropologists can take action to safeguard it against the will of the community. Under the second condition in U.2., the Delegation of **Gabon** wondered, could a community be prevented from allowing an element to die?
99. The Delegation of the **United Arab Emirates** noted its impression that the two-part U.2. implies two sub-lists within the Urgent Safeguarding List, and suggested that both paragraphs be merged. The criteria should not get too tangled in detail and be clearly understandable to the layperson, without referring to pages of explanatory notes.
100. The Delegation of **Brazil** perceived a problem with the word "effort" as it is linked to material means which are not always available; it also supported the Delegation of **Gabon** in making clear that the community has a say; its adhesion is imperative. Perhaps the Committee can replace "effort" by "explicit interest", the Delegation of **Brazil** suggested, so that even if a country does not have resources, it can demonstrate its explicit interest.
101. The **Chairperson** took note of some trends in the discussion concerning the word "or" and "efforts", the latter of which should be replaced by "explicit interests". The Delegation of **India** concurred. The Delegation of **Estonia** supported the suggestion of **Brazil** and concurred with blending the two parts

of draft criterion U.2 as suggested by the Delegation of the **United Arab Emirates**.

102. The Delegation of **Japan** commented that the term "risk" is the key word here; how to evaluate that risk will differ from person to person. The Committee has not yet discussed the situations in which urgent safeguarding may become necessary, and the criterion may therefore include indications of the situations in which urgent safeguarding may apply. The Delegation of **Japan** offered several factors that might be taken into consideration, if one or more of these elements are in a situation of extinction the Committee could say the element is threatened: 1) aging performers or bearers, drastic urbanization, lack of interest of youth; but a decrease in the number of practitioners should not be the sole reason; 2) equipment or instruments for practice, transmission or distribution; 3) supporters; 4) opportunities or demands for performance; 5) contents of ICH. If one of these elements presents a risk, or is at risk the element is in need of urgent safeguarding. Before the Committee decides to replace "efforts" with "explicit interests" the Committee should focus on the risks.
103. The Delegation of **Algeria** saw no problem with U.2. and the proposal of the Delegation of **Brazil**, but wondered how the Committee could evaluate what the "interests" are? "The Delegation of **Algeria** also doubted that the Committee can use "and/or" and retain the second part. The Delegation of **Belgium** asked what the «interests» are; it may be dangerous to shift away from "efforts" which refers to safeguarding efforts, while "interest" involves a number of other meanings. The Delegation of **Mexico** fully supported the Delegation of **Belgium** to keep the term "efforts". The Delegation of **Ethiopia** supported the proposal of the Delegation of **Belgium** to keep "efforts", which emphasizes the role of the community, since the custodians have a very important involvement; the term "interest" doesn't capture this.
104. The Delegation of the **United Arab Emirates** offered substitute language: "The element is in urgent need of safeguarding because its viability is at grave risk of extinction despite current efforts to help it." In its proposal, it did not wish to specify who is making the efforts. The Delegation of **Estonia** responded to that proposal by stressing the necessity of the reference to communities, as the Delegation of **Senegal** had raised the concern that communities are missing from the second part, so that crossing out communities would be in contradiction to what the Committee is trying to achieve. Perhaps "efforts and interests" in the first part would be acceptable, leaving the second part unchanged, the Delegation of **Estonia** concluded. The Delegation of **Hungary** stressed the importance of keeping "efforts" because it is more expressive, but welcomed the suggestion of "efforts and interests". The Delegation of **Luxembourg** noted problems with both "efforts" and "interests", and proposed the French word "adhesion" which would imply also the will, whether the means are available or not.
105. The **Chairperson** recalled to the Committee that there are two situations in the Convention: an element in urgent need, and an element in extremely urgent need. The Delegation of **India**, supporting this, pointed out that the formulation of the Delegation of the **United Arab Emirates** combines both, and the original proposal by the Secretariat makes a difference between urgency and extreme urgency. The Convention requires there should be objective criteria for an element in extreme urgency and both cannot be combined; the Committee cannot have a single criterion with "grave risk of extinction"; that might be a

criterion for extreme urgency, but not for elements in urgent need. The Delegation of **Japan** supported the Delegation of **India**, pointing to the requirement in Article 17.3.

106. The Delegation of **Mali** preferred “effort” and wished to avoid “interest” and “adhesion” which implies that the community is not the bearer of an ICH. With reference to the language proposed by the Delegation of the **United Arab Emirates**, the Committee cannot combine the two.
107. The **Legal Adviser**, referring to the Delegations of **India** and **Japan**, concurred, on a strict legal basis, with the distinction explained and to maintain a clear distinction between the two.
108. The Delegation of **Benin** (Observer) suggested, in order to make the distinction, that the Committee may sub-divide U.2. into “a” and “b”, retain the word “effort” and add also the communities in the second part. The Delegation of **Senegal**, fully agreeing on the distinction between both situations, highlighted that the extreme urgency does not make reference to the communities but to elements of ICH. For the purpose of clarification, the Delegation of **Estonia** proposed to add the clause “despite the efforts of the community, group or, if applicable, individuals and State(s) Party(ies) concerned” to the second part.
109. The Delegation of the **United Arab Emirates** expressed its concern that the Committee creates two sublists and proposed the Committee to distinguish clearly between the purposes of the two lists; the second could be clearer if the Committee speaks of emergency situation rather than “facing a risk”—an immediate rather than ongoing threat.
110. The Delegation of **Bolivia** agreed with the Delegation of **Benin** (Observer) to have two different paragraphs, with “a” and “b”. In the second part should be added “put in place in consultation with the community, group or, if applicable, individual and the State Party concerned”.
111. The **Chairperson** summed up that there should be two elements, one for urgent need and one for extremely urgent need and that the majority of the opinions expressed is in favour of retaining the word “efforts”, “despite the efforts” recalling that international cooperation is needed. He recalled the Committee wants to add “despite the efforts” to cover both and informed that then the Committee will go beyond the Convention. His conclusion was fully supported by the Delegation of **India** who informed him that it fully endorses that view and that the formulation provided by the Secretariat, “despite the efforts”, only used in the first part and not in the second part is fully correct.
112. In response to the question raised by the Delegation of **Estonia**, the Delegation of **India** commented that the Committee is dealing with an element on the verge of extinction, in extreme need. If the Committee put in the mention “despite the efforts by the communities...” that would presume that unless those groups have made an effort, it cannot be listed. If efforts have been made, why is it on the verge of extinction? The element would only qualify if these groups had made an effort, and this clause should not be included. The Delegation of the **Central African Republic** stated that if the Committee takes

into account all of these discussions, the Committee return to the proposal offered by the Secretariat, and proposed the Committee to move forward.

113. In response to the reminder made by the Delegation of **Brazil** that the suggestion of the Delegation of **Belgium** to replace “survive” with “be transmitted” has not yet been reflected on the text on-screen, the Delegation of **India** corrected that the Committee has to keep “survive”, since in the case of extreme urgency it is not about transmission but about pure survival. The Delegation of **Turkey** preferred the Committee avoid using new words that are not in the Convention and agreed with the Delegation of **Belgium** to speak of “be transmitted” as reflecting the language of the Convention. The **Secretary** added that the word “survive” as such does not exist in the Convention but recalled its Article 2.3 speaking of measures aiming to ensure the viability, which means ensuring that it continues to live; the term “survive” was chosen to take into account Article 2.3. The Delegation of **Estonia** argued that there is no sense in not keeping the mention of communities since they need to be involved and that, furthermore, there would be no justification for safeguarding if there is no community interested.
114. The **Chairperson** recalled that it is up to the State Party to consult the communities, groups and individuals and that the Committee consults with the State Party. The Delegation of **India** agreed and pointed out that sometimes a community itself wishes to destroy an element of its heritage, and therefore the language should be maintained.
115. The Delegation of **Belgium** expressed its deep concern that the Committee is making an important decision on the measures it can take later on. The term “survival” is much stronger in particular in the case when an element is about to disappear without any documentation.
116. The **Chairperson** recalled that the key word is “risk of extinction”; if the Committee keeps this in mind, transmission does not convey all of the meaning that is required.
117. The **Legal Advisor** informed the Committee that there is no legal position here to take between “survive” and “be transmitted” – and that “be transmitted” focuses only on transmission; “survive” is larger and more inclusive.
118. The **Chairperson** proposed to the Committee to speak of «danger of extinction” or “threat of extinction” instead of “survive”. The Delegation of **Bulgaria** considered that if an element is not transmitted, then it cannot survive and becomes a museum piece and with regard to that both terms “transmission” and “survival” could be used together.
119. The Delegation of **India**, supported by the Delegation of **Mali**, highlighted that the key factor is “survival” vs. “extinction”; if an element is under threat of extinction, transmission is not the issue, it is really about survival. Transmission can happen only when the element survives; if it is at threat of survival, where is the question of transmission, the Delegation questioned.
120. The **Chairperson** added that this is a matter of life or death of an element, and that means survival; “transmission” is too weak a word to capture the extreme urgency and he considered that the word “survival” will not go beyond the



language of the Convention. The Delegation of **Brazil** asked the Committee whether it will be in its power to ensure the survival. The Delegation recalled that the Committee can guarantee transmission, the memory and documentation, but cannot guarantee survival and requested the Committee to bear in mind the limits of its actions.

121. The Delegation of **Senegal** took the point of the Delegation of **Brazil** that the Committee can ensure neither survival nor transmission. The Delegation agreed that the community itself must ensure either survival or transmission and that the Committee could only provide conditions. The Delegation of **China** stated that survival and transmission refer to the same purpose, that transmission means a way to ensure survival; survival depends on transmission.
122. The **Chairperson** while acknowledging that some Delegations still have some discomfort with some of the wording, asked the Committee to follow the views of the majority and invited the Secretary to read out U.2. as amended. Expressing his hope that the Committee's decision will stand the test of history, at least for ten years, he declared U.2. adopted as amended.

*[Thursday 24 May 2007, 14.30]*

#### **Criterion U.3.**

123. The **Secretary** introduced criteria U.3., U.4. and U.5., explaining that U.3. is about efforts already underway or planned; there is a provision in the case of extreme urgency that the proposed measures may not yet form a coherent safeguarding plan and this foresees that the criterion should be applied more flexibly in cases of extreme urgency. He continued that similarly for U.4., paragraph 14 adds a flexible interpretation of community involvement in the case of extreme urgency. The language in U.4. about "widest possible participation" comes from the Convention. Concerning criterion U.5., inventory, he added that the explanatory notes gives the remark that the inventory might not have been completed.
124. The **Chairperson**, noting the consent of the Committee on this criterion, declared criterion U.3. adopted.

#### **Criterion U.4.**

125. The Delegation of **Bolivia** stated that "widest possible participation of the whole community" will not be necessary, that "widest possible participation" will be enough, supported by the Delegations of **Morocco** (Observer) and **Estonia**, which added that "free, prior and informed" consent will ensure the required flexibility and considered that community involvement itself should be a criterion, joined in that by the Delegations of **Belgium**, **Brazil** and **Hungary**. The Delegation of **Japan** expressed its agreement in principle with the proposal made by the Delegation of **Estonia**, but wanted to clarify under what form this consent should be given. It pointed out that many communities do not have the

tradition to make an agreement in written form and suggested to keep the form or format of consent as flexible as possible.

126. The **Chairperson** then declared criterion U.4. adopted as amended.

#### Criterion U.5.

127. The Delegation of the **Central African Republic** asked whether the option proposed in the explanatory notes of the "inventory-in-process" should be reflected in the criterion itself, supported by the **Chairperson** who considered that some countries might have been able to draw up inventories while others might still be in the process and cannot therefore be excluded.

128. The Delegation of **Belgium**, supported by the Delegation of **Nigeria**, emphasized that inventory making is a continuous process and even an inventory in the making is already an inventory. It therefore proposed to keep the criterion as simple as possible. The Delegation of **India** supported this as it reflects very well the discussion in Algiers. The Delegation of **Estonia** fully agreed with the Delegation of the **Central African Republic** as inventory making is an important process but will pose many problems in a number of countries and is an open ended progress and can never be in final format.

129. In contrast, the Delegation of **Gabon** suggested to keep the text as it is, since it is generally understood that an inventory is never finished. The Delegation of **Bolivia** agreed with this criterion as stated marking the active support and contribution of the State Party and the communities, since communities must be involved in inventorying. The Delegation of **Brazil** fully supported the Delegation of **Gabon** to retain the text as it is, but was also willing to accept the proposal made by the Delegation of **Estonia**. As inventories can take in a wide diversity of approaches and different levels of completeness it supported the suggestion to provide training in inventorying to States Parties. The Delegations of **Romania, Algeria, Nigeria, Mali, France** and **Turkey** proposed to eliminate the word "already" in order to mark the dynamism of the inventory and of ICH itself.

130. The Delegation of **India** asked that since the explanatory notes will not be adopted, only the criteria, all these points should be reflected somewhere in the criteria, as they are very important. The **Secretary** explained that the Secretariat wished to keep the document as simple as possible and to keep the criteria separate from the explanatory notes. The summary records of this session reflecting all the ideas and opinions will be circulated and adopted by the Committee at its next session in Tokyo. He pointed out that the explanatory notes that will not have been contested in these discussions will be incorporated in a document to be presented in Japan and it will be clearly indicated what sections of the explanatory notes were reviewed in this extraordinary session.

131. The Delegation of **China** partly supported the Delegation of **Estonia**, but stressed that inventories are domestic affairs, rather than standardized or international affairs. The Convention provides that each country takes charge of its own inventory, it recalled, informing the Committee that China has more than 300 items listed in its inventory. The Delegation of **Viet Nam** expressed its

agreement with criterion U.5. as it is understood that an inventory could never be finished and so the quality of inventoring has to be considered. It explained that Viet Nam has several inventories, but only some of them are clearly motivated by safeguarding.

132. The **Chairperson** pointed out that there is an agreement about evolving inventories, but it has to be kept in mind that some States Parties need more time, may have constrained resources, or move at a different pace in establishing the inventory than others. As the amended U.5. covers all these considerations, he declared criterion U.5. adopted as amended.

#### Criterion U.6.

133. As there was a general agreement on this criterion, the **Chairperson** declared criterion U.6. adopted.

#### *[Criteria for inscription on the Representative List of Intangible Cultural Heritage of Humanity]*

134. The Delegation of **India** proposed that as some criteria of the Representative List are the same as for the Urgent Safeguarding List, the Committee should focus only on the two other criteria which are not identical; the **Chairperson** recalled that in the morning discussion the Bureau decided not to reopen for discussion criteria that are identical.

135. The **Secretary** explained that criterion R.2. is the only new criterion proposed for the Representative List. The Convention calls this list the "Representative List" while the noun "representativeness" or "representativity" does not appear in the Convention. States Parties have discussed in their written comments and during the expert meeting in **India** the meaning of "representative". Does this concern the list, or the elements? Some States Parties in their written comments have stated that the *list* should be representative, rather than the individual elements; other States rather saw the elements listed as representative. The **Secretary** continued by informing the Committee that many suggestions have been made in which way an element might be representative of a community, a nation, or a domain, or of the diversity of human creativity, but the different definitions did not seem to be reconcilable. He continued by noting that the language of criterion R.2. has been drawn from Article 16 of the Convention. The last part of the wording of U.2 was taken from the preamble of the Convention and Article 2.1. He added that this criterion, which is meant to be the distinctive criterion for the Representative List, does not seek to interpret the notion "representative", but rather takes the specific goals of this List as defined in Article 16.1 as its main point of departure for distinguishing the Representative from the Urgent Safeguarding List.

#### Criterion R.2.

136. The Delegations of **Algeria, Belgium, Estonia, Nigeria** and **Hungary** applauded the draft prepared by the Secretariat as it reflects well the spirit and letter of the Convention and should be adopted as is. The Delegation of **Bolivia**

proposed a correction in the French version and the Delegations of **France** and **Mexico** agreed with the amended text.

137. The Delegation of **Romania** proposed to add a new word regarding "awareness-raising" (*sensibilisation*), but the Delegation of **Syria** considered that this purpose is already reflected in the wording "*prise de conscience*". The Delegation of **Japan** also agreed with the proposed text but suggested to make it clear that no value judgement should be implied in inscribing elements. Judgments like originality, authenticity, outstanding universal value, etc. should not be implied, since they go against the spirit of the Convention.
138. The **Chairperson** noted that the order in the Convention is "visibility, awareness, and dialogue", but no harm is done by keeping the order proposed by the Secretariat. The Delegation of **Japan** assumed that the order would need to be changed ("visibility" first, then "awareness" and "dialogue") in accordance with the order in the Convention.
139. The **Delegation of Benin** (Observer) saluted the consensus but pointed out that if applied to *all* ICH an element should be added referring to "mutual appreciation" as a precondition for dialogue. The Delegation of **Belgium**, while understanding this concern pointed out that it is already contained in R.1., expressing its hope that the Committee will take this criterion very seriously in the future.
140. The **Chairperson** commented that there is a need of cultural diversity before dialogue; if there is no diversity there is no dialogue. This criterion does not work alone, but has to be considered with all other criteria.
141. The Delegation of the **Central African Republic** recalled that all these concerns are already contained in the text proposed by the Secretariat. Then the **Chairperson** declared criterion R.2. adopted as amended with the order of the wording to reflect the Convention.

### Criterion R.3.

142. The **Secretary** indicated that criteria R.3. and U.3. are very similar in their wording, the difference being that R.3 speaks about measures for "protecting and promoting" since it is assumed that in most cases the elements proposed for the Representative List will be healthy and lively, and suitable for promoting the visibility of ICH. For the Representative List a light safeguarding plan or management plan that emphasizes "protection" and "promotion" (among the various safeguarding measures listed in Article 2.3) may suffice, as opposed to the heavier safeguarding plans required for elements in need of urgent safeguarding, as required for the Urgent Safeguarding List.
143. The Delegations of **France, India, Belgium** and **Bulgaria** proposed to adopt the criterion as it is. The Delegation of **Morocco** (Observer) proposed to correct the French syntax, supported by the Delegations of **Algeria** and **Hungary**; the latter recalling that the Committee decided not to discuss those criteria that are equal to the Urgent Safeguarding List, but agreed that a different phrasing here is very suitable.

144. The **Chairperson** then declared criterion R.3. adopted as well as criteria R.4. and R.5. as they are the same as those for the Urgent Safeguarding List.
145. Draft Decision 1.EXT.COM.6 was adopted as such.

**AGENDA ITEM 7: INCORPORATION OF MASTERPIECES OF THE ORAL AND INTANGIBLE HERITAGE OF HUMANITY ON THE REPRESENTATIVE LIST OF THE INTANGIBLE CULTURAL HERITAGE OF HUMANITY**

*Document ITH/07/1.EXT.COM/CONF.207/7*  
*Draft decision 1.EXT.COM.7*

146. In introducing agenda item 7, the **Chairperson** recalled Article 31 of the Convention concerning incorporation on the Representative List of the Intangible Cultural Heritage of Humanity of the items proclaimed Masterpieces of the Oral and Intangible Heritage of Humanity. Before inviting the Secretary to present the working document prepared for this agenda item, he noted that, while this item did not require a specific decision to be taken, it did give the Committee the opportunity to offer guidance to enable the Director-General to submit a concrete proposal at the second ordinary session of the Committee.
147. The **Secretary** of the Convention then recalled the provision of Article 31 of the Convention that obliges the Committee to incorporate Masterpieces on the Representative List. He referred to the imperative “shall” of the English version, rarely used elsewhere in the text of the Convention, which has a very precise meaning. Recalling that three proclamations were made in 2001, 2003 and 2005 with 90 masterpieces proclaimed from 71 countries, the **Secretary** stated that over half of them had enjoyed a safeguarding plan, generously funded by Japan. He further informed the Committee that, while there is no doubt concerning the obligation of the Committee to incorporate elements proclaimed as Masterpieces, questions have arisen from various experts and, in their written comments, from various States Parties. Among these questions, the one most often raised is that concerning the manner in which the Committee could or should proceed with Masterpieces on the territory of non States Parties to the Convention, or on the territory of one or more State(s) Party(ies) to the Convention and of one or more non States Parties to the Convention. The comments raised by these questions and reported by the Secretariat are diverse in nature; however, the majority of States Parties who have given their view on the subject were in favour of incorporating 90 Masterpieces in their entirety at a single time.
148. The **Secretary** then explained that Paragraph 3 of the document presented to the Committee proposes some concerns, based on the questions and comments of the States Parties. The first of the points reflects the ideas of some States Parties, who stressed the need to respect strict equality – in terms of rights and obligations – among the elements on the Representative List, so as to avoid Masterpieces forming a sub-list within the Representative List. Another viewpoint to preserve a special status for Masterpieces after their incorporation had also been proposed. Topics 2 and 3 suggest two solutions for cases where a non State Party did not wish to have its Masterpiece on the Representative List. Moreover it was recalled that these two options had been mentioned, the first proposing that the Committee inform non States Parties of

the date of the inclusion, to enable them to notify the Committee of their agreement or disagreement on the matter. The second option envisaged that the Committee might withdraw from the Representative List a Masterpiece of a non State Party, on simple written notice to the Committee, after the automatic incorporation of all Masterpieces. The fourth idea posed the question of the procedure to be followed for multinational Masterpieces situated on the territory of one or more State(s) Party(ies) and one or more non State(s) Party(ies). Given the different positions expressed by the States Parties in their written comments, the fifth point invited the Committee to advise the date and manner in which it wished the Masterpieces to be incorporated. One group of States, recalling Article 16 of the Convention, suggested waiting until the two Lists were established in accordance with the approval by the General Assembly of the relevant criteria, before deciding on the way of incorporating Masterpieces. The **Secretary** concluded his presentation by underlining that the automatic incorporation of Masterpieces had never been called into question by any State Party or expert. Finally, the Secretariat asked that the Committee provide guidance to it. This would enable it to propose to the Committee, as early as possible, a procedure to achieve the incorporation of Masterpieces on the Representative List.

149. The **Legal Adviser** stated that all the legal issues previously raised before the Committee on this subject had been analysed by the Office of International Standards and Legal Affairs, in a formal opinion focusing on two important points: the automatic incorporation of proclaimed Masterpieces and the legal consequences of this incorporation. He wished to set out this opinion in English. First of all, he reviewed the history of this provision of the Convention, which had originally provided that the Masterpieces already proclaimed by virtue of the resolution of the 29<sup>th</sup> General Conference of UNESCO and the criteria laid down by decision 155 EX/3.5.5 of the Executive Board should be *ipso facto* incorporated on the future Representative List established by the Convention. Article 31 had finally been drafted so as to allow no doubt to remain over the obligation to incorporate them, both Masterpieces of non States Parties to the Convention and those of States Parties, with no discrimination or condition made between these States. Having stated that it was time to implement the transitional measures of the Convention and not to renegotiate them, he concluded that the Committee had to honour its obligation to incorporate, without subordinating it to other conditions of prior consultation with States. Considering the legal consequences, the **Legal Adviser** also recalled that once the Convention came into force, the incorporation of the Masterpieces in the Representative List would end the old programme, as well as any similar Proclamation (Article 31.3), insofar as, in accordance with Article 16 of the Convention, the new process which will be implemented for any new inscription will take the place of the old one. Speaking then of the difference between the legal nature of the inscription of new elements on the Representative List pursuant to Article 16, and the nature of the incorporation of Masterpieces in accordance with Article 31, the **Legal Adviser** passed on specific information on this subject, referring to a separate document, and stressed the importance of an additional measure to be taken in the context of the Operational Directives, so that all the incorporated Masterpieces might be governed by the same legal regime set up by the Convention. This measure, of a formal or procedural nature, is not to be confused with the setting up of criteria for inscription on the Representative List. It may take the form of a notification or a resolution of the General Assembly of the States Parties in which all the States Parties agree to confer on the incorporated Masterpieces the same legal status as that of the elements inscribed pursuant to Article 16.

As for the non States Parties, they may also express their consent for their incorporated Masterpieces being subject to the legal regime laid down by the Convention; it being understood that it is enough, in the case of multinational Masterpieces, that a State Party make the notification for that Masterpiece to enjoy the legal regime of the Convention.

150. Having thanked the Secretariat and the Legal Adviser for these useful explanations, the Delegations of **Brazil** and **Japan** pointed out that having received the working document on this topic very late, they were not able to give a definitive view on the questions raised. They then proposed that the States Parties give their views in written form on this issue and that their comments be circulated before the next session of the Committee in the form of either a working or an information document. However the preference was to defer final discussion of the incorporation of Masterpieces to the session of the Committee that will take place in Japan. Moreover the Delegation of **Japan** wished to have some clarifications – in the light of the explanations given by the Secretariat and the Legal Adviser and subsequently to be communicated in writing – on the need or not to respond to the questions raised by the working document in question.
151. The **Legal Adviser** stated that the explanations he had just given were meant to guide the Committee and to focus the debates on the decisions taken by the Committee in Algiers, which provide that the procedural guidelines and the criteria will be part of the Operational Directives to be submitted subsequently to the General Assembly of the States Parties. Moreover, he added that the Committee was invited to give the Secretariat information on the type of legal, formal and/or procedural guidelines that they wished to have applied to the Masterpieces after incorporation.
152. Concerning the proposal of the Delegation of **Brazil**, the **Chairperson** invited the Committee to take a decision. He also suggested that the comments of the **Legal Adviser** be distributed in the hall in the form of an informal document.
153. The **Representative of the Director-General** said that it was possible to distribute the note prepared by the Office of International Standards and Legal Affairs, pointing out that it only existed in English, having been prepared as an internal document. She then added that, with the proposal to defer the decision on this item to the next ordinary session of the Committee, a preliminary discussion could nonetheless be held so as to clarify certain points, in particular the further action to be taken, in the light of the issues raised in the working document prepared by the Secretariat.
154. Stressing the importance of the points raised in the verbal note of the **Legal Adviser**, and taking account the complexity of the subject, the Delegations of **Brazil** and **India** considered it indispensable to have this information in the form of an official document, in both the languages of the Committee. They also asked that this document be sent to the Committee before its second session was held in Tokyo, where this issue can then be fully debated.
155. At the invitation of the **Chairperson**, the Delegation of **Hungary** started the preliminary discussions by recalling, first of all, the need to find a solution that takes into account both the legal and moral aspects of the question. The Delegation at the same time suggested that the Committee consult the 71

States with proclaimed Masterpieces, so as to gather their opinions on these issues in a document to be presented to the Committee.

156. The Delegation of **Bolivia** recalled that the Masterpieces programme had been designed in the early 1990s, in the absence of a legal document protecting ICH. At the time it was a first step towards a higher profile and achieving a greater awareness among international public opinion of this type of heritage. The Masterpieces programme had thus subsequently substantially contributed to the preparation and adoption of the Convention. **Bolivia** then returned to the preparation of the Convention, during which there had been discussions, in particular on the possibility of delaying the incorporation of the Masterpieces, so long as some States with a proclaimed Masterpiece had not yet ratified the Convention. Concerning Masterpieces presented by several States, some not having the status of States Parties to the Convention, it had been suggested they be left pending either until the non State Party decided on its incorporation, or the State gave its consent to the element in question enjoying the same rights and obligations as the other elements inscribed. In conclusion, the Delegation of **Bolivia** expressed the wish to receive the comments of the Legal Adviser as well as those of the Secretariat in both the working languages of the Committee so as better to prepare itself for the next session of the Committee in Tokyo.
157. For the Delegation of **Japan**, it was also clear that from a legal viewpoint the automatic transfer of masterpieces onto the Representative List was an obligation of the Committee; it also said that the elements so incorporated should have the same rights and obligations as any other element subsequently listed, so as to avoid the setting up of a two-speed system, which would be politically unacceptable. The Delegation also wondered about Article 31 of the Convention, and its approval, if all States having proclaimed Masterpieces were in the future able to obtain the status of States Parties to the Convention. The Delegation also wished to know if a non State Party to the Convention was able to decide against the automatic incorporation of its Masterpiece in the Representative List or if this action was “illegal” under Article 31 of the Convention. If not, the written consent of the non States Parties to the Convention could be obtained before the transfer of the Masterpiece concerned onto the List.
158. The Delegation of **India** underlined the many legal aspects to this issue and requested its deferment to the second session of the Committee in Tokyo, so as to study beforehand the documents of the Legal Adviser and the Secretariat. However, in preliminary remarks, the Delegation of **India**, supported by the Delegation of **Algeria**, pointed out that the criteria governing the Masterpiece proclamation programme were not the same as those prepared for the purpose of inscribing elements on the Representative List. The categorical nature of Article 31 of the Convention being very clear, a Masterpiece incorporated in the Representative List will effectively be considered as having satisfied the criteria governing that List. The Delegation of **India** shared the view of the Delegation of **Japan** regarding the fact that all the elements appearing on the Representative List would have the same rights and obligations, no difference being admissible and each listed element being presumed to have satisfied the same criteria. Moreover, the Delegation recalled that at the time of the drafting of the Convention, it was foreseen that some of the countries with proclaimed Masterpieces would not ratify the Convention. Taking the explanations of the **Legal Adviser** into account, according to which a non State Party to the Convention is not bound by its rights and obligations, the Delegation of **India**



declared that there is no reason to keep an element on the Representative List should the State that holds it not feel in any way concerned by the obligations to be fulfilled. It therefore pronounced itself in favour of a prior consultation with the non States Parties to the Convention. To conclude, the Delegation of **India** stressed that the wording of Article 31.1 of the Convention did imply that the Representative List would be developed on the basis of the incorporation of Masterpieces. This gave Article 31.2 great importance, as it clearly stipulates that the incorporation of these elements in the Representative List in no way prejudged the criteria chosen in accordance with Article 16, paragraph 2, for future inscriptions.

159. The Delegation of **Bulgaria** considered that, notwithstanding some obstacles, Article 31 of the Convention should be strictly applied. Moreover, in the conviction that the discussion would be facilitated if the Committee answered clearly the questions raised by the Secretariat in point 3 of the document under consideration, it approved the fact that the Masterpieces, once incorporated, will have the same rights and obligations as the other elements listed. As for the second question, it saw it as obligatory and indisputable that the agreement of non States Parties to the Convention should be obtained before the incorporation of their Masterpieces. Considering the two subsequent questions, namely the withdrawal of Masterpieces and multinational Masterpieces, to be, on the other hand, more delicate, the Delegation advised the need for a diplomatic approach, judging that prior consultation with the States concerned was essential. In answer to the last question, relating to the time and manner of incorporating the Masterpieces, it suggested that the Committee proceed directly, on the basis of Article 31.
160. The Delegation of **Senegal** added that while the question of automatic transfer was not open to discussion, it nonetheless required further clarifications, especially over the rights and obligations for Masterpieces that were still to be defined. It took the view that these rights and obligations should first be defined before discussing the equality or otherwise of the rights and obligations for all elements. The Delegation also wished to obtain information from the Legal Adviser on the legal implication of the term of *humanity* in "Masterpieces of the Oral and Intangible Heritage of Humanity". Finally, it declared itself in favour of the incorporation on the Representative List of a multinational Masterpiece so long as at least one of the countries concerned was a Party to the Convention, even if all the other countries concerned were non Parties to the Convention.
161. At the invitation of the **Chairperson**, the **Legal Adviser** spoke again to give the explanations that had been requested. On the question of Masterpieces situated on the territory of States Parties to the Convention and non States Parties to the Convention, he confirmed that it was sufficient for a single State to be a Party to the Convention for the Masterpiece in question to enjoy the agreed protection regime, noting that that did not remove from this element its value as a Masterpiece of humanity. In addition, he stressed that it was an obligation of solidarity, an obligation which shared fully in the spirit of the Convention, which was very rich in matters of solidarity, especially through Article 23 which encourages joint applications by States for new inscriptions. To do so, he confirmed, new criteria should be devised in the operational directives adopted by the General Assembly of the States Parties. As for the other questions raised, the **Legal Adviser** stated that what he had said in his reply took account not only of the 2003 Convention, but also of the Vienna Convention on Treaty Law, both on their interpretation and on methods for their interpretation. So, with regard to Article 31, he confirmed the obligation of

162. The Delegation of **Turkey** then declared itself in favour of incorporating all the Masterpieces on the Representative List pursuant to Article 31 of the Convention and the decision made in Algiers. It declared itself in favour of deferring discussion of this issue to the next session of the Committee in Japan, after consultation and study of the documents of the Legal Adviser and the Secretariat, so as to have available everything needed for a fuller debate. The Delegation of **Belgium** stated that it had not found the term “automatic” in Article 31, which, in its view, seems simply to stipulate that the actor, i.e. the Committee, may incorporate, without giving a time limit or any other details. Furthermore, the proclamations made in 2001, 2003 and 2005 will not be deleted and the Masterpieces incorporated on the Representative List will thereby be listed a second time and thus enjoy an additional status.
163. Contrary to what was suggested by the **Legal Adviser**, the Delegation of **Hungary**, thought it very useful to return to the legal aspects of the Masterpiece Proclamation programme, so as to be better able to compare both the differences and the similarities between the two sets of criteria (Convention and Proclamation). It also said that despite the fact that the discussion had so far focussed on the differences, there were however more similarities than differences between the Convention and the Proclamation system.
164. At the request of the Delegation of **Japan** to clarify the question of the rights and obligations non States Parties to the Convention have and do not have, the **Legal Adviser** recalled that pursuant to the Vienna Convention, the *rights* of third parties may be presumed, but that on the contrary, this is not the case for *obligations*. In the context of the Vienna Convention (Article 35), a third party must expressly accept the obligations in writing. In the same way, the Legal Adviser proposes in his note that the Committee request non States Parties to the Convention to notify it in writing of the acceptance of the full legal regime of obligations to be devised. In this way the Committee could consider inserting this formal request as a criterion to be submitted to the next session of the General Assembly.
165. At the request of the Delegation of **Japan**, which wished to know if the members of the Committee would have to take a decision on this question of the acceptance of the obligations of a non State Party, the **Legal Adviser**

confirmed that this would be possible, inasmuch as this criterion will have previously been accepted by the General Assembly.

166. Having gone through the list of speakers, the **Chairperson** invited the **Representative of the Director-General** to speak again.
167. By way of example of the obligations to be accepted by a non State Party to the Convention with a proclaimed Masterpiece incorporated in the Representative List, the **Representative of the Director-General** mentioned the obligation laid down in the Convention for the State concerned to draw up an inventory of its ICH. This, she said was an obligation which did not exist in the Proclamation programme. She then considered the way forward, so that the non State Party with a proclaimed Masterpiece incorporated in the Representative List could accept this obligation and start up such an inventory. She also reminded the Committee that the Secretariat had to anticipate this type of question and would therefore need clear information from the States Parties in terms of concrete proposals to be formulated. Finally, returning to Article 31.1 of the Convention, she stressed the fact that the Article referred to Masterpieces proclaimed before the implementation of the Convention, but that the phrase “before the implementation of the Convention” concerned only the adjective “proclaimed”.
168. The **Secretary** of the Convention stated, in response to a question raised by the Committee, that there are certainly similarities between the criteria used for the Proclamation and the criteria as these have been devised for the inscription on the lists of the Convention. However, he continued, there also seem to be important differences: one of the criteria for the Proclamation being “exceptional value”, another of the criteria, the “threat of disappearance”. The first of these two criteria was rejected for the Convention lists, the other criterion only coming into play for the Urgent Safeguarding List, laid down in Article 17 of the Convention.
169. The **Chairperson** then gave a quick summary of the discussions recalling in particular the request of the Committee to have the interventions of the Legal Adviser and the Secretariat available soon. He also noted that there was agreement on the understanding of Article 31 and the obligation of incorporation of Masterpieces on the Representative List. He then presented decision 1.EXT.COM.7 for study by the Committee. The Delegations of **Brazil** and **India** proposed adding a new paragraph 4 requesting the **Director-General** to submit to the Committee, well before the second ordinary session, a legal opinion on the incorporation in the Representative List of elements proclaimed as Masterpieces of the Oral and Intangible Heritage of Humanity. Another paragraph, inviting States Parties to send their comments on this agenda item to the Secretariat before 6 July, for communication to the Committee, was also added. The decision was adopted as amended.

*[Friday 25 May 2007, 09.30]*

**AGENDA ITEM 8: POSSIBLE CREATION OF AN EMBLEM FOR THE CONVENTION FOR THE SAFEGUARDING OF THE INTANGIBLE CULTURAL HERITAGE**

170. Upon the invitation of the Chairperson, the **Secretary** introduced this item by indicating that the 2003 Convention does not specifically request the Committee to create an emblem. The Convention, however, in its Article 1, highlights as one of the four main purposes of the Convention awareness raising on the importance of the intangible heritage at the local, national and international level. He also recalled that the Convention calls upon the Committee to promote the objectives of the Convention (Article 7(a)) and to seek means of increasing its resources (Article 7(d)). Several of UNESCO's programmes and Conventions already have an emblem for promoting their objectives and increasing their visibility. The Committee might consider the desirability of creating an emblem that could contribute to achieving the objectives mentioned. He underlined that the use of such an emblem could also support States Parties in safeguarding their ICH. An open competition could be launched by the Secretariat under the guidance of the Committee, and an ad hoc subsidiary body, which might be composed of one State Member from each electoral group, could be set up in order to screen designs submitted and to preselect several of them that best reflect the purposes and spirit of the Convention. For subsidiary bodies to be set up, he reminded the Committee of Rule 21 of the Rules of Procedure saying that the Committee may establish such subsidiary bodies as it deems necessary for the conduct of its work, while defining their composition and mandate.
171. Following these introductory remarks, the **Chairperson** opened the floor for discussion.
172. All the Delegations who spoke thanked the Secretariat for its suggestion of creating an emblem for the Convention, and unanimously supported this initiative, stressing how necessary it was to open the competition to all States, whether or not they had ratified the Convention. The formation of an *ad hoc* body was also unanimously approved.
173. The Delegation of **Bolivia**, recalling the aims of the Convention, stressed how it thought the use of an emblem would be the ideal means to achieve them. Given that it obviously involves an emblematic image on a particularly strong emotional and evocative theme, this emblem would be bound to have audiovisual impact, capable of attracting media attention. The Delegation thus proposed a competition at three levels, national, regional and international, with the partnership of a television channel dedicated to each of the regions. In terms of partnerships, it suggested relying on structures already working in UNESCO and for UNESCO, such as Associated Schools, the UNESCO Clubs and the National Commissions. Moreover it considered that UNESCO with its moral authority would do well to call on prominent personalities to form a jury able to assess the application received. These proposals were supported by several Delegations: the Delegation of **China** – which also pointed out that it had already created its own logo for Chinese ICH; the Delegations of the **United Arab Emirates, Nigeria** and **Syria**, the last-named delegation wishing that the emblem faithfully reflect the spirit of the Convention.
174. The Delegation of the **United Arab Emirates**, in order to activate such a competition and to encourage designers to come forward, suggested to the Committee, supported by the Delegations of **Brazil** and the **Central African**

**Republic**, to provide guidelines for the direction the Committee would like to be taken. The Delegation of the **United Arab Emirates** proposed several criteria for that purpose: be valid to all regions of the world; not be confused with other existing logos; be reproducible in monochrome as well as in colour; acknowledge living aspects of ICH and include elements that have priority in the domains of ICH, namely dance, costumes, music and crafts.

175. The Delegation of **Algeria** stressed the need for equitable geographical representation in the *ad hoc* group, supported by the Delegation of **India**, which in turn requested that Paragraph 5 of the draft decision specifically cite Article 21.4 of the Rules of Procedure. The Delegation of **Nigeria**, wondering how much time will be given for this world-wide process, suggested, supported by the Delegation of **India**, to take advantage of the WHC experience in designing its emblem and the process to be followed. Furthermore, the Delegation of **Nigeria** fully supported the criteria proposed by the Delegation of the **United Arab Emirates** and expressed its willingness and that of the African region to build up partnerships across various regions to reflect the entire world vision in this matter.
176. The Delegation of **Estonia** expressed its concern not to have any particular field of ICH favoured in the creation of an emblem, which should, in its view, be more suggestive and symbolic. It was supported in this by the Delegation of the **Central African Republic**, which proposed that, given the impossibility of representing all fields in one single emblem, it should be stylized and suggestive. With a concern for added value, the Delegation of **Brazil** wished to see the emblem recall its link with UNESCO.
177. The Delegation of **Senegal** referred to the need to draw up specifications and to define terms of reference for the formation of the *ad hoc* group, whose role would essentially be to coordinate and direct debates and decisions. It invited all countries to be branches of the operation through their culture ministries and National Commissions. The Delegation of **Luxembourg** (Observer), which supported this proposal, considered that the National Commissions should play a key role in this operation. The Delegation of **Mexico** wished to draw the attention of the Committee to the issue of the use of the emblem, its limits, restrictions, and the possibilities and freedom to use it. It recalled that the World Heritage emblem had undergone misuse. The Delegation of **Belgium** raised the question of the copyright of the emblem, highlighting that full copyright should be granted to UNESCO in order to avoid problems.
178. The **Chairperson** resumed the discussion, highlighting the Committee-wide agreement on the creation of an emblem for the 2003 Convention and on an open competition to be organized throughout the whole world. He recalled that while giving enough time for the creation of such an emblem, the timeframe should not be endless and experience gained in the past should be taken into account. Then he proposed to take a decision on the establishment of an *ad hoc* subsidiary body.
179. With reference to the request of the Delegation of **India** regarding the experience of the World Heritage Committee and the problems they met, the **Legal Adviser** informed the Committee that an official document will be prepared for ensuring the transfer of the intellectual property rights from the designer to UNESCO. Concerning the protection of the emblem, an official letter from the Director-General is to be addressed to the World Intellectual

Property Organization (WIPO) to have the emblem registered, which from then on is protected under the Paris Convention.

180. The Delegation of **China** then recalled the importance of defining some directives for the use of the emblem. The Delegation of **India** asked the Secretariat to prepare a reference document, to help with discussion at the second ordinary session of the Committee.
181. The **Representative of the Director-General** proposed that the subsidiary body be made up of members of the Committee and that it also have the task of screening applications received. She then brought up the possibility of drawing up a timetable which put on the agenda of the second ordinary session of the Committee a discussion on the details of the mechanism to be set up. A document prepared by the Secretariat could provide the working basis for this discussion and take up all the recommendations formulated by the Committee at this extraordinary session. The Committee could then at its third ordinary session in autumn 2008, take a decision on the emblem to be chosen, and at the same time decide on the regulations for its use. The competition could be opened between the two sessions as well as the screening of the applications, with deliberations by this subsidiary body.
182. In response to the question raised by the Delegation of **India** on Paragraph 5 of the draft decision concerning the date of the establishment of an *ad hoc* group, the **Representative of the Director-General** confirmed that the creation of this group could take place at the second ordinary session of the Committee.
183. The Delegation of **India** recalled, concerning paragraph 4 of the draft decision, that the **Legal Adviser** had invited the Committee to agree on the principle of an open competition to be conducted. The Delegation of **India**, supported by the Delegations of **Algeria** and **Morocco** (Observer), therefore suggested agreeing on the creation of an emblem and requesting the Secretariat to prepare the necessary documentation, in accordance with rule 21 of the Rules of Procedure, to allow the Committee to take all necessary decisions in Tokyo for the establishment of an *ad hoc* group. By doing so, premature actions will be avoided and it will be recalled that this is a States Members driven process.
184. The Delegation of **Bolivia**, supported by the Delegations of **Mali**, **Belgium**, the **United Arab Emirates** and **Senegal**, questioned the point of deferring until the next session of the Committee the question of the creation of the subsidiary body, fearing that this might be a further delay to the process, which will in any case take time.
185. The **Chairperson** proposed the following decision to be taken at this extraordinary session: to agree on the creation of an emblem, on the principle of an *ad hoc* group and to request the Secretariat to prepare a reference document for the Committee session in September in Tokyo. This proposal was supported by the Delegations of **France** and **Japan**.
186. The Delegation of **Nigeria**, being in favour of a careful process, expressed its support for the proposal made by the **Representative of the Director-General**. The Delegation of **Brazil** supported this proposal and the suggestion of the **Chairperson**.

187. Finally draft decision 1.EXT.COM 8 was adopted as amended.

**AGENDA ITEM 9: DRAFT FINANCIAL REGULATIONS FOR THE FUND FOR THE SAFEGUARDING OF THE INTANGIBLE CULTURAL HERITAGE**

*Document ITH/07/1.EXT.COM/CONF.207/9*

*Draft decision 1.EXT.COM.9*

188. After being invited by the **Chairperson** to clarify the participation of observers in the debates of the Committee, the **Legal Adviser** stated that observers admitted, whatever their status, may ask to speak on a subject on the agenda previously approved by the Committee. This practice is laid down in the Rules of Procedure and complies with the practice in other UN intergovernmental Committees. States Parties have the right to speak first, followed by non States Parties who are observers, then non-governmental organizations. He recalled that speaking was subject to the authorization of the Chairperson of the session for all observers. Moreover, while an observer is so authorized to give an opinion on decisions, only the States Members of the Committee can propose amendments to a draft decision under discussion.

189. The **Chairperson** then opened the floor and invited the **Secretary** to give the needed background.

190. The **Secretary** first recalled that various articles in the Convention deal with the Fund, its use and its regulations (Article 25.3 (f): Regulations of the Fund; Article 25.4: Guidelines for the use of the resources of the Fund; Article 7 (c): Draft plan for the use of the resources of the Fund). Various documents are to be approved by the General Assembly before the Fund, which already houses an amount of about 1.3 million US dollars, can be used. He expressed the hope that at this session of the Committee a decision could be taken on the text under consideration, which would mean that a first step would have been taken towards the possibility to actually use the Fund. As a follow-up, the Secretariat might be in a position to present a draft document to the Committee at its next session enabling it to prepare a draft plan for the use of the resources of the Fund as mentioned in article 7 (c), as well as a document on the procedures and criteria for international assistance. Then he introduced Ms Yasmina Kassim, representative of UNESCO's Financial Reporting and Accounts Section.

191. The **Representative of the Financial Reporting and Accounts Section** reminded the Committee firstly that Article 25 of the Convention was the one that established a Fund for the Safeguarding of the ICH and that, secondly, in accordance with Article 6.6 of the Financial Regulations of UNESCO, the Director-General may set up Special Accounts or constitute Funds-in-Trust, so as to manage the extra-budgetary financial resources placed at UNESCO's disposal. She wished to point out that, according to UNESCO rules and procedures in force, the financial resources that are managed as Funds-in-Trust are those from a single donor who has specified clearly the use of these resources. To this end, a specific agreement has been signed between the donor and UNESCO. As for the financial resources managed as Special Accounts, these are essentially resources mobilized by several donors pursuing a common objective or a common programme. Given the multi-donor nature of the Fund for the Safeguarding of the ICH and the objective of this

Fund, and on the basis of the experience of managing the World Heritage Fund, the Secretariat, and in particular the Financial Controller's Division, recommend the Fund for the Safeguarding of the ICH be managed as a Special Account.

192. To this end, and pursuant to Article 25.3 (f) of the Convention, the document under consideration presents draft financial regulations for the management of the resources made available to the Fund for the Safeguarding of the ICH. The **Representative of the Financial Reporting and Accounts Section** then pointed out that the draft financial regulations were prepared following the standard model for financial regulations applicable to Special Accounts, as approved by the Executive Board at its 161<sup>st</sup> session, while taking account of the specificities of the Convention.
193. The **Chairperson** then opened the debate on this agenda item, recalling that in light of the explanations given the debate might be short.
194. The Delegation of **India** asked for clarification regarding the Special Account and noted that article 25.2 of the Convention says that "the Fund shall consist of Funds-in-Trust established in accordance with the Financial Regulations of UNESCO". If the financial regulations are established for a Special Account, the Delegation wondered if there is a contradiction with the wording of the Convention.
195. The **Representative of the Financial Reporting and Accounts Section** confirmed that the term used in the Convention was that of Funds-in-Trust, a term from the World Heritage Convention. She informed the Committee that, in the context of the day-to-day running of the World Heritage Fund, the Special Account had proved the most appropriate management system, given that it would be inefficient to ask each State Party to set up separately a specific agreement with UNESCO.
196. The Delegation of **India** wondered if this will not violate the provisions of the Convention and if a Special Account could also include a Fund-in-Trust from a single donor.
197. The **Representative of the Financial Reporting and Accounts Section** also stated that this contradiction with the Convention had been discussed by the Legal Adviser and the Financial Controller's Division. At the end of that discussion it was agreed that, even if the term "Funds-in-Trust" was used in the Convention, the mechanism of a Special Account best suited the management needs of the ICH Fund. Moreover, it was perfectly possible to set up, alongside the Special Account, one or more Funds-in-Trust whose use would not be subject to decisions of the Committee. These decisions would then be solely for the donor.
198. The **Chairperson** noted that special conditions are attached to a Fund-in-Trust and, doubting that the Committee would accept such conditions, a Special Account would be more flexible and appropriate for the purposes of the Fund.
199. The Delegation of the **United Arab Emirates** also requested clarification in case a donor does not condition a contribution but would only indicate that its



contribution should be used to serve the purposes of the Convention. Who will then take a decision on the use of that contribution?

200. The **Representative of the Financial Reporting and Accounts Section** confirmed that Article 25.3, concerning the resources of the Fund, provided for other payments that could be made by States. Insofar as these contributions were not conditional, they could appear as part of the Special Account and decisions on their use would be a matter for the Committee.
201. The Delegation of **India** asked the **Legal Adviser** if the proposed terminology would not constitute a violation of the Convention and requested clear confirmation of that. Furthermore, the Delegation asked how the Committee might handle contributions from public or private bodies or individuals, as mentioned in article 25.3 (c) (iii) of the Convention.
202. Regarding any violation of the language of the Convention, the **Legal Adviser** confirmed that the use of the term “Special Account” does not necessarily mean a violation of the Convention. He recalled that the same solution and wording had been adopted by the Committee for the World Heritage Convention. Relating to article 25.3 concerning funds other than those of States Parties, he noted that private bodies, individuals and organizations could wish to condition a proposed donation to a use that would not be in conformity with the principles and provisions of the Convention. The Committee must refuse any such conditioned donation. This is the only way to save the autonomy of the Fund and to be in line with the Convention.
203. The Delegation of **Mali**, referring to the example of Japan’s Funds-in-Trust with UNESCO, asked for some clarifications, should Japan decide to submit these contributions to the Special Account. It wondered what the consequences of this would be.
204. The **Representative of the Financial Reporting and Accounts Section** considered that donor(s), wishing to provide funds for particular purposes, outside those of the Convention, and those decided on by the Committee, could probably set up a separate fund. She referred to similar cases in the Communication sector, specifically mentioning the International Programme for the Development of Communication Special Account, which takes the form of a multiparty account, run by the IPDC Committee and existing alongside bilateral Special Accounts.
205. The **Representative of the Financial Reporting and Accounts Section** stated that all contributions going into the fund will carry no conditions from the donor. Contributions from the UNESCO/Japan Funds-in-Trust, being the subject of a special agreement with UNESCO, in accordance with particular conditions, are managed separately.
206. The Delegation of **India** welcomed the information that the funds of the Special Account cannot be put under conditions and proposed to reflect that clearly in the draft decision. The Delegation further drew the attention of the Committee to article 25.5, very relevant to the intervention of the Delegation of **Mali**, quoting that “the Committee may accept contributions and other forms of assistance for general and specific purposes relating to specific projects, provided that those projects have been approved by the Committee” and

wondered how this provision of non-conditionality could be applied. The Delegation therefore proposed to clearly indicate in the decision that contributions received in accordance with this paragraph will be administered separately, because this article 25.5 accepts contributions which have conditions.

207. The **Legal Adviser** recalled that article 25.3 contains no provision concerning conditions and article 25.5 is creating its own conditions. Since the conditions implied by Article 25.5 are part and parcel of the Convention itself, the Committee has to take this into account and must find a way of accommodating donors who wish to see a project approved by the Committee which is funded by them and which is in conformity with the Convention. Criteria reconciling Article 25.3 and 25.5 will have to be established. The **Chairperson** noted that the paragraph under consideration clearly states: "provided that those projects have been approved by the Committee".
208. The Delegation of **Algeria**, supported by the Delegation of **Bolivia**, stressed the importance of Paragraph 6 of Article 25 when assessing the whole of Article 25, and in consequence for all the resources of the Fond, stating as it does that "No political, economic or other conditions which are incompatible with the objectives of this Convention may be attached to contributions made to the Fund".
209. The Delegation of the **United Arab Emirates** wondered if, in case of income generated by this Fund, the legal owner will be UNESCO as a whole or another entity. And if so, what is the charitable status of this Fund from the point of view of donors who wish to donate to the Fund with regard to tax exemption of the donation?
210. The **Legal Adviser** informed the Committee that this question is handled on a national level by each State and regulated by its national laws.
211. The Delegation of **China** wanted to know whether there were any new elements in these Financial Regulations as compared to other funds established within UNESCO.
212. The **Representative of the Financial Reporting and Accounts Section** stated that these Financial Regulations were devised on the basis of the standard model, approved by the Executive Board. The only specific aspects are those that bring out the elements specific to the Convention.
213. The **Chairperson** considered that due attention had to be given to the important proposal from the Delegation of **Algeria** to reflect paragraph 6 of article 25 in the financial regulations.
214. The **Representative of the Director-General** suggested adding to the draft decision a reminder of Article 25.6. This proposal was welcomed by the Delegation of **Algeria**.
215. Upon the request of the Delegation of **Brazil** proposing to make reference to all four articles dealing with the Fund, namely Articles 25, 26, 27 and 28, rather than to one or two specific subparagraphs of Article 25, the **Chairperson**

proposed to add in the decision a reference to “all relevant provisions” of the Convention.

216. Draft decision 1.EXT.COM.9 was then adopted as amended.
217. Before the closing of the morning session, the **Chairperson** informed the floor that the next item on the agenda, the preliminary discussion on “advisory assistance”, will take place in a private session. Then the meeting will be made public and the floor will be given to non-governmental organizations who wish to make a statement.
218. The Delegation of **Brazil**, while not opposed to a private session, nevertheless suggested that before meeting in private session it would perhaps be good to give the opportunity to NGOs and observers to give their views on the subject and then the Committee continues in a private session. The Delegation of **India** recalled that normally when a private session takes place Members States express their views, then in a public session others are informed of the results. The Committee should first go into a private session and have a discussion, then go into a public session and inform everybody in a democratic manner about what has been discussed, a normal procedure followed in UNESCO, the Executive Board and other Committees’ sessions. The Delegation of **Brazil** took the floor again to reassert that it would be better to hear the NGOs first in order to have an informed debate and then to deliberate in a private session.
219. The **Chairperson** responded that if this is the normal procedure followed in UNESCO, with a public meeting after the private session, the views of the observers and the NGOs can be expressed after the private session. The Delegation of **India** drew the attention of the President to Rule 19 of the Rules of Procedure and particularly Rule 19.2.

[Friday 25 May 2007, 14.30]

#### **AGENDA ITEM 10: ADVISORY ASSISTANCE**

*Document* ITH/07/1.EXT.COM/CONF.207/10

*Draft decision* 1.EXT.COM.10

220. The **Chairperson** opened the session by recalling that it was decided that representatives from NGOs will not be present in this private session. According to the Rules of Procedure, besides the Members States of the Committee, it also has to be decided who else can participate in the private session. The Chairperson proposed to the Committee to welcome also in the private session the representatives of States Parties to the Convention not Members of the Committee and States Members of UNESCO not party to the Convention. It was so decided.
221. The **Secretary** recalled that a first discussion on this subject took place at the first session of the Committee in Algeria, where the Committee expressed its desire to have a different system from that established for the proclamation of Masterpieces and also not to repeat the system of NGO assistance used in

World Heritage. He recalled that in Algeria, the Committee took decision 1.COM.6 “considering that it wishes to be assisted by practitioners of ICH, non-governmental organizations, experts and centres of expertise with recognized competence in the field of ICH that assume functions such as presented in paragraph 5 of document ITH/06/1.COM/CONF.204/6” and “requested the Director-General to submit a proposal on the criteria that would determine the accreditation of practitioners of ICH, non-governmental organizations, experts and centres of expertise with recognized competence in the field of ICH, at its second session”. He furthermore recalled that in Algeria the Committee invited States Parties to submit their proposals concerning the issue of advisory assistance to the Committee in written form. The Committee at its first session also decided to continue the discussion whether it is necessary to establish an “umbrella organization” or another form of coordinating mechanism for accredited NGOs. An equal number of the States Parties who expressed themselves on this issue in their written comments were in favour and against. The Secretary recalled that the Committee could only suggest to NGOs, once accredited, to organize themselves in such an organization, or to find another mechanism of cooperation.

222. The **Secretary** continued that a large number of comments had been received from States Parties concerning the participation of communities or practitioners in evaluation processes, many of them stressing that the real experience is to be found within the members of communities. Most States Parties also addressed the advisory assistance to be given by NGOs Taking into account those comments, as well the Convention and the Rules of Procedures of the Committee, the Secretariat proposed at this extraordinary session to concentrate on Article 9 of the Convention, which is about accreditation of non-governmental organizations to act in an advisory capacity to the Committee. He added that the Secretariat, therefore, had not prepared a text dealing with Article 8.4 concerning the invitation of any public or private bodies, or private persons with recognized competence in the various fields of the ICH, to its meetings. He recalled that the Secretariat is requesting input from the Committee how to prepare a proposal for the involvement of practitioners, communities and community representatives, local NGOs and local national networks, to be taken into account when preparing a document on this issue for the second session of the Committee.
223. The **Chairperson** confirmed that the decisions taken in Algiers concerning advisory assistance asked for criteria and modalities for four categories of potential candidates. He informed the Committee that the relevant document for this Committee session concerns only NGOs, in conformity with Article 9 of the Convention, and requested the consent of the Committee to focus upon this topic while recalling that paragraph 6 of the draft decision proposed that the Secretariat submit to the next session of the Committee modalities and procedures for the other categories.
224. Having thanked the Secretariat and the Chairperson for their detailed explanations, the Delegation of **Algeria** wished to obtain information on one of its questions: should the Committee only discuss a single category of consultative bodies, would the question of an umbrella organization be abandoned?
225. The **Legal Adviser** recalled, whatever is the extent of the last decision taken in Algiers concerning the consultative role of entities referred to in Articles 8 and 9

of the Convention, that it is up to the Committee to avoid any confusion on this topic of establishing an umbrella organization. He explained that the Committee has an obligation to submit criteria to the Assembly of States Parties to the Convention for accreditation of NGOs. While recalling that Article 8 is giving the right to the Committee to establish an ad hoc consultative body, he said that such right could not be extended under Article 9 to the creation of a new permanent entity composed of separate NGOs. Therefore, clarification should be made between Article 8 and 9 of the Convention to avoid any misunderstanding. For that purpose, he pointed out that it was very clear in the documents that the Committee is dealing with Article 9 of the Convention relating to the accreditation of consultative organizations. The **Legal Adviser** recalled that an umbrella organization would be a specific category to be accredited only on the basis of the objectives of the Convention and not on the basis of the directives concerning the relations with the NGOs as adopted by the UNESCO General Conference. Those Directives do not apply to the accreditation of NGOs by the Committee. They could be used as an example but cannot be transposed to the Committee because, UNESCO, by admitting an umbrella organization as having associated relations with UNESCO, has only relations with the concerned umbrella organization, not with the individual NGOs. Such a result could not be practical for the Committee, since its task is to accredit NGOs to serve in an advisory capacity in accordance with Article 9.1 of the Convention and not accredit a single umbrella advisory organization to act in an exclusive consultative role. He also pointed out that the discussion intermingled NGOs and communities and individuals (i.e., practitioners, experts, etc.) by putting them on an equal legal ground for accreditation. He concluded by recalling that the association of individuals, or communities, are not part of the criteria to be submitted to the General Assembly, which cannot intervene in the implementation of Article 8 of the Convention. It is the Committee itself that can decide to invite individuals and communities on an ad hoc basis, but not on a permanent basis. Consequently, the discussion of the Committee should be limited to paragraphs 7 and 8 of the document under consideration, dealing only with accreditation of NGOs, without any mixture with the status of individuals or entities other than NGOs having the possibility to act in an advisory capacity on an ad hoc basis.

226. The Delegation of **Estonia**, supported by the Delegations of **Belgium** and **France**, requested to focus on paragraphs 7 and 8 and emphasized the importance of plurality within the NGO representation and thought that having just one umbrella organization would probably not meet these requirements. Having the possibilities of ad hoc consultative bodies would better meet these requirements. The Delegation considered that plurality in expertise would therefore be combined with plurality in equal geographical representation to be based on a combination of local, national and international expertise. The Delegation of **India**, supported by the Delegation of **France**, highlighted that Article 9 very clearly lays down that the Committee should propose to the General Assembly the criteria for accreditation of non-governmental organizations with recognized competence in the fields of ICH to act in an advisory capacity. No mention of any umbrella organization is made in Article 9. The Delegation of **Brazil**, supported by the Delegation of **Belgium**, asked the Legal Adviser to distribute his comments in written form. Furthermore, it recalled that the issue of an umbrella organization has been exhaustively discussed during the preparation of the Convention and the drafting group of the Convention was not in favour of the creation of such an umbrella organization.

227. The Delegation of **Mali** asked why NGOs are mentioned in the proposed draft criteria, when in Article 9 of the Convention, reference is only made to consultative organizations. According to Articles 8 and 9, principles of equitable geographical distribution are reflected insofar as in certain regions NGOs are not present, but there is the presence of individuals and research centres with skills sought after by the Committee. The Delegation recalled the importance of the presence of experts in this consultative function.
228. The Delegation of **Algeria** expressed another opinion, taking the view that the participation of NGOs has never been called into question, but that the Committee wished to take advantage of all the expertise possible, which requires specific criteria. To support this position, Article 8.4 of the Convention was cited. In the view of the Delegation, this article clearly states that the Committee may invite any individual with proven competence in the fields of ICH. Limiting itself to a single category of consultative body risked penalizing entire regions. So the Committee, far from contenting itself with just the consultative participation of NGOs, ought to seek plurality, as was discussed at the Algiers session of the Committee. This initiative was one of the most original points of that session, the Delegation added.
229. The **Chairperson**, summing up the discussion so far, drew the attention of the Committee regarding establishment of an umbrella organization to Article 8.3 of the Convention saying that “the Committee may establish, on a temporary basis, whatever ad hoc consultative bodies it deems necessary to carry out its task”. Therefore, the Committee is sovereign and can decide which form this ad hoc consultative body will take. Then he invited the Committee to proceed with the discussion of the document prepared by the Secretariat.
230. The Delegation of **India**, supported by the Delegations of **Brazil, Estonia** and **Nigeria**, pointed out that there is no need of an umbrella organization, also rejected already by the drafters of the Convention. The Delegation of **India** proposed to have a general debate on paragraphs 7 and 8 at this extraordinary session and to take a decision at the next session of the Committee in Tokyo.
231. The Delegation of **Senegal**, supported by the Delegation of the **Central African Republic**, took the view that this debate had three levels, and in the first place the accreditation of NGOs, that is the idea of observers within this body, who may take part in its debates and make their contributions, if the Committee agrees to this. This is very different from the evaluation missions relating to the processing of technical files that the Committee wishes to be carried out. The Delegation stressed that it was not only uncertain that NGOs would have the skills and expertise needed to carry out this work, but further that in many countries, in the absence of NGOs, research institutions and individuals with proven expertise were able to provide the Committee with the knowledge required. The distinction should therefore be made between simple participation in a debate and the preparation of an evaluation for inscription on the Lists. The Delegation was also pleased to have available texts in the Convention allowing the Committee, should problems of coordination arise, to call on subsidiary bodies, through which States can be represented both by individuals as experts and authorized research institutions in this field. It concluded its contribution on the issue by inviting the Committee to identify in advance the various functions required and to determine profiles and status at a later stage.

232. The Delegation of **Benin** (observer) expressed its satisfaction at avoiding the principle of an umbrella organization, which did not fit with the nature of ICH or its diversity and which was moreover not provided for by the Convention.
233. The **Chairperson** recalled that a decision had to be taken on the proposal of the Delegation of **India**, supported by the Delegation of **Estonia**, to hold a general discussion on Articles 7 and 8 of the document under consideration.
234. The **Legal Adviser** recalled that his initial suggestion was to discuss only paragraphs 7 and 8, in order to avoid any misunderstanding. He informed the Committee that the creation of an umbrella organization would amount to the creation of a legal entity, which would not come under the jurisdiction of the Committee and for which it would moreover have to accept responsibility. Should NGOs wish to take the initiative of creating a coordination system, that is for them to decide. They could in that case have this umbrella body apply for accreditation. However, in that case, the General Assembly would give accreditation only to the umbrella organization, hence the merger of all NGOs in a single entity.
235. The Delegation of the **United Arab Emirates** emphasized that they welcomed working with NGOs and institutions as long as they could be of help to the purpose of the Convention and invited the Committee to decide if an ad hoc advisory body will be suitable or not.
236. The Delegation of **Bulgaria** took the view that points 7, 8 and 9 of the document prepared by the Secretariat should be treated in parallel, being a whole involving the consultative function of those NGOs to which Committee will be granting accreditation. The expected functions are mainly those of expertise, which is not made very explicit in the criteria and vice versa. Referring to Paragraph 6 of the draft decision, mentioning several groups of expertise providers, it wished for a clearer distinction between these groups.
237. The **Chairperson**, after the decision taken by the Committee to deal only with articles 7 and 8 of the document under consideration, opened the floor for discussion on paragraph 7.
238. The Delegation of **Mali** asked that the actors who may be consultants be clearly named. The Delegation of **India**, supported by the Delegations of **China, Algeria** and **Romania**, emphasized the importance for the Convention to have NGOs as well as practitioners for advisory assistance to the Committee who have a very different background from those NGOs usually consulted, e.g. on sustainable development, human rights and so on. The language in the draft criteria is oriented toward big NGOs, internationally known. The Delegation considered that the criteria used are very similar to the United Nations' criteria for accrediting NGOs of categories I and II. The Delegation regretted that various subparagraphs have been drafted with regard for accreditation of vast NGOs and recalled that in several parts of the world, for example in Asia, with a tremendous ICH, it is not easy to find NGOs with established headquarters, established general conferences, international membership and so on and therefore those countries will not be represented, which is contrary to the objectives of the Convention. It therefore suggested proceeding paragraph by paragraph trying to better reflect the specificities of ICH and the benefit of practitioners for that purpose.

239. The **Chairperson** agreed with the proposal to proceed paragraph by paragraph.

[7(a)]

240. The Delegation of **Mali**, supported by the Delegation of the **Central African Republic** recalled its wish to rule firstly on the proposal to define under a) the consultants – not only NGOs, but also research centres and individuals – who are the actors. This proposal was supported by the Delegations of **Mexico** and **Algeria**, who suggested changing the current title to a more explicit one, namely “accreditation of consultative bodies”, whereas the Delegation of **India** proposed adding to the specific fields the words “*inter alia*”, so as not to set limits on the NGOs to be accredited.

*[The Chairperson passed the chair to the Vice-Chair from **Belgium**]*

241. The Delegation of **Brazil** recalled the difficulties in the past to agree on a definition of NGOs and recalled that individuals and research centres as well as other institutions are already covered by Article 8 of the Convention and no criteria for their accreditation are required. If the Committee does so, this will create obstacles to accept their advice within the Committee. Whenever their expertise is needed, the Committee can call upon Article 8 of the Convention. With regards to NGOs in general - and the Delegation of **Brazil** preferred to leave the definition of NGOs open as this depends on each national law - it would be desirable, as stated in the Convention, to establish formal relations with them by adopting some criteria which should not be, as already mentioned by the Delegation of **India**, the same as those used by the United Nations. The criteria established by the Committee must meet the purpose of the Convention but their application should not apply to individuals and research centres which are covered by Article 8. The Delegation of **Estonia** added that the capacities of experts and individuals will not be questioned under the criteria established for NGOs which are much more difficult to define.

242. While fully agreeing with the Delegation of **Mali** that practitioners, institutes and others should not be left out, the Delegation of **India**, supported by the Delegation of **Estonia**, recalled that it has first been decided to discuss the accreditation of NGOs in accordance with Article 9 of the Convention. If the same criteria should apply to individuals and others, the burden on them would be too heavy. The latter have been foreseen in another Article of the Convention, precisely with a view to their consultation by the Committee in a free manner. While fully agreeing with the Delegation of **India**, the Delegation of **Senegal** wished that it be first stated that the principle of participation in these consultative bodies would not be reserved exclusively to NGOs. The **Legal Adviser** recalled that his earlier contribution meant rather to encourage the Committee to discuss first articles 7 and 8 concerning NGOs, in accordance with Article 9 of the Convention. He added that the Committee was entirely free and independent to invite individuals, communities and experts as well as centres of expertise, free from the control of the General Assembly. The Delegation of **Bolivia** referred to Article 7 of the Rules of Procedure, which stipulates that “the Committee may at any time invite to its sessions any public or private body, as well as private persons, with recognized competence in the various fields of the ICH, in order to consult them on specific matters”.



243. The Delegation of **Mali** approved the proposals of the Delegations of **Brazil** and **India**, so long as its proposals were not forgotten in the subsequent debate. Proposing to make a comparison between the expected functions of NGOs, the Delegation of **Bulgaria**, supported by the Delegations of **Gabon** and **France**, proposed introducing in Paragraph 7 (a) the concept of expertise, which matched the expected consultative functions in Paragraph 9 of the document under consideration. The Delegation of **India** stressed that the term “expertise” should only apply to having expertise, not having a lot of experts, because if the latter would apply, some very valuable small NGOs would not be accredited because of this.

[The Chairperson returned to the chair]

244. Responding to the Delegation of **Turkey**, which wished for an official definition of the term “non-governmental organization”, the **Representative of the Director-General** took the view that such a definition must exist in UNESCO, given the existence of a Committee of NGOs on the Executive Board. However, as had been said by the Delegation of **Brazil**, these definitions are a delicate matter and subject to development. Also, attempting to propose a definition for the 2003 Convention that would find unanimity and act as a precedent for other Conventions in force within UNESCO is not necessarily the best means of facilitating the work of the Committee.

245. Article 7(a) has then been adopted as amended.

[7(b)]

246. The Delegations of **Brazil, Estonia, Japan** and the **United Arab Emirates** considered all categories proposed (i.e. local, national, regional and international) equally important and therefore thought it useless to have a paragraph on these categories and proposed deleting paragraph (b). The Delegation of **Hungary** by contrast deemed it important to keep all four categories and the full paragraph. The Delegations of **Gabon** and **Turkey** took the view that work would be facilitated if the Committee had a shared understanding of the term “non-governmental organization”. The Delegation of **Algeria** requested that Paragraph (b) be kept *in extenso*, as firstly some countries do not have any international NGOs on their territory, and secondly this provision allows developing countries in particular to include local NGOs.
247. The **Legal Adviser** wished to recall, before giving a definition of “NGO” status, that the regulations concerning relations between UNESCO and NGOs did not automatically apply to this Committee. He then explained that the term “NGO”, taken in its literal meaning, referred to everything to do with the overall needs of UNESCO, as a specific system. The expression “international non-governmental organization” thus covered interregional and regional entities in the geographic or cultural sense of the term. A more legal definition considers that “organizations able to have formal relations with UNESCO are any international organization that have not been created by an intergovernmental agreement and whose aim role and workings have a non governmental nature and are not for profit”. He added that Article 9 of the Convention did not mention the wording “international” to designate NGOs – which tends to favour an opening up. So the removal or keeping of Paragraph 7(b) makes no change

to the open approach of Article 9, given that these amendments are a matter for the Committee.

248. Following the explanation of the **Legal Adviser**, the amendment proposed to Paragraph 7(b) by the Delegation of **India**, supported by the Delegations of **Mexico** and **Algeria**, and, at the request of the Delegations of **Mali** and **Benin**, concerning in particular allowance for local NGOs, was adopted as amended.

**[7(c)]**

249. The Delegation of **Brazil** considered that, although it would be desirable that most NGOs to be accredited by the Committee should have formal status, most NGOs, especially from developing countries, would not meet those criteria. They should work in conformity with the spirit of the Convention, but not necessarily in the form of statutes and bylaws.
250. The Delegation of **India**, supported by the Delegations of **Algeria**, **Estonia** and the **United Arab Emirates**, proposed to add “have objectives that are in conformity with the spirit of the Convention” and to put statutes and bylaws at the end. The Delegation of the **Central African Republic**, supported by the Delegation of **Bulgaria**, judged it important however to keep as a requirement that NGOs must have a recognized legal structure for them to be accredited. The Delegation of **Gabon** moreover informed the Committee of the existence of laws in third-world countries regulating the creation of NGOs and of any other association, which allows State control of them.
251. The **Chairperson** declared Paragraph 7(c) adopted as amended.

**[7(d)]**

252. Following the proposal by the Delegation of **India** to delete “respectfully”, considering that the wording “cooperation” already includes the sense of “respect”, the Delegation of **Estonia**, supported by the Delegation of **Brazil**, recalled that this paragraph reflects certain issues already discussed at the New Delhi meeting concerning the need of an ethical code in working with communities and considered that this should also apply to NGOs. The Delegation of **Bolivia** also took the view that the word “respect” should be kept for communities with ICH. The Delegation of **Japan** suggested mentioning not only communities and groups but also individuals. This proposal was supported by the Delegations of **Brazil** and **Turkey**, who stated that “when appropriate” should be added.
253. The Delegation of the **United Arab Emirates** fully agreed with the Delegation of **Estonia** not only with regard to some powerful NGOs but also to communities. It expressed the feeling furthermore that one reason that may make it difficult for some countries to ratify the Convention could be that “respectfully” should also address the issue of intellectual property rights. The Delegation of **India**, recalling the wording used in the New Delhi expert meeting, suggested to have a separate agenda item in a future meeting on the need of an ethical code. Nevertheless, the Delegation considered it more appropriate to replace “respectfully” by “to cooperate in a spirit of mutual respect”.

254. The **Chairperson** endorsed that proposal taking the wording used in the Convention and declared 7(d) adopted as amended.

**[7(e)]**

255. The Delegations of **India** and **France** proposed deleting this paragraph recalling that paragraph 7(c) already provided that NGOs to be accredited should have aims in conformity with the spirit of the Convention and that the issue of human rights should be part of this.
256. The **Chairperson** declared Paragraph 7(e) deleted.

**[7(f) (new e)]**

257. The Delegation of **Brazil** questioned the usefulness of the purpose of the items under paragraph 7(f) considering it as a list of procedural mechanisms that would perhaps hinder the participation of many NGOs from the South.
258. The **Chairperson** opened the floor for discussion recalling the clear proposal from the floor to maintain only the chapeau of the paragraph and to drop the rest.
259. The Delegation of **Mali** expressed its doubts over whether it was right to delete all the sub-paragraphs of 7(f) and proposed deleting only the term “international” in 7(f)(i), recalling the discussion on Paragraph 7(b) and the existence of some small NGOs, especially local ones, who do not have active international members. The Delegation of **Gabon** wondered about how the Committee considered it would check the criteria of Paragraph 7(a), if statutes and rules of procedure were made optional, and if Paragraph 7(f) were deleted. Supported by the Delegation of **Japan**, the Delegation of **France** took up the question raised by Gabon, asking how the Committee would differentiate between associations and public or private organizations mentioned in Article 8.4 and NGOs if all the criteria were removed, and sought the opinion of the Legal Adviser.
260. The **Legal Adviser** recalled that Paragraph 7(f) comprised five elements that did not all have the same purpose. He gave his agreement for the deletion of the term “international”, as proposed by the Delegation of **Mali**. However he thought it essential to retain in point (ii) the reference to legal personality recognized by the national law of the country. Without a legal personality, accreditation by the General Assembly would run the risk of creating legal problems. He recalled that this accreditation would be of a permanent nature, once the permanence of the legal personality is recognized. He also drew the attention of the Committee to Paragraph 7(h), which with the wording “any other criterion that the Committee deems necessary” gives it excessive discretionary power, when the criteria taken into consideration by the General Assembly must be recognized and published so as to avoid any impression of discrimination or any suspicion of the existence of hidden criteria.
261. The Delegation of **Estonia** agreed to delete “international” from the first item (i) and proposed to keep the second (ii) and third (iii) item and to delete the second part of item (iv) the part “or having existed and having carried out the

appropriate activities for at least ... years when being considered for accreditation” and leave item (v).

262. For its part, the Delegation of **India** stated that, taking into account the explanation of the Delegation of **France** and the **Legal Adviser**, certain items in 7(f) are essential and others will create difficulties for practitioners. Therefore, the Delegation of **India** suggested to keep the chapeau of 7, to keep (i) after deletion of “international”, to keep (ii) and to add “as compatible with domestic law” and to delete (iii) which will hinder numerous NGOs. Concerning item (iv), the Delegation of **India** recalled the intervention of the Delegation of **Estonia** that it would be more difficult for small NGOs to prove ability. From the perspective of a developing country, it would be easier for small NGOs to prove that they have established activities for a certain period of time than to prove ability. Therefore the Delegation of **India** proposed to keep the second part of (iv) and to delete the first. Concerning item (v), it has to be deleted because numerous small NGOs from developing countries will not have established headquarters and statutes. It furthermore proposed the deletion of paragraph 7(g) as redundant with regard to 7(b) establishing already that the objectives are in conformity with the Convention, as well as deletion of 7(h) recalling what the **Legal Adviser** explained on this point.
263. The Delegation of **Brazil**, withdrawing its initial proposal and agreeing with the proposal made by the Delegation of **India**, preferred nevertheless that the recognized legal status should be compatible with applicable laws, as the Committee will also have to deal with international NGOs. For legal reasons, the Delegation of **Japan** asked to keep the reference to domestic law.
264. The Delegation of **Bulgaria** proposed adding to Paragraph 7(f)(i) the following phrase: “and linked to the aims of the Convention”. It then asked for the deletion of point (iv) in its entirety, taking the view that the ideas dealt with in this point had been sufficiently developed in the first part of the draft criteria.
265. The Delegation of **France** supported the proposal of the Delegation of **India**, except on the question of the setting up of headquarters, considering that an address or PO Box were a bare minimum to allow an NGO to be contacted and to be in a position to work. It proposed to keep the criterion concerning the establishment of a headquarters. This proposal was supported by the Delegation of **Romania**.
266. Taking into consideration the lively debate on this item, the **Chairperson** proposed to discuss subparagraph by subparagraph and to adopt finally the whole paragraph. Subparagraph (i) was then adopted without “international”. With regard to subparagraph (ii) and following the proposal of the Delegation of **Brazil** to replace legal status by legal capacity or legal personality, the Delegation of **India** requested to add the reference to domestic law in order to make it very clear that those NGOs who have a legal status compatible with their own domestic laws would not be discriminated against in comparison to those having a wider jurisdiction. The **Legal Adviser** suggested the possibility of combining established headquarters and legal status as compatible with domestic law in one subparagraph to make the purpose of this criterion more evident. He reminded the Committee of the example of the “Red Cross” having international activities but its headquarters in Switzerland. He deemed it important that NGOs should exist according to the domestic law but have regional, national or international activities according to the objectives as

267. The Delegation of the **United Arab Emirates** suggested replacing “established headquarters” by “registered address” which will probably better meet the real meaning of the criterion, and “recognized legal entity”. The Delegation of **Japan** preferred “established headquarters” as a place to meet and to work, not only an address somewhere. Furthermore, the mention of the legal personality should be kept because the “entity” is usually broader than a personality. If an entity is established, it can act as a juridical personality. Then, this personality has the capacity to work somewhere else in other countries. The Delegation of **Mali** wondered how real a legal personality could be without headquarters, statutes or rules of procedure. Summing up the concerns expressed by the Delegations of **China, Algeria** and **Japan**, the Delegation of **India** recalled that the Committee is dealing with small NGOs, with experts who try to safeguard ICH and not with big multinationals. It suggested taking up the advice of the **Legal Adviser** concerning the legal personality and the concern expressed by the Delegation of **France** concerning the mention of headquarters to have an established point of contact and a recognized legal personality in conformity with domestic law.
268. The **Chairperson**, agreeing that “headquarters” often evokes a big international organization, proposed to go along with “contact point” or “domiciliation” as suggested by the Delegation of **Algeria** and agreed by the **Legal Adviser**. He continued that subparagraph (iii) has already been deleted.
269. Concerning sub-paragraph (iv), the Delegation of **Brazil** supported the suggestion of the Delegation of **India**, which advocated keeping only the second part of the text. This is because it is actually on the basis of experience acquired that the activity of an NGO can be assessed. A majority of Delegations wished that an appropriate activity over four years be the minimum required for requesting accreditation.
270. After the deletion of sub-paragraphs (f), (v), (g) and (h), the **Chairperson** declared paragraph 7 adopted.

*[Saturday 26 May 2007, 09.30]*

**[Continuation] AGENDA ITEM 10: ADVISORY ASSISTANCE**

**Document** *ITH/07/1.EXT.COM/CONF.207/10*

271. The **Chairperson** re-opened the private session on this agenda item by informing the Committee about a decision taken by the Bureau concerning item 4 of the agenda “admission of observers”. The Secretariat has been requested

to prepare a decision for the procedure to be taken in the next session of the Committee in Tokyo. Then, he opened the floor for discussion of paragraph 8 of the document under consideration concerning the draft modalities of accreditation of NGOs.

**[a] (cf. para 8 of working document ITH/07/1.EXT.COM/CONF.207/8)**

272. The Delegations of **Japan** and **Algeria** considered that (a), (b) and (c) should be considered together. Supported by the Delegation of **Hungary**, the Delegation of **Japan** proposed to review the relations with advisory organizations every four years and suggested a new paragraph b) dealing with official termination of relations if the Committee deems it necessary. It proposed to proceed in a logical manner by considering first in paragraph (a) the periodic review of the quality of and relations with the advisory organizations, then the system of termination in a new paragraph (b), followed by a paragraph concerning the suspension of relations in a new paragraph (c) if time is too long until the next review. It further proposed old (b) to become new (d) with regard to automatic termination of relations after two years in the absence of the will to collaborate.
273. The Delegation of **Algeria** added that it preferred that a period of 4 years be envisaged and pointed out that the French term used “reconsidérer” had a negative connotation in comparison to the word “review” used in the English version. It asked that this term be replaced by “évaluation” or else by “appréciation”. The Delegation of **France** suggested the term “examen”. Supported by the Delegation of **Hungary**, the Delegation of **India** suggested in (a) the “review of the quality of the relations” and added that an opportunity should be given to the NGO to explain its activities to the Committee. The Delegation of **Estonia** preferred to review the quality of the advisory organizations followed by the quality of the relations with them, an amendment accepted by the Delegation of **Japan** as well as the suggestion to give an opportunity to NGOs to present their views also. The Delegation of **India** recalled that the quality of organizations was already discussed in the criteria for accreditation and considered that in the paragraph under consideration the quality of their contribution and the nature of relations should be reviewed.
274. The Delegation of **Brazil** took the view that it would be better to assess services rendered and the fact that the organization continues to meet the criteria set at the time of its accreditation. The Delegation of **Belgium** wondered how the Committee will be able to manage this system when hundreds of organizations are accredited. The Delegation of **Syria** wished to add in this sub-paragraph a mention of the examination of the contribution and the commitment of the consultative organisation.
275. The **Chairperson** pointed out that three points have been raised on this item and invited first the Delegation of **India** to spell out the question of termination of relations and the Delegation of **Belgium** to define more precisely collaboration with NGOs. The Delegation of **India** then proposed to add at the end “taking into account the perspective of the NGO concerned”.
276. The Delegation of **Morocco** (observer) expressed its fear that, considering previous experiences on consultation, the Committee might be adding to its

workload, by adding the examination of applications to that of evaluating the work of NGOs.

277. The **Chairperson** asked to read out paragraph a) as it was amended and after agreement by the Committee declared paragraph a) adopted as amended.

[new b]

278. The **Secretary** read out paragraph (b) as suggested before by Japan “termination of relations at the time of the review if the Committee deems it necessary”. The Delegation of **Algeria** requested the addition “following the evaluation of the results”. The **Chairperson** remembered that the proposal made by the Delegation of **India** for paragraph (a) already covers that concern and declared paragraph (b) adopted as proposed by the Delegation of **Japan**.

[new (c)]

279. The **Secretary** read out paragraph (c) as suggested before by the Delegation of **Japan**: “c. *if circumstances require, suspension of relations with the organization until a decision concerning termination is taken*”. The Delegation of **India** **suggested to** add after “organization” the word “concerned”
280. The Delegation of **China** clarified that the Committee is actually discussing modalities. If it can be assumed that NGOs are already approved, there must be some discussion of accreditation before the review of termination.
281. The **Representative of the Director-General** recalled that the paragraph under discussion concerned conditions for accreditation and that these conditions were already part of the criteria. In the present case, it is more a case of conditions of re-examination of accreditation. She also suggested that the title of the paragraph match its content. The **Chairperson** agreed that the title of the paragraph is misleading and should be corrected accordingly. The Delegation of **India** recalled that the document prepared by the Secretariat was totally correct but since the Committee started to make changes, the title should also be adapted to “draft modalities of accreditation and review of accreditation of NGOs”. This proposal has then been agreed by the Delegation of **China** while still noting the absence of a procedure for NGOs to apply.
282. The Delegation of **France** suggested the following phrase: “if circumstances require, the suspension of relations with the organization concerned, until a decision to end these relations is taken”.
283. Then the **Chairperson** declared (c) adopted as amended.

[new (d)]

284. The **Secretary** read out paragraph (d) as amended: “*automatic termination of relations after a complete absence of [Japan] the will of collaboration for a period of [Japan, India, Algeria, Hungary] four years*”.
285. The Delegation of **Belgium** added that at least a sign of life every two years should be the minimum requirement, for instance an answer to the General Assembly invitation letter. The Delegation of **India** supported this proposal but added that when this paragraph has been drafted by the Secretariat the Committee had not already amended paragraph (a). Therefore, everything contained in paragraph (a) and paragraph (d) could be deleted.
286. The Delegation of the **United Arab Emirates** wondered about the relations the Committee would like to have with NGOs and who will terminate relations with them, the Committee, the General Assembly? And once the NGOs to be accredited fulfilled all requested criteria, what will be the automatic relation with the Committee. The Delegation considered that the Committee is making future relations with NGOs too complicated.
287. The Delegation of **Brazil** agreed with the proposal made by the Delegations of **India** and **Belgium** to delete this paragraph as accreditation will be done by the General Assembly.
288. After having obtained the agreement of the Committee, the **Chairperson** deleted this subparagraph.

[old (d)]

289. Invited by the **Chairperson** to conclude on this point, the **Legal Adviser** proposed deleting this paragraph, along with paragraph (e), recalling the previous day’s discussions on accreditation criteria, on its cross-reference to this sub-paragraph and its incorporation in the paragraph of criteria concerning legal personality, in accordance with local law. He also suggested the Committee give thought to the conditions that would allow recommendations to be submitted to the General Assembly.
290. While the Delegation of **Brazil** agreed with the **Legal Adviser**, the Delegation of **India** saw no problem to delete subparagraph e) but preferred to keep subparagraph d) allowing little NGOs from developing countries to find a voice, whenever necessary, through the States Parties concerned. It expressed its concern that once this subparagraph was deleted, the Committee will deprive little NGOs of the means to be heard.
291. The **Legal Adviser** pointed out an ambiguity in the conditions laid down in subparagraph (d), and particularly in its wording « *in case the structure and the governing organs of the organization are not of an international nature*». He recalled that the Committee had adopted criteria for accreditation, and in particular recognizing local, national, regional and international characters. After these explanations, the Delegation of **India** agreed to delete this subparagraph.
292. The Delegation of **Algeria** suggested keeping the sub-paragraph, except for the reference “international”, so as to give small NGOs the opportunity of being



recognized. The Delegation of **Nigeria** also preferred to keep this part of the subparagraph to make clear that it is a State Party driven process.

293. The Delegations of **Brazil** and **France** agreed with the **Legal Adviser** that this matter was dealt with in the framework of the criteria adopted the day before and considered that the modalities do not concern State Parties. The Delegations of **Japan**, **Mexico**, **Nigeria** and **Algeria**, while still considering it important that the State Party be mentioned, agreed in order to find consensus to join the majority of the Delegations wishing to delete this sub-paragraph.
294. The **Chairperson** then declared sub-paragraph d) deleted and recalled that sub-paragraph e) had already been deleted before.
295. The Delegation of **China** deemed it necessary to include a paragraph on the criteria for accreditation and suggested a new paragraph as follows: “The Committee requires that the Secretariat receive requests from NGOs and submit recommendations to it with regard to accrediting, maintaining or terminating relations with NGOs. The Committee submits its recommendations to the General Assembly in conformity with Article 9 of the Convention”. The Delegation of **India** drew attention to Article 9.2 of the Convention which says that the Committee shall also propose to the General Assembly the criteria for and modalities of such accreditation.
296. The **Chairperson** noted that the proposal made by the Delegation of **China** filled a gap and asked the Committee to take a decision on that proposal.
297. The Delegation of **Algeria** welcomed the suggestion of the Delegation of **China** and proposed incorporating it in such a way that it is linked to Article 9.2 of the Convention and to all the approved criteria and modalities. The Delegation of **France** approved all the suggestions. However it requested that the term “accreditation” be added, so that the Committee may receive recommendations relating to accrediting, maintaining or terminating relations with NGOs. The Delegation of **Japan** agreed with the prepared text. The Delegation of **Brazil** deemed this paragraph important for the whole process and agreed with the Delegation of **Algeria** that it concerns both criteria and modalities.
298. The **Chairperson** proposed the text as a kind of chapeau for both paragraphs under consideration. The Delegation of **Syria** requested to add to this new text a reference to the recommendations to be made by the Committee to the General Assembly. The Delegation of **India** proposed to place this provision between paragraphs 7 and 8, supported by the Delegations of **Estonia** and **Hungary**. The **Chairperson** then declared the new paragraph as 7 bis to be placed between paragraphs 7 and 8 and invited the Delegation of **Algeria** to repeat its proposal made the day before concerning equitable geographical distribution.
299. The Delegation of **Algeria** took the view that this concept of geographical balance should even appear as a preamble to Paragraphs 7 and 8, given that there is much discussion of the subject of equitable distribution in them. This proposal was supported by the Delegation of **Estonia**, which recalled at this point the suggestion made by the Delegation of **Brazil** of introducing the principle of a code of ethics to be followed by NGOs.

300. The Delegation of **China** considered that the new text concerning the recommendations to be made should not be placed between 7 and 8 but rather as a chapeau to one of the paragraphs concerned. The Delegation of **France** suggested beginning Paragraph 7 with the phrase: “respecting an equitable geographical distribution, NGOs should ...».
301. Recalling the explanations of the **Legal Adviser**, the **Representative of the Director-General** took the view that the actual order of each paragraph may perhaps be reviewed by the General Assembly, which will have to approve all these operational directives of the Committee. This being the case, the concept of fair geographical distribution of accredited NGOs is a prime concern of the Committee and as such it must be taken into consideration, particularly in the modalities of selection of NGOs.
302. The Delegation of **India** stated that NGOs will not be in a position to make an equitable geographical distribution when applying. This is a political issue to be tackled by the Committee once a decision has to be taken on the selection of NGOs. The Delegation of **India** proposed to add a sentence to the Chinese proposal “in receiving and reviewing such requests, the Committee shall pay due attention to the principle of equitable geographical representation, based on the information provided to it by the Secretariat”. This proposal won the unconditional approval of the Delegations of **Algeria, Japan, Syria, Brazil, France** and **China**.
303. The **Chairperson** then declared the text proposed by the Delegation of **China** adopted with the amendment of the Delegation of **India**.
304. The Delegation of **Estonia** thought it would be helpful to have a short break so as to consult the various Delegations on the subject of drawing up the ethical principles that NGOs should abide by. The **Representative of the Director-General** announced that Paragraph 5 of the draft decision concerning an umbrella organization had been withdrawn in the light of the debates of the previous day. The **Chairperson** then suspended the session.
- [Break]
305. When reopening the session, the **Chairperson** recalled that the Committee is still in a private session.
306. The Delegation of **Estonia**, after discussion with other Delegations, informed that an additional line has to be added to the proposal made by the Delegation of **China** and amended by the Delegation of **India**, that the NGOs to be accredited should abide by domestic and international legal and ethical standards. This proposal received the approval of the Delegations of **Syria, China, Hungary, Bulgaria** and **Gabon**, which asked to what type of NGOs this addition would apply. It was also approved by the Delegations of **Nigeria, France, Brazil, India** and **Algeria**, who wished however to add the words “applicable/relevant”. The Delegations of **Turkey, Romania, Belgium, Viet Nam, Syria** and the **United Arab Emirates** additionally agreed to the proposal. The Delegation of **Turkey** did however wish to express a reservation concerning the term “national and international ethics” and asked that the term “NGO” be defined.

307. The **Chairperson** then declared the English version of the new text adopted and requested the Secretariat and French-speaking Delegations to find the most appropriate wording for translating the English “applicable” into French. Then he opened the floor on the adoption of the Draft Decision.
308. Given that Paragraph 9 of the document under consideration deals with the consultative functions of accredited NGOs, the Delegation of **Algeria** proposed reformulating Article 4 of the draft decision, stating that the debate could be held at the second session in Tokyo.
309. The Delegation of **India** expressed its concerns on paragraph 6 of the draft decision. The Delegation considered that paragraph 6 of the draft decisions now gives the impression that the Committee will have in the future very strict criteria similar to those of the NGOs and requested to make it much more flexible, following Article 8.4 of the Convention. The Delegation of **Brazil** wished for this paragraph to be deleted, inasmuch as it introduces a possible confusion between the functions of accredited NGOs (Article 9 of the Convention) and individuals and experts (Article 8 of the Convention).
310. The Delegation of **Senegal** proposed examining Paragraph 9 dealing with the consultative functions of NGOs and adding a preamble to it, stating that consultative functions can be entrusted to practitioners, experts, and centres of expertise.
311. The **Legal Adviser** wished to remind the Delegation of **Senegal** that he had explained the day before to the Committee the difference between Articles 9 and 8.4 of the Convention, stressing that under Article 8.4, individuals, experts and centres of expertise may be consulted freely, this being a legal obligation. Paragraph 9 of the document under consideration, which has not been discussed, dealt with another subject, namely accreditation and the consultative functions of NGOs to be accredited by the General Assembly. The consultative functions of other persons are a matter exclusively for the Committee, leaving it full discretion to decide. The **Legal Adviser** stressed this important distinction, so as to avoid any confusion between Articles 8 and 9 of the Convention. He then declared himself in favour of the suggestion of the Delegation of **Brazil** to delete this paragraph.
312. The Delegation of **India** proposed to put a new preamble recalling also Article 8.4 of the Convention “the Committee may invite to its meetings any public or private bodies, as well as private persons, with recognized competence in the various fields of the ICH, in order to consult them on specific matters” and to delete the last paragraph of the draft decision. The Delegation of **Senegal**, while approving this proposal, nonetheless wished to ensure that persons and experts were not merely invited to meetings. It wished to be able to call on them as well as on centres of expertise and other demonstrated competences in the same way as NGOs. It thought it very important to be able to rely on these real and recognized expertises, so as to fulfil the functions of consultation in the same way as NGOs. The Delegation of **Algeria** fully supported the views of the Delegation of **Senegal**, saying that these resource persons should be involved in the evaluation of applications.
313. The Delegation of **Brazil** recalled that the Committee has a privileged situation for practitioners and public and private institutions. While NGOs need

accreditation, the Committee can consult experts, individuals, practitioners on a free basis, without approval of the General Assembly. The Delegation therefore disagreed with the proposal to recall Article 8 of the Convention in this context, supported in that by the Delegation of **France**. The suggestion made by the Delegation of **Senegal** would mean to redraft the concerned Article of the Convention which has been adopted and ratified by Brazil with its actual wording.

314. The **Chairperson** reminded the Committee that at the beginning of the session, it had been agreed that the Committee should keep as close as possible to the Convention and to build on and develop previous decisions taken at the Algiers session which clearly identified four categories for advisory capacity, not only for consultation – practitioners, NGOs, experts and centres.
315. The Delegation of **Japan** recognized that the Secretariat carefully prepared the document, namely paragraph 3 of the draft decision mentioning criteria and modalities and paragraph 6 of the same draft decision only mentioning modalities and procedures, without referring to any criteria. The Delegation invited the Committee not to mix up content provisions and procedural aspects and considered that paragraph 6 of the draft decision cannot be deleted in order not to confuse the Committee with procedures concerning the accreditation of NGOs and the free consultation of other expertise.
316. The **Legal Adviser** appreciated the intervention of the Delegation of **Japan** clarifying the need for a specific procedure relating to Article 8 of the Convention which should not be in a draft decision relating to Article 9. He recalled that there is no disagreement to associate experts and centres, but a disagreement to include them in these operational directives and invited the Committee to keep separate the two aspects of Article 8 and 9 of the Convention.
317. The Delegation of **Mali** requested that this specific point be put on the agenda of the second session of the Committee in Tokyo. The Delegation of the **United Arab Emirates** agreed to separate the criteria to be fixed for accreditation of NGOs and flexible consultations of the other categories. The Delegation would wish to ensure that these other categories will be well integrated in the consultation and advisory system even if they are not mentioned in the decision under consideration.
318. The **Chairperson** summed up the discussion of the Committee on criteria and modalities and invited the Committee to proceed paragraph by paragraph with the view of adopting the draft decision.
319. The Delegation of **China** accepted the proposal of the Delegation of **Japan** to maintain paragraph 6 of the draft decision, supported by the Delegation of **Estonia**. The Delegation of **Senegal** considered that the modalities and procedures concerning relations with these bodies and persons may be examined in Tokyo, without their being enclosed in a function that is too restrictive and too specific.
320. The Delegation of **Brazil** recalled that Article 8 of the Convention refers to an invitation that the Committee should extend to private and public bodies, experts etc. to collaborate with the Committee. An invitation should be decided

321. The Delegations of **Belgium** and **Bulgaria** expressed their support for the proposals of the Delegations of **France** and **Estonia** and for returning to the old draft of Paragraph 6 of the draft decision. With regard to its original amendment proposed, the Delegation of **India** informed the **Chairperson** of its wish to withdraw it since the changes proposed by other Delegations will change the text of the Convention. Furthermore, it recalled that the mention of specific matters with regard to the consultation of experts and centres of expertise cannot be taken out because it is the language of the Convention and once again, the wording of the Convention cannot be changed. The Delegation proposed to add some practical measures allowing experts and practitioners to join the Committee's sessions and concluded its intervention by requesting to delete the word "procedures" in order to make paragraph 6 of the draft decision more flexible.
322. The Delegation of **Senegal**, along with the Delegation of **Algeria**, wished to see deleted any reference to Article 8.4, to give it wider scope. It took account of the suggestions of the Delegation of **India** over keeping the term "modalities" and the deletion of the term "procedures". However the Delegation of **Senegal** drew the attention of the Delegation of **Brazil** to the fact that the Convention formed a whole, and recalled that Article 8.3 of the Convention, which gives the Committee complete discretion to create temporarily *ad hoc* consultative bodies, whenever it wishes, so as not to restrict possibilities to a simple consultation on a specific question. So, taking account of the provisions of the Convention as a whole, the Delegation of **Senegal** asked that the debate on the modalities of partnership with communities, practitioners and persons remain open until all the components might be defined.
323. The Delegation of **Brazil** highlighted that if any language should be retained, it should not pre-empt the discussion of the Committee at its next session that will probably address the implementation of Article 8 integrally. The Delegation disagreed with the present drafting of paragraph 6 of the draft decision mandating the Secretariat to propose modalities for establishing relations with such individuals, pre-empting already the discussion of the Committee's next session.
324. With regard to the importance of this issue, the **Chairperson** suggested that during the lunch break, the delegations work out a proposal under the guidance of H.E. Ambassador Seiichi Kondo from Japan, to propose an acceptable solution in the afternoon plenary session. Then, he suspended debate for the lunch break.

[Saturday 26 May 2007, 14.30]

**[Continued] AGENDA ITEM 10: ADVISORY ASSISTANCE**

Document *ITH/07/1.EXT.COM/CONF.207/10*

325. **H.E. Ambassador Kondo** from Japan reported on the results of the working group and the agreed compromise in the form of a new draft decision 1.EXT.COM.10 bis. The formulation of this new decision separated the functions of NGOs (paragraph 9 of the document under consideration) and the reference to Articles 8.3 and 8.4 of the Convention; it further proposed to discuss paragraph 9 of the document under discussion at the next ordinary session of the Committee and to request *the Secretariat to submit to the Committee at its next session a document on the participation of communities or their representatives, practitioners, experts, centres of expertise and research institutes with recognized competence in the various fields of the intangible cultural heritage in the implementation of the Convention.*
326. The **Chairperson** agreed that this new text presents a real compromise and thanked the Ambassador and all Delegates for having worked out this text. He recalled that this new draft decision is of a procedural nature and the substance has to be discussed in the next session in Tokyo.
327. The Delegation of **Syria** thanked the Ambassador of **Japan** and the working group for this consensus. The Delegation of **India** thanked **Ambassador Kondo** and the group and invited the Committee to adopt their text by acclamation, which was done.
328. Then the **Chairperson** proceeded with adoption of paragraphs 1, 2 and 3 of draft decision 1.EXT.COM.10 concerning the criteria and modalities of accreditation of NGOs.
329. The **Chairperson** informed the Committee that he had to leave because of other commitments and asked the Vice-chair of Bolivia to take over the Presidency. He expressed his heartfelt thanks to each participant and his colleagues of the Bureau whose wisdom and guidance helped him to chair this Committee. He also expressed his most sincere thanks to Ms Françoise Rivière and her team. He thanked the Government of Sichuan and the Ministry of Culture of China and the other departments concerned for their generous hospitality and expressed his gratitude to the interpreters and all volunteers.
330. The **Representative of the Director-General** thanked the Chairperson most warmly on behalf of all participants and the Secretariat for having handled the debates with a remarkable efficiency, while maintaining a pleasant atmosphere and dynamic participation, enabling the Committee to make rapid progress.
331. The **Ambassador of Japan** expressed his highest appreciation for the excellent work done by the Chairperson and, on behalf of all participants, thanked him as well as the Chinese Government and the authorities of Chengdu for having allowed the Committee to succeed in its difficult task.

#### **AGENDA ITEM 4: ADMISSION OF OBSERVERS**

*Document ITH/07/1.EXT.COM/CONF.207/4*  
*Draft decision 1.EXT.COM.4 bis*

332. The **Chairperson designate, Mr Edouardo Barrios**, recalled that it had been decided to pursue the debate on agenda item 4 on “the admission of

observers” in private session. He called on the representative of the **Director-General** to speak first.

333. The **Representative of the Director-General** informed the Committee that that very morning the Bureau had discussed a draft drawn up by a group of States. At the request of the Chairperson, the Secretariat prepared a proposal that took account of the observations made by the members of the Bureau. This text was meant to prepare the ground on the issue of the admission of observers to sessions of the Committee, so that at the second session of the Committee in Tokyo there could be a debate and decision. One of the main aims of this text, she explained, is to give instructions to the Secretariat to make consolidated lists of NGOs, in cooperation with Permanent Delegations and National Commissions, to be submitted to the Committee. There remains a need to set up a procedure to remedy the recurrent legal vacuum. At present, the Committee can only take a decision at the outset of its sessions, and NGOs are forced to travel without knowing if they will actually be allowed to attend the work of the Committee as observers. The need to set up a new procedure for this has been stressed on several occasions. The Secretariat has requested that it be given clear instructions in order to be able to help the Committee re-examine this subject at its next session.
334. The **Representative of the Director-General** stated that the draft decision proposed by the Secretariat seeks first to confirm, in Paragraph 2, that organizations of the United Nations system including those of UNO are invited as observers. This draft then further seeks to delegate to the Chairperson the authority to ask the Secretariat to invite, as observers, Member States of UNESCO who are not parties to the Convention, permanent observation missions to UNESCO, and IGOs other than the United Nations and United Nations system organizations, upon their written request. On the matter of NGOs, she explained that no proposal had been made, other than that it would be desirable to ask the Secretariat to begin to draw up lists of NGOs that could be interested in taking part as observers in the work of the Committee. The **Representative of the Director-General** referred to the draft from the Secretariat which puts the term “international” in square brackets as the Rules of Procedure previously approved by the Committee lay down that only international non-governmental organizations may attend as observers. Were another choice to be made, it would eventually be necessary to amend the rules of procedure. She concluded by informing the Committee that the purpose of the last paragraph proposed was to underline that at its next ordinary session, the Committee should restart its debate on the question of inviting NGOs as observers.
335. The **Chairperson**, after thanking the **Representative of the Director-General** for her explanations and having drawn the attention of the Committee to the fact that the legal vacuum still remained for the Tokyo meeting, opened the discussion on this point.
336. The Delegation of **India** commented on the text paragraph by paragraph, recalling that a discussion took place in Algiers about the necessity of asking States Parties to provide the Secretariat with names of NGOs active in the field of ICH who could be put in a list for accreditation by the Committee. This very important aspect of accreditation should either be included in or after paragraph 5. Another important point concerned the adoption during the session in China of draft criteria for the accreditation of *local, national, regional and/or*

*international* NGOs on an equal level. Therefore, Article 8.3 of the Rules of Procedure should be amended. With regard to paragraph 3, the Delegation recalled that only the Committee can authorize participation in its sessions. This is a decision to be taken by the Committee and again, in this case, the Rules of Procedure have to be amended accordingly.

337. Concerning the delegation given to the Chairperson to authorize only intergovernmental entities, the **Legal Adviser** based his analysis on Article 14 of the Rules of Procedure relating to the duties of the Chairperson providing that he “shall exercise all other duties entrusted to him by the Committee”. If the Committee wants to delegate to the Chairperson to authorize the presence of intergovernmental bodies – on a legal basis – this can be done as a practical solution for the Committee. With regard to the local, regional national and international NGOs, the **Legal Adviser** highlighted that a clear distinction must be made between accreditation of NGOs for a consultative role by the General Assembly and the admission of international NGOs as observers. He recalled that the criteria fixed for accreditation do not apply automatically to the admission as observers. He advised, in order not to confuse both statutes, to stick to the Rules of Procedure adopted when any NGO requesting the status of observer could prove its activities in its country. Concerning the amendment of the Rules of Procedure, this item has to be included in the agenda before the Committee session and a decision can then be taken for the next session to modify them.
338. The Delegation of **India**, supported by the Delegation of **China**, responded that at no time could it be envisaged that only international NGOs could attend the sessions as observers. If the Rules of Procedure could only be amended in the Tokyo session, it suggested as a compromise, to delete “international”, and to authorize the Secretariat to interpret in a flexible way paragraph 6 in order to allow all NGOs, local, regional, national and international to attend as observers. Then in Tokyo, the Rules will be amended accordingly.
339. The **Representative of the Director-General** said that it was perfectly possible to delete the word “international” from Paragraph 5 of the draft decision.
340. The Delegation of **France** thanked the Secretariat for the draft decision which seemed to be a first step towards a solution to this recurring problem. As for Paragraph 3, the Delegation of **Algeria** took the view that an authorization was a matter for a decision by the Committee and not by the Chairperson. The Delegation of **Brazil** recalled again that this item does not deal with accreditation of consultative bodies but admission of observers to the Committee sessions. He therefore proposed to inscribe on the agenda of the next session the amendment of the relevant rules of the Rules of Procedure. Then the Delegation proposed to add in paragraph 2 of the draft decision the “Secretariat of the United Nations and organizations of the United Nations system” recalling that the persons attending the Committee sessions are civil servants and not Member States. The Delegation also requested the deletion, in paragraphs 5 and 6, of the term “international” concerning NGOs.
341. The Delegation of **Senegal** pointed out that in the interests of consistency, it was not desirable to introduce the concept of “international” when speaking of NGOs. As for the next session of the Committee in Tokyo, a formula should be



342. The **Chairperson** summed up the debate, stressing that a solution ought now to be found that did not already exist for other Conventions. He proposed to proceed paragraph by paragraph. The **Representative of the Director-General** read a new paragraph 5(b) presented by the Delegation of **India**. The **Chairperson** then declared Paragraph 1 adopted as well as Paragraph 2 with the amendment proposed by the Delegation of **Brazil**.
343. For Paragraph 3, the Delegation of **Senegal** , supported by the Delegation of **Algeria**, proposed an amendment to clarify that this concerned only the Tokyo session and did not give a permanent nature to the admission of NGOs. The **Legal Adviser** declared himself in favour of the proposal formulated by the Delegation of **Senegal**, whereby admission was only valid for the next session. He recalled, however, that in accordance with the spirit of Article 8 of the Rules of Procedure, the plural being used in Articles 8.2 and 8.3, it implied that a non State Party or an NGO once admitted for a session, be admitted for all the other sessions that follow, with the aim of simplifying admission.
344. The Delegation of **India** requested to delete the reference to “international” NGOs and recalled that a conflict still remains with regard to Rule 8.3 of the Rules of Procedure. With regard to the criteria approved earlier by the Committee and as a matter of principle, the Committee should either delete “international” or add “local, regional and national”. With regard to the delegation of power to the Chairperson, the Delegation had no problem but disagreed with the interpretation given of the plural in sessions and highlighted that no specific number of sessions is mentioned. Moreover, while the **Legal Adviser** approved the explanations given by the Delegation of **India** on the matter of NGOs, he wished to recall some details relating to Article 8.3 of the Rules of Procedure. The article only covers intergovernmental organizations and the term “international” only applies to intergovernmental organizations other than those of the United Nations system. Noting that all Delegations had declared themselves in favour of a limitation on the power of the Chairperson on admission of NGOs to the next session, he recalled that the principle laid down by the Rules of Procedure, requiring an application in writing to obtain the observer status, should be maintained. The present situation was therefore exceptional and the observations made on this point will definitely be taken into account in due course when the Rules of Procedure were amended.
345. The **Chairperson** replaced the term “international” by “intergovernmental” and limited admission to the next session of the Committee. The Delegation of **Brazil**, concerning the power of authorization either to be given to the Chairperson or to the Committee, considered that the Committee could at this session take the decision to authorize, in advance, all those requesting the status of observer to the next session. It considered that the Committee could do this now and therefore there would be no need to delegate this power to the Chairman. In agreement with the Committee the **Chairperson** declared Paragraph 3 adopted as amended as well as Paragraph 4.
346. At the request of the Delegation of **India**, paragraph 5 and the new paragraph 5(b) were discussed together. The Delegation of **Algeria** asked that consultation take place in close cooperation with Permanent Delegations and

National Commissions. The Chairperson then declared Paragraph 5 adopted as amended.

347. Concerning the new Paragraph 5(b), the Delegation of **Bulgaria** expressed its fears that this proposal might close the doors to other NGOs in the future. The Delegation of **India** explained that a deadline had been inserted in this paragraph in view of the eventual participation of NGOs already in the next session of the Committee and in order to give the time to the Secretariat to take action. At the next session, the deadline could be extended to allow States Parties to provide more names. The Delegation of **Algeria** took the view that the proposed deadline of 15 July was too early for some countries, who will struggle to put actions in place. It then proposed removing any reference to a deadline. The **Representative of the Director-General** recalled that it remained to be determined who could be invited to the Tokyo session and by whom. The legal vacuum does indeed remain and the **Director-General** cannot take the initiative of issuing invitations, since he does not have the authority to do so. The aim of Paragraph 5(b), as against Paragraph 5, is to seek a more suitable solution. The Delegation of **Brazil** suggested, in line with the Delegation of **India**, to substitute “future sessions” by “next session” and agreed with the **Representative of the Director-General** that this paragraph is an exceptional procedure for the admission of NGOs as observers only for the next session. The Delegation of **Brazil** therefore proposed to delete “could be invited” and to mention “on an exceptional basis as observers at its next session”.
348. With regard to the request made by the Delegation of **Algeria**, the Delegation of **Japan** recalled that in order to organize the next session well, this information is needed and therefore a deadline will be necessary. In response to the suggestion made by the Delegation of **Belgium** not to limit consultation to States Parties and to open it to all Member States of UNESCO, the Delegation of **India** recalled a debate in Algiers where it had been decided that in order to contribute to the implementation of the Convention only States Parties will be consulted. The Delegation recalled that this is standard procedure in all international conventions that the States Parties contribute and provide requested information. The Delegation of **Belgium** raised the question if it would be possible for a State Party to propose names of NGOs located in non States Parties.
349. The Delegation of **Austria** (Observer) recalled that Austria is actually in the process of ratification and that delays for administrative reasons do not mean that a country is not interested in ratifying the Convention. With regard to NGOs, the Committee should be as open as possible to allow all of them to participate because many of them have international activities in the field of ICH and are not only limited to activities in the country where they are located and which may not have ratified the Convention. The Delegation of **Lithuania** (Observer) recalled that NGOs of non States Parties that are interested in participating in the sessions of the Committee should be invited because they can then place pressure on their Governments to ratify the Convention.
350. Returning to the issue of finding a deadline by which applications from NGOs must reach the Secretariat, the **Representative of the Director-General** suggested, should the principle of a deadline be maintained, this should be brought forward slightly. With this in mind, 1 July would be more appropriate

than 15 July, giving NGOs the time to take the necessary steps to prepare for their participation.

351. The **Representative of the Director-General** stated that the NGOs proposed could in this way take part in the next session of the Committee in Tokyo. However, the requirement that the Committee formally authorize them at the start of its session to take part as observers was not thereby removed. The Delegation of **Brazil** recalled its initial proposal to authorize beforehand their participation but maybe this would imply legal problems. The Delegation of **Senegal** took the view that it was precisely for this reason that a mandate should be given to the Chairperson rather than allowing a blank cheque to be signed. The Committee risked losing its credibility if NGOs had to travel to Tokyo without knowing if they would actually be admitted with observer status. The **Legal Adviser**, where NGOs are concerned, does not want the Committee to be able to reproach the Chairperson with an abuse of power over NGOs whose presence is not desired by certain States. He recalled that there was a legal risk, while confirming that on an exceptional basis the Committee could mandate the Chairperson of the next session to authorize, upon their written request, the participation of NGOs as observers.
352. At the request of the Delegation of the **United Arab Emirates**, the **Representative of the Director-General** summarized the procedure to be used for the second session of the Committee in Tokyo. NGOs, a list of which will have been communicated by the States Parties as being likely to take an interest in the Tokyo meeting, must make their interest known in writing to the Secretariat, which will pass on their application to the Chairperson. The Chairperson will examine it and will be given the authority by the Committee to authorize the **Director-General** to send them a letter of invitation.
353. The Delegation of **Japan** expressed its concern not to have sufficient time to prepare the meeting, from a practical point of view, if consultation of the Members States after having received the list will be necessary. The Delegation of **Brazil** recalled that the States Parties would submit the names of NGOs that might be invited. The Delegation of **France** then proposed that the Committee give the Chairperson an exceptional mandate to authorize the **Director-General** to invite these NGOs to take part in the next session of the Committee. The Delegation of **India** agreed with the proposal of the Delegation of **France** recalling that the NGOs still have to request their admission in a written form and requested the Delegation of **Algeria** not to insist on a second consultation with the States Parties.
354. After summing up the debate, the **Chairperson** declared Paragraph 5(b) (new Paragraph 6) adopted as amended, and likewise old Paragraph 6 (new Paragraph 7).
355. The Delegation of **India** recalled that this decision is an exceptional one for the Tokyo session and that the Rules of Procedure need to be amended accordingly. The **Representative of the Director-General** stressed the obligation to settle this question, especially as the admission of Associate Members of UNESCO must also be settled, for whom the suspension of Article 8 of the Rules of Procedure had been necessary for the current meeting.

356. This being clarified, the **Chairperson** proposed suspending the private session. The Delegation of **Japan** recalled that, in accordance with Rule 19.3 of the Rules of Procedure, the Committee shall decide whether it will publish the outcome of the private session. The Delegation of **Brazil** recalled that it had been decided to report, after the private session, in public and then to give the floor to the NGOs.

[Break]

357. Reopening the public session, the **Chairperson** informed participants that items 10 “accreditation of NGOs” and 4, split into two, on criteria for admission of observers, had been discussed at the private session. He then invited the **Rapporteur, Mr Ousman-Blondin Diop**, to report on these two items.

358. The **Rapporteur**, after stressing that holding a private session was not a sign of mistrust of NGOs, but merely allowed the Committee to speak freely, read his report dealing with the two items discussed in private session.

359. Having invited the **Secretary** to read the decisions adopted in private session, the **Chairperson** gave the floor to the NGO “Traditions for Tomorrow” which had wished to speak.

360. The **President of the NGO “Traditions for Tomorrow”** thanked the Chairperson for allowing him to speak and pointed out that his comments on the decisions that had just been reported will be sent later to the Secretariat of the Convention. He also expressed his surprise at the fact that the proposal by some States to hear the NGOs before the private session had not been accepted by the Committee. He then thanked China for its generous welcome in Chengdu. He reminded the Committee that “Traditions for Tomorrow” was an international non-governmental network, a member of the NGO-UNESCO Liaison Committee, and had been working with UNESCO since 1992. He said that in Latin America his NGO had supported over 400 initiatives by minorities and indigenous peoples for the affirmation of their cultural identity over more than 20 years. He said he was convinced that to meet the challenges highlighted by the Convention an alliance would be needed between States, communities, groups and bearers of ICH, along with many bodies such as NGOs who commit themselves to the safeguarding of ICH. He invited the Committee and UNESCO to create the conditions for the widest and most genuine consultative collaboration possible. Transparency, simplicity and clarity in the rules to be decided for NGOs’ participation would be the guarantee, he said, of the quality of this cooperation. In conclusion, he expressed the sincere wish to be able to contribute his support to the task of safeguarding this heritage, all the more fragile for being invisible when it cannot express itself, and declared himself ready at any time to assist the work of the Committee and UNESCO.

**AGENDA ITEM 11: DEBATE ON THE IMPLEMENTATION OF ARTICLE 18 OF THE CONVENTION FOR THE SAFEGUARDING OF THE INTANGIBLE CULTURAL HERITAGE**

*Document ITH/07/1.EXT.COM/CONF.207/11*

*Draft decision 1.EXT.COM.11*

361. The **Secretary** introduced this item by referring to chapter 4 of the Convention, “Safeguarding of the intangible cultural heritage at the international level” which is composed of three articles: Article 16 concerning the Representative List, Article 17 concerning the Urgent Safeguarding List and, finally, Article 18 concerning “Programmes, projects and activities for the safeguarding of the intangible cultural heritage”. Article 18, the Secretary continued, brings together many different issues that are also touched upon in other articles of the Convention, two of them being the “selection of best practices”, also referred to in article 7(b) of the Convention, and “international assistance”, the main subject of chapter V of the Convention. The first paragraph of Article 18 invites the Committee to develop criteria for the selection of best practices in the field of safeguarding, which are then to be approved by the General Assembly. Several States Parties, in their written comments, have stressed the importance and wide implications of this article, which is why the Secretariat proposed that the Committee during this session give indications that then can be used by the Secretariat for the preparation of a document for decision during its next session. Paragraph 4 of the document under consideration invites the Committee to express itself on various issues.
362. The **Chairperson** then opened the floor for discussion. Many of the delegates spoke and stressed the importance they gave to Article 18.
363. The Delegation of **Belgium** declared Article 18 to be highly important for realizing the objectives of the Convention through providing ways to identify good practices and to mobilize means, expertise and various forms of international cooperation. The Delegation considered Article 18 also useful as an incentive to convince governments, institutions and associations to invest funds in safeguarding programmes, in particular through international, bilateral or preferably multilateral projects that take into account the special needs of developing countries. One should not think about a short and selective list of best practices but of a whole repertoire with a large range of possibilities. The Delegation of **Belgium** invited the Committee to think creatively about possibilities offered by Article 18. It strongly urged using this Article strategically to generate extra money, and media coverage not only to stimulate quality and originality of projects, but also to open the door for programmes, activities and projects that can invest in safeguarding, specifically taking into account the needs of developing countries.
364. The Delegation of **India** gave clear indications on the issues raised in the document under consideration. It considered it crucial that the criteria reflect the objectives of the Convention and take into account the special needs of developing countries. The principles and objectives laid down in Article 1 of the Convention should be the basic principles to be considered. With regard to the question of listing under Article 18, the Delegation deemed it necessary that the list be broad, inclusive and open ended. It furthermore urged that Article 18 should recognize and promote completed, ongoing as well as prospective programmes, with emphasis on the latter. Resources should be given to the most vulnerable programmes, projects and activities and to urgent safeguarding. No hierarchy should be established between projects; the criteria should apply equally to all kinds of programmes. With regard to international assistance to be provided for the preparation by States Parties of proposals, the needs of developing countries should be given high priority. The criteria to be developed should be flexible in order to take into consideration those special needs. The Delegation, referring to Article 24.2, considered further that the contribution to be made by developing countries for safeguarding measures, for

365. The Delegation of **Brazil** congratulated the Delegation of **Belgium** on expressing so well the meaning of Article 18, a fundamental support for ICH. The Delegation of **Brazil** then declared itself in favour of giving priority to developing countries. The Delegation of **Estonia** also considered Article 18 as extremely important for the implementation of the Convention and endorsed the opinions expressed by the Delegations of **Belgium, India** and **Brazil**. The Delegation of **Estonia** was in favour of the widest possible dissemination of programmes and ideas, projects and best practices and supported the initiative of mobilizing modern IT to this effect. It pointed out that Article 18 does not only apply to developing countries but that it is important for creating dialogue among all States Parties to the Convention. In order to come up with concrete ideas for the implementation of this article, the Delegation suggested the possibility of creating an ad hoc working group.
366. The Delegation of **Algeria**, fully supporting the previous speakers on the importance of Article 18, took the view that it was right to insist on some prioritized actions, especially those such as encouraging the establishment of inventories, holding regional meetings so as to achieve a better implementation of the principles of the Convention, and increasing the number of training programmes on safeguarding ICH. It also stressed the importance of international assistance that should involve actors from all regions of the world and various sources of expertise. In this respect, the use of the Fund, according to the Delegation of **Algeria**, should benefit developing countries in particular. At that time, it also appealed to States Parties who had not yet paid their contributions to the Fund. In conclusion, it wished for the list of projects and programmes to be the broadest possible.
367. The Delegation of **Hungary** recognized the importance of this item and agreed with the Delegation of **Estonia** concerning the equal importance of Article 18 for developing and developed countries. The Delegation of **Hungary** recalled that Article 18 should be closely associated with the issue of education as mentioned in Article 14, which is always to be included in cultural programmes.
368. The Delegation of **Viet Nam** highlighted the importance of the issues raised in Article 18. Basing itself on the experience gained in its own country with projects implemented by various organizations and agencies, it regretted that the lack of interdisciplinary coordination limited the effects of those projects. Most of the projects have not paid enough attention to the role of local communities either. The Delegation invited organizations, institutions and individuals to work together and to identify best practices and lessons learnt

from projects. Recalling a recent workshop carried out by the UNESCO Office in Hanoi on lessons learnt to better identify best practices, the Delegation highlighted the importance of listening to communities.

369. The Delegation of the **United Arab Emirates**, pointing out that Article 18 reminds the Committee of its real tasks when it comes to safeguarding, recalled its own active involvement in favour of ICH. The Delegation recalled its country's important contribution to disseminating information by various means such as translating the *Intangible Heritage Messenger* into Arabic and the organization of a regional workshop on ICH in coordination with UNESCO. Information on the regional workshop is available on the ITH website. The Delegation of **Nigeria** concurred with all other speakers concerning the importance of Article 18 and recalled the necessity to enhance the documentation of ICH by training practitioners and other forms of capacity building.
370. The Delegation of **Benin** (Observer) stressed the importance of this article, in which it sees a means to give voice to those who have none, and to liberate creativity. It proposed starting first of all an information campaign about this article for States and communities. The Delegation took the view that the number of programmes should not be limited, especially those in developing countries. It declared itself in favour of having a yearly cycle and wished to give priority to joint regional programmes, and more particularly to those involving several cultures, such as intercontinental projects. The Delegation of **Morocco** (Observer), also stressing the importance of this article, wished to know whether it concerned best practices in future programmes.
371. The Delegation of **Belgium** proposed to consider the elaboration of several sets of criteria to be used for the implementation of this Article in view of the Article's many functions. It fully supported the proposal of the Delegation of **Estonia** to set up a working group. Another possibility, suggested by the Delegation of **Belgium** and supported by the Delegation of **Algeria**, would be to invite States Parties to submit in writing suggestions and proposals that might serve as a basis for discussion at the next meeting. It expressed strong appreciation to the Delegation of **Benin** for its suggestion concerning intercontinental projects.
372. The Delegation of **Brazil** agreed with the proposal of the Delegation of **Belgium** to invite States Parties to give their views on programmes and priorities with a view to the next session of the Committee. These comments should include not just information relating to "best practices", but also to assistance actions.
373. The **Chairperson**, in conclusion, was pleased that this first round of views on this article had enabled its content to be enriched. The various opinions and proposals expressed will undoubtedly help the Secretariat and the Committee to draw up a final preliminary document for the next session.
374. The Delegation of **Benin** (Observer) preferred to slow down the pace by suggesting not adopting a definitive document for the next session, but leaving time for reflection and for gathering suggestions.

375. Concerning remarks made by the Delegations of **Algeria, India and Bulgaria** the **Legal Adviser** specified that the criteria referred to in Article 18 are different from the criteria dealing with international assistance. He therefore invited States Parties to avoid confusion between the criteria asked for in Article 18 concerning the selection of best practices and the periodicity and the criteria as mentioned in article 7(g)(ii) of the Convention relating to granting international assistance in accordance with Article 20 to 23. Without the criteria related to Article 18 and to Articles 20 to 24 on international assistance, it will not be possible to start the selection processes to be decided upon the Committee. In this regard, the comments of States Parties would be of great assistance to the Secretariat for the preparation of a consolidated document.
376. The **Chairperson** then opened the discussion of the draft decision.
377. The Delegation of **Belgium** reiterated its concern to speak about “sets of criteria” taking into account the different kinds of programmes, projects and activities. The Delegation of **India** recalled that that might cause confusion both in the minds of donors and recipients because it is not a usual practice to have sets of criteria. Therefore, the Delegation suggested that the Committee may decide at its next session whether it will subdivide the criteria into subsets. The Delegation of **Brazil** added that the expression “draft directives” as used in the draft decision could possibly be considered as satisfactory. The Delegation also proposed to request in the draft decision written comments from the States Parties on the implementation of Article 18. The **Chairperson** asked that a deadline be set to enable the Secretariat to have enough time to prepare the document.
378. The Delegation of **Estonia** emphasized the need to take time for drafting a final document for this article and considered that the discussions might not be finished even at the next session of the Committee. It concurred with the idea of asking the Secretariat to prepare initial guidelines, but considered that 15 June as a deadline for States Parties to submit written comments would be far too early. The Delegations of **Japan and India** supported this. The Delegation of **India** then suggested that the amendment of the Delegation of **Brazil** might contain the word “preliminary”. The Delegation of **Estonia** proposed to consider a longer process for establishing the appropriate criteria and therefore to set up a working group. The Delegation of **Belgium**, in a spirit of reaching a consensus, withdrew its proposal on “sets of criteria”.
379. The **Representative of the Director-General** then suggested that the deadline for sending written comments be 1 July 2007. She added that the directives to be proposed at the second session of the General Assembly will inevitably be directives under development and that an attempt should be made to be as precise as possible on the points that seem essential to starting the implementation of the Convention. She added that in the light of the debate it had become clear that more time was needed to define a set of directives that would be fully complete and would give the Convention its full importance.
380. Draft decision 1.EXT.COM.11 was then adopted as amended.



## **AGENDA ITEM 12: ORAL REPORT OF THE RAPPORTEUR AND ADOPTION OF THE LIST OF DECISIONS**

*Document ITH/07/1.EXT.COM/CONF.207/Decisions*

381. Following the presentation by the **Rapporteur, Mr Ousman-Blondin Diop**, of his oral report on its work, and after the reading of its decisions by the Secretary to the Convention and distributed in the hall, the Committee adopted, on its proposal by the Chairperson and by acclamation, the oral report of the rapporteur and the decisions taken on all the agenda items.

## **AGENDA ITEM 13: CLOSING OF THE SESSION**

382. The Delegation of **Belgium**, after informing the Committee that it was, as agreed, now ceding its post as Vice-chair to France, stressed the warmth of the debates thanks to the extraordinary efforts of the Chinese hosts and the UNESCO team.
383. The Delegation of **Turkey** recalled the round table of Culture Ministers it had organized in 2002, in collaboration with UNESCO, in Istanbul, on the preparation of the Convention. It also referred to its two masterpieces, evidence of the richness of its intangible heritage. With the aim of enabling the Committee to discover these riches, the Delegation expressed **Turkey's** proposal to host the third ordinary session of the Intergovernmental Committee in autumn 2008 in Istanbul. The Chairperson welcomed this proposal which can only be accepted by the Committee at its second ordinary session.
384. The Delegation of **Japan** expressed its appreciation for the hospitality of the Chinese authorities and for the progress made. The Delegation praised the commitment shown during the session for the objectives of the Convention, the spirit of cooperation, the spirit of mutual trust and the quality of the team of UNESCO.
385. The Delegation of **China** expressed its warm thanks to the Representative of the Director-General and her team for their exemplary work, to the Member States and to the observers for their spirit of cooperation, and to the Cultural Bureau of Chengdu.
386. The Delegation of **Algeria** also wished, on behalf of all taking part, to express its deep gratitude to the authorities of the People's Republic of China for their warm welcome, and also for the perfect conditions which contributed greatly to the success of this session. It showed its appreciation for the work done by the Secretariat, the translators and the staff of the Crowne Plaza Chengdu.
387. The Delegation of **Luxembourg** (Observer) paid tribute to and supported the candidacy of Turkey for hosting the third session of the Committee. It expressed its appreciation for the city of Istanbul, situated between different continents and linguistic regimes.
388. The **Chairperson** declared that in the future people would speak of the "spirit of Chengdu", a spirit of wisdom, efficiency and precision. He stressed that the work accomplished was fundamental work and that it had just crowned the

aspirations of communities. Now, these communities had hope that the expressions of their cultures would be safeguarded. He thanked the members of the Committee for their tolerance and their sense of responsibility, guided by H.E. Mr Wang, who had left at midday but was still present through the dynamism he had been able to instil in the Committee. He thanked the observers who had, by their presence, shown the concern they felt for this Convention. He then expressed his deep gratitude to the Chinese hosts for their marvelous work, stressing that their efforts had gone beyond all expectations. He concluded by congratulating the Secretariat for its work, especially Ms Françoise Rivière, whom he asked to pass on to the **Director-General** of UNESCO the Committee's warmest appreciation. The **Chairperson** ended by thanking the interpreters warmly.

389. The **Representative of the Director-General** associated herself, on behalf of the Secretariat, with the thanks to the Chinese authorities, the Ministry of Culture, the Province of Sichuan, the Municipality of Chengdu and particularly its Cultural Bureau, the Permanent Delegation of China to UNESCO, as well as all the Chinese volunteers who had helped to achieve this extraordinary welcome. She expressed UNESCO's thanks to the members of the Intergovernmental Committee and all the observers. She expressed her gratitude to the rapporteur, Mr Diop, to all the Vice-Chairs and in particular Mr Edouardo Barrios who had agreed to take the Chair at short notice. On behalf of all participants and the Secretariat, she expressed her gratitude to the Chairperson, H.E. Ambassador Wang, who had shown surprising firmness and determination as well as humour in running the work of the Committee. She thanked her UNESCO colleagues for their efficiency and their team spirit, and the efficient and devoted interpreters. Thanks to the desire for co-operation and the growing enthusiasm for the safeguarding of the intangible heritage – or living heritage – in UNESCO member countries, she was able to conclude by speaking of her conviction that this enthusiasm would continue to advance the work of the next session of the Committee in Tokyo in September 2007.
390. At 21.00, the **Chairperson** declared the first extraordinary session of the Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage closed.