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

**Open-ended intergovernmental working group
in the framework of the global reflection on the listing mechanisms**

**Online**

**25 and 26 April 2022 (Part III)**

**Item 11 of the Provisional Agenda:**

**Other issues requiring further reflection (Part III)**

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| **Summary**The present document provides background information on four additional topics that Part I and Part II meetings of the working group and the sixteenth session of the Committee identified in order to complement the global reflection on the listing mechanisms of the 2003 Convention. |

**Introduction**

1. The global reflection process, through Part I and Part II meetings of the Open-ended intergovernmental working group (hereafter ‘the working group’), succeeded in concluding its recommendations on the main priority issues. At the same time, the working group and the sixteenth session of the Committee identified four additional topics that require further attention (document LHE/22/17.COM WG/9).
2. The present document aims to provide background information for each of the following four topics to support the discussion of the working group during its Part III meeting:
* *(Topic 6)* ‘Revising the priority for the examination of nomination files for States Parties that did not fulfil their reporting obligations concerning the implementation of the Convention and the status of elements inscribed on the Representative List or on the Urgent Safeguarding List’.
* *(Topic 7)* ‘Debating the possibility of obtaining additional information regarding nominations by using a dialogue process with accredited NGOs and communities, groups and, where appropriate, individuals concerned’.
* *(Topic 8)* ‘Necessary procedure to examine exceptional cases’.
* *(Topic 9)* ‘Reflections on the possibility of introducing preliminary assessment procedures to the existing upstream process’.

**A. ‘Revising the priority for the examination of nomination files for States Parties that did not fulfil their reporting obligations concerning the implementation of the Convention and the status of elements inscribed on the Representative List or on the Urgent Safeguarding List’** (Topic 6)

1. Reporting is one of the main obligations for States Parties under Article 29 of the 2003 Convention and a low submission rate of periodic reports was a subject of recurrent preoccupation for the Committee, prior to the reform of the mechanism in 2018. Regretting the untimely submissions or non-submission of reports, particularly on the status of elements inscribed on the Urgent Safeguarding List, the fifteenth session of the Committee in 2020 requested that the Secretariat include an item on the provisional agenda of its next ordinary session concerning ‘a possible amendment of the Operational Directives on restricting the evaluation of new nomination files if the reporting duties concerning already inscribed elements have not been fulfilled by the States Parties’ (Decision [15.COM 7](https://ich.unesco.org/en/Decisions/15.COM/7), paragraph 6).
2. During the Category VI online meeting that took place in May 2020 to lay the basis for discussions of the working group, experts considered that a separate follow-up mechanism needs to be established. This would help ensure that States Parties fulfil their periodic reporting obligations and that ‘States Parties that fail to meet their reporting obligations could be placed at a lower level of priority for examination of nomination files than States Parties that have met their reporting obligations’ (see [report](https://ich.unesco.org/doc/src/52149-EN.docx) of the breakout group C). This suggestion was presented to Part I of the working group as a possible means of fine-tuning the current inscription system (document [LHE/21/16.COM WG/3](https://ich.unesco.org/doc/src/LHE-21-16.COM_WG-3-EN.docx)). The issue could not be discussed due to lack of time, however, except to be mentioned by several delegations as a possibility. The working group therefore included this topic in paragraph 14 (a) of ‘Ways forward’ in Annex I of its recommendation, which was then adopted by the sixteenth session of the Committee under Decision [16.COM 14](https://ich.unesco.org/en/Decisions/16.COM/14).
3. **Reports by States Parties on the implementation of the Convention and the current status of elements inscribed on the Representative List**: This issue needs to be discussed in the context of the reform that the Committee and the General Assembly of the 2003 Convention undertook between 2017 and 2019 regarding the periodic reporting on the implementation of the Convention and the elements inscribed on the Representative List (Decision [12.COM 10](https://ich.unesco.org/en/Decisions/12.COM/10), Resolution [7.GA 10](https://ich.unesco.org/en/Decisions/7.GA/10), Decision [13.COM 8](https://ich.unesco.org/en/Decisions/13.COM/8) and Decision [14.COM 8](https://ich.unesco.org/en/Decisions/14.COM/8); see also document [LHE/19/14.COM/8](https://ich.unesco.org/doc/src/LHE-19-14.COM-8-EN.docx) for a summary). The reform includes the establishment of the periodicity of the submission of periodic reports on the basis of a regional rotation system, and the revision of periodic reporting Form ICH-10.
4. The new system has already demonstrated a greatly improved submission rate of reports at 87.5 per cent (twenty-eight reports submitted out of a total of thirty-two expected) for the Latin America and the Caribbean region in 2021 and 93.18 per cent (forty-one reports submitted out of a total of forty-four expected – at the time of writing) for the Europe region. The improvement points to the success of the reform process and seems mainly to be attributed to the regional approach of the reform, which induced significant peer-to-peer exchanges between country focal points, as well as the capacity-building approach provided by the Secretariat to accompany national reporting efforts. A comparison with the past reporting cycles, and in particular with the 2016 cycle, which had a submission rate of sixteen per cent with a similar number of expected reports, it is clear that the reporting rates are improving dramatically. This can be seen in the following chart:



1. **Reports by States Parties on the current status of elements inscribed on the Urgent Safeguarding List**: For the periodic reporting on the current status of elements inscribed on the Urgent Safeguarding List, an increasing number of reporting States have been fulfilling their reporting obligations in recent years. For the 2021 cycle, six out of seven ‘first ordinary reports’ and twelve out of thirteen ‘second ordinary reports’ could be received (document [LHE/21/16.COM/7.a](https://ich.unesco.org/doc/src/LHE-21-16.COM-7.a--EN.docx)). This is an improvement on the 2020 cycle, where seven out of ten ‘first ordinary reports’ and two out of five ‘second ordinary reports’ were submitted (document [LHE/20/15.COM/8.a](https://ich.unesco.org/doc/src/LHE-20-15.COM-8.a-EN.docx)). Currently, there are only three elements inscribed on the Urgent Safeguarding List concerning three States Parties for which the reporting has been delayed.
2. The working group is, furthermore, reminded that the sixteenth session of the Committee has taken on board the recommendations of Part I and Part II of the working group to create some linkages between the periodic reporting and the inscription process. The most direct linkage proposed regards the simplification of the nomination forms by referring criterion R.5/U.5 to the inventorying systems already identified in the periodic report (paragraph 2, (d), Annex I of Decision 16.COM 14). The intention of this adjustment is to make the periodic reporting mechanism operationally useful for submitting States preparing nomination files, as well as to help simplify the nomination form by saving a State from having to re-explain its inventorying systems. It might be judicious therefore, to first give enough time for these reforms and adjustments to fully take effect before deciding to lower the priority for States not fulfilling reporting obligations.
3. Following from the above, and based on the marked improvement in the submission rate of periodic reporting in the recent cycles, it may be concluded that an acute need for soliciting the cooperation of reporting States no longer exists, provided that the submission rates of reports from future reporting regions continue to meet the higher standard set by the Latin America and the Caribbean region and the Europe region. Consequently, the working group may wish to recommend to the Committee not to purse, since it is premature at this stage, the proposal to revise the priority for the examination of nomination files for States Parties that did not fulfil reporting obligations concerning the implementation of the Convention and the status of elements inscribed on the Representative List or on the Urgent Safeguarding List.

**B. ‘Debating the possibility of obtaining additional information regarding nominations by using a dialogue process with accredited NGOs and communities, groups and, where appropriate, individuals concerned’** (Topic 7)

1. When extending the mandate of the working group, the sixteenth session of the Committee added an additional topic of reflection: ‘Debating the possibility of obtaining additional information regarding nominations by using a dialogue process with accredited NGOs and communities, groups and, where appropriate, individuals concerned’ (Topic 7). This figures under paragraph 14 (b) of ‘Ways forward’ in Annex I of Decision [16.COM 14](https://ich.unesco.org/en/Decisions/16.COM/14) as prepared by the working group.
2. This issue has been carried forward to Part III, since the working group did not have a chance to complete the discussion on this topic during its Part I and Part II meetings. The discussion at the sixteenth session of the Committee shifted this discussion, as it decided to ‘initiate a reflection for a broader implementation of Article 18 of the Convention’, with the support of the Kingdom of Sweden (Decision [16.COM 14](https://ich.unesco.org/en/Decisions/16.COM/14), paragraph 9). This initiative includes ‘the continuation of the discussion on how to enhance dialogue and communication amongst stakeholders of the Convention, with a particular focus on communities, groups and, where appropriate, individuals.’ Consequently, the working group may wish to highlight to the Committee that issues covered under Topic 7 will be incorporated in the new initiative on Article 18 of the Convention.

**C. ‘Necessary procedure to examine exceptional cases’** (Topic 8)

1. While extending the mandate of the working group, the sixteenth session of the Committee added two reflection topics; one of them concerns the necessary procedure to examine exceptional cases (Decision [16.COM 14](https://ich.unesco.org/en/Decisions/16.COM/14), paragraph 11). It is understood that this additional topic does not concern the inscription procedures in cases of ‘extreme urgency’ in the sense of Article 17.3 of the Convention.
2. There have been two main cases that could be qualified as ‘exceptional’ in the implementation of the listing mechanisms of the 2003 Convention:
	1. The case of ‘Traditional Korean wrestling (Ssirum/Ssireum)’: The thirteenth session of the Committee in 2018 made a historic decision to jointly inscribe an element related to traditional Korean wrestling submitted by the Democratic People’s Republic of Korea and the Republic of Korea on the Representative List (Decision [13.COM 10.b.41](https://ich.unesco.org/en/Decisions/13.COM/10.b.41)). For this case, the Evaluation Body assessed two nominations separately as originally submitted, and recommended them both positively for inscription on all five criteria, before the idea of a joint inscription was initiated and agreed by the two submitting States concerned. The Bureau was informed of the proposed joint inscription during its meeting convened a day before the opening of the session on 25 November 2018. The Bureau unanimously supported the initiative and prepared the work of the Committee for inscription the following day. The joint inscription has served to demonstrate the convening power of living heritage, in this case for peace and regional development.
	2. The case of ‘Joumou soup’: In August 2021, Haiti requested to have the nomination of ‘Joumou soup’ examined for possible inscription on the Representative List on a fast-track basis, by the sixteenth Committee session in 2021 instead of by its seventeenth session in 2022, as originally foreseen. The request was motivated by the desire to bring a sense of hope and unity to the people of Haiti following a series of natural disasters that hit the country. The Evaluation Body evaluated the file on an exceptional basis and made a positive recommendation for inscription for all five criteria. The Secretariat then included the request by Haiti in the provisional agenda of the Committee (published on 2 December 2021). The Secretariat further drew the Bureau’s attention to Haiti’s request at the informal meeting on 3 December 2021. The Committee decided to inscribe the element and at the same time requested that the case be presented to the ninth session of the General Assembly for its endorsement of the procedure followed for this nomination.
3. There is another relevant case although not concerning inscription of elements. This was the removal of an element from the Representative List, for which Part II of the working group recommended a set of specific procedures:
	1. The case of ‘Aalst carnival’: In 2019, the fourteenth session of the Committee took an unprecedented decision to remove ‘Aalst carnival’ from the Representative List (Decision [14.COM 12](https://ich.unesco.org/en/Decisions/14.COM/12)). This decision was made in line with UNESCO’s founding principles and with the requirements of mutual respect among communities, groups and individuals as stipulated under Article 2 of the Convention, as well as in accordance with paragraph 40 of the Operational Directives. This landmark action was triggered by the Bureau’s request that the Secretariat add an item to the provisional agenda in order to raise the case of the Aalst carnival in light of the seriousness and the repeated nature of the complaints received about the enactment of this element (Decision [14.COM 1.BUR 4](https://ich.unesco.org/doc/src/LHE-19-14.COM_1.BUR-Decisions-EN.docx)).
4. The above-mentioned cases alone point to a wide-range of contexts requiring different considerations, so much so that it may not be appropriate to establish detailed procedures on how to deal with ‘exceptional’ cases. Instead, it may be practical to recognize the essential role of the Bureau (pursuant to Rule 12 of the Rules of Procedure of the Committee), which can meet inter-sessionally to organize the work of the Committee in a manner suited to each exceptional case. Consequently, the working group may wish to recommend to the Committee to direct the Secretariat to bring exceptional cases to the Bureau when and in a manner best suited to each case; a taking of the decision would suffice, and there would be no need to amend the Operational Directives or to revise the Rules of Procedure of the Committee.

**D.** ‘**Reflections on the possibility of introducing preliminary assessment procedures to the existing upstream process’** (Topic 9)

1. Another topic added by the sixteenth session of the Committee to the extended mandate of the working group concerns ‘reflections on the possibility of introducing preliminary assessment procedures to the existing process’ (Decision [16.COM 14](https://ich.unesco.org/en/Decisions/16.COM/14), paragraph 11).
2. The nomination process under the 2003 Convention includes two opportunities where files can be made technically compliant and minor issues can be clarified:
* The first opportunity is the ‘technical completeness check’, in accordance with paragraph 54 of the Operational Directives (under the entry ‘30 June Year 1’). When nomination files are received, the Secretariat registers them, acknowledges receipt to States and checks for completeness. If the dossiers are not complete, the Secretariat advises the submitting State on how to complete them. Typical issues identified through this process include missing texts or texts that do not comply with the word count requirements, missing support materials (such as photos/videos, community consent, inventories) or non-compliance with a set of standards or requirements. The appropriateness of the titles can also be considered at this stage in the sense of Decision [9.COM 10](https://ich.unesco.org/en/Decisions/9.COM/10) (paragraph 12).
* The second opportunity is the dialogue process, which was formalized in 2020 by the eighth session of the General Assembly (Decision [13.COM 10](https://ich.unesco.org/en/Decisions/13.COM/10) and Resolution [8.GA 10](https://ich.unesco.org/en/Resolutions/8.GA/10)). As an early harvest of the global reflection at hand, this process allows for dialogue between the Evaluation Body and submitting States to clarify minor issues identified in nomination files through a simple question-and-answer process. This process is only initiated by the Evaluation Body to clarify minor technical issues when they may change the outcome of the Body’s evaluation. The experience has been positive. For instance, the 2021 Evaluation Body applied the process on fifteen files, fourteen of which were inscribed by the sixteenth session of the Committee.
1. The possibility mentioned under Topic 9 is understood to mean something else in addition to the technical completeness check and the dialogue process currently applied under the 2003 Convention. A useful reference can be found in the procedures under the World Heritage Convention. In particular, following a series of reflections, two mechanisms were added to the nomination process under the 1972 Convention with the aim to enhance dialogue with submitting States Parties at an early stage by allowing the advisory bodies and the World Heritage Centre to provide guidance and capacity building so as to ‘catch’ potentially problematic issues ahead of time.
* The first mechanism is the ‘[upstream process](https://whc.unesco.org/en/upstreamprocess/)’, introduced in 2010 (Decision [34 COM 12](https://whc.unesco.org/en/decisions/?id_decision=4259&), paragraph 19) and formalized in 2015 (Decision [39 COM 11](https://whc.unesco.org/en/decisions/?id_decision=6198&)). The purpose of this process is to provide general advice and guidance to States Parties in relation to the revision or harmonisation of Tentative Lists or potential future nominations. This process is not mandatory but can be initiated on a voluntary basis at the request of State(s) Party(ies); assistance from the World Heritage Fund may be sought to cover the associated cost. The request for the upstream process needs to be submitted in time for the annual deadline of 31 March; it can foresee a site visit to the properties concerned and/or a workshop.
* The second mechanism is the ‘preliminary assessment’, which was introduced in 2021 (Decision [44 COM 12](https://whc.unesco.org/en/decisions/?id_decision=7634&)) and will come into effect from September 2023 (first on a voluntary basis and then as a compulsory requirement after the transition period in 2027). Carried out exclusively based on a desk review, this preliminary assessment is the first mandatory phase of the two-phase nomination process, preceding the submission of nomination dossiers. The reform was motivated by the 2017 [‘Comparative Mapping Study of Forms and Models for use of Advisory Services’](https://whc.unesco.org/archive/2017/whc17-41com-INF14II-en.pdf) by the Internal Oversight Services of UNESCO, which highlighted the need for the governing bodies of the 1972 Convention to identify the root cause(s) of World Heritage Committee decisions that deviate from the advice of the advisory bodies and to take steps to address these (Recommendation 3). The preliminary assessment is undertaken on a single property already included on a State Party’s Tentative List, with the associated cost integrated in the related evaluation process. Moreover, the preliminary assessment is conducted in compliance with the timetable as specified under paragraph 168 of the Operational Guidelines.
* It is noteworthy that the annual limit on the number of nominations that the World Heritage Committee reviews has been reduced from 45 to 35, while applying the order of priorities with twelve levels (Decision [40 COM 11](https://whc.unesco.org/en/decisions/?id_decision=6849&)). This decision has been in effect since 2 February 2018 and its impact will be evaluated at the World Heritage Committee’s 45th session.
1. As is the case for the World Heritage Convention, the intention of introducing an additional step under the 2003 Convention would be to reduce the number of nominations that experience significant issues during the evaluation. At the same time, careful consideration should be given to whether such an initiative would be worth the effort, particularly because the recommendations by the Evaluation Body in recent years (and consequently the decisions of the Committee) are largely positive. For example, the sixteenth session of the Committee inscribed forty-eight elements out of fifty-three nominations examined (90.6%), and the fifteenth session of the Committee inscribed thirty-six elements out of forty-four nominations examined (81.8%).
2. Furthermore, assuming that the aim is not to reach a point where only positive files are presented to the Evaluation Body and to the Committee, it would be quite costly – in terms of financial and human resources – to implement an additional assessment step. Practically speaking, the reformed system developed under the 1972 Convention cannot be transposed directly to the 2003 Convention’s listing mechanisms, primarily because the Evaluation Body is a structure that is established on an annual basis. Consequently, it would fall on the Secretariat to undertake, or at least support, such preliminary processes, and would lead to more burden on the nomination process, perhaps also triggering the need to reduce the number of files treated annually, as was done for the 1972 Convention in 2018. Following from the above, the working group may wish to recommend to the Committee to continue to observe the effectiveness of the dialogue process and to not plan for an additional preliminary assessment phase in the nomination process at this stage.