**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
of the 2003 Convention**

**Online**

**8 to 9 July 2021 (Part I)**

**9 and 10 September 2021 (Part II)**

**Item 4 of the Provisional Agenda:**

**Towards a reformed listing system**

|  |
| --- |
| This document presents the main suggestions, under two key approaches, that have been made for reforming the listing system of the 2003 Convention. These suggestions are primarily based on the recommendations of the category VI expert meeting that was convened in May 2021 to lay the ground for the present meeting of the Open-ended intergovernmental working group. |

1. **Background**

1. The present meeting of the Open-ended intergovernmental working group (or ‘the working group’) is expected to constitute a crucial step in the global reflection process that was initiated to reform the current listing system of the 2003 Convention. This document summarizes the main approaches identified to this effect, as well as their possible implications, based mainly on the recommendations of the category VI expert meeting that was convened in May 2021 to lay the ground for the present meeting. Recent deliberations of the governing bodies of the Convention have also been taken into account.

2. This document should be read in tandem with the following working documents: the working group’s agenda and timetable ([LHE/21/16.COM WG/1](https://ich.unesco.org/doc/src/LHE-21-16.COM_WG-1-EN.docx)), the document that presents the background and meeting objectives of the present meeting, including information about the four main reflection themes ([LHE/21/16.COM WG/2](https://ich.unesco.org/doc/src/LHE-21-16.COM_WG-2-EN.docx)) and the report of the above-mentioned category VI expert meeting [(LHE/21/16.COM EXP/7](https://ich.unesco.org/doc/src/LHE-21-EXP-7-EN.docx)). Furthermore, the issues identified under each of the reflection themes were also described in detail in a working document presented to the fourteenth session of the Committee in December 2019 ([document LHE/19/14.COM/14](https://ich.unesco.org/doc/src/LHE-19-14.COM-14-EN.docx)).

3. During Part 1 of this meeting, the working group is expected to reach consensus on an overall approach for reforming the current listing system and to agree, to the extent possible, on specific implications under the general direction. During Part II of the meeting, on 9 and 10 September 2021, the working group will then be requested to agree on the specific practical revisions to be made under the overall approach, and to do so in the form of recommendations to be presented to the sixteenth session of the Committee (13 to 18 December 2021, Colombo, Sri Lanka). At the same time, the Secretariat will draft revisions to the Operational Directives that may be required to implement the proposed recommendations of the working group for examination by the sixteenth session of the Committee. The draft revisions to the Operational Directives, if the Committee so wishes, will then be presented to the ninth session of the General Assembly of States Parties in June 2022 for its examination and adoption.

1. **Overarching considerations**

4. **Pertinence**: At the outset, the working group might wish to take note of a message from the experts of the category VI meeting that highlighted frustrations expressed by stakeholders and problems the experts were confronted with themselves concerning the listing mechanisms. While acknowledging that the listing mechanisms have greatly contributed to raising awareness at the local, national and international levels of the importance of intangible cultural heritage and to enhancing its visibility and that of its bearers, the experts raised the following concerns: (a) communities[[1]](#footnote-1), groups and, where applicable, individuals, around the world were reported to feel that the inscription process had not fully met their expectations in terms of safeguarding their living heritage; (b) States Parties are under increasing pressure – including from communities– to nominate more and more elements; (c) the Evaluation Body is weary of the discrepancies between their recommendations and the decisions taken by the Committee; and (d) the Secretariat has been facing an increasing workload to administer the listing mechanisms. Many experts felt that a reform of the listing system has become a matter of urgency.

5. **Community involvement**: The expert feedback was quasi-unanimous in highlighting the need, when reforming the listing system, to ensure more direct involvement of communities, groups and where applicable individuals in all aspects of the listing system. At the time of its adoption in 2003, the Convention was highly innovative and radical in that it placed communities, at the centre of heritage safeguarding. Under the Convention, living heritage was no longer to be documented and categorized exclusively by external experts; instead, it is the communities themselves who identify, determine the value of, and safeguard their living heritage. However, the listing system has evolved over the years without integrating opportunities that would allow for better understanding of the challenges faced by communities and to hear their wishes and aspirations for safeguarding their living heritage. The main approaches identified below strive to remedy this situation with a varying degree of detail. A set of concrete, preliminary actions have been formulated based on the experts’ recommendation to increase community participation.

6. **Article 18 of the Convention**: Many experts expressed frustration with the Register of Good Safeguarding Practices, questioning whether the current system was in fact achieving the intentions set out in Article 18 of the Convention. To that effect, there was a recommendation that a separate and distinct working group be created by the Committee to fully reorganize and develop the underused potential of Article 18.

7. **Reinforced or new stakeholder mechanisms**: Experts proposed establishing new mechanisms for enhancing community involvement with the listing mechanisms: these included the creation of an online ‘arm’s-length body’ to enhance monitoring and follow-up mechanisms, a network of inscribed elements to facilitate exchanges and dialogue, or a special forum to support more direct engagement of the Convention’s governing bodies with communities and bearers of living heritage.

1. **Overall approach to the listing mechanisms (Theme A)**

8. The experts of the category VI meeting made many recommendations for improving the listing system. While the recommendations are not necessarily always conclusive, nor coherent with each other, four possible approaches could be identified. They are called here: ‘fine-tuning’, ‘repositioning’, ‘stricter control’ and ‘maximum inclusivity’. The vast majority of experts advocated for either ‘fine tuning’ or ‘repositioning’ the current system. The proposals for ‘stricter control’ and ‘maximum inclusivity’ received less support and were put forward by only a few experts. Based on a simple show of hands at the end of the expert meeting, there was an equal balance between those who saw the process as a question of ‘fine-tuning’ and those who saw a need for ‘repositioning’ the mechanisms. At the same time, most of the experts subscribed to a combination of fine-tuning and repositioning proposals.

9. The categorisation of the recommendations, their descriptions and their implications as indicated in this document were made by the Secretariat to facilitate the working group’s deliberations, particularly during Part I of this meeting, and to help make the recommendations as specific as possible for the decision on the overall approach to recommend to reform the current system.

10. The four possible overall approaches identified may be summarised as follows.

|  |
| --- |
| **Fine-tuning**: This approach underlines the benefits of the current listing system, considering that improvements can be achieved with a set of minor adjustments, for example by rewording certain criteria (primarily to address the recurrent challenges around criteria R.2 and R.3) and by revising the forms and clarifying certain procedures. Moreover, a clear emphasis would be placed on improving the current possibilities for following up on the viability of inscribed elements by making full use of the periodic reporting mechanism and International Assistance. This would also entail clarifying procedures regarding the removal of an element from a List and the transfer of an element from one List to the other. |
| **Repositioning**: This approach advocates for more fundamental changes to the listing mechanisms of the Convention. It strives to clarify the roles of the two Lists and the Register and to reposition them in relation to each other.This would involve a reduced number of criteria for the Representative List which would lead to simpler and shorter nomination forms and would in turn allow for quicker treatment, evaluation and examination of nominations. The intended outcome is that the Representative List would become more open and inclusive. This approach could also involve a ‘sunset clause’ on the period during which elements are included on the Representative List, after which the elements would move to a ‘hall of fame’ for posteriority, but would no longer require monitoring or reporting.At the same time, this approach aims to enhance the safeguarding potential of the Urgent Safeguarding List. A more systematic and simplified procedure for technical or financial assistance would be provided to communities, groups and where applicable, individuals wishing to develop safeguarding activities and nomination files for the Urgent Safeguarding List, in order to directly improve the viability of elements inscribed on that List.This approach will also interconnect the three mechanisms by simplifying the transfer of elements from one List to the other. In addition, successful safeguarding practices could also be transferred systematically to the Register to enrich that mechanism while providing inspiring examples to communities and States Parties at large. |
| **Stricter control:** Some experts proposed making the listing system more rigorous, with additional requirements to be fulfilled by submitting States. This approach considers that the current system is solid and that it is in line with the relevant provisions in the Convention. The changes solicited would focus on obtaining more information from submitting States, primarily by revising the nomination forms to make sure that communities are at the centre of the nomination process as advocated by the Convention. One example proposed would be to reinforce the demonstration of the free, prior and informed consent of the concerned communities, groups and where applicable, individuals, for the proposed safeguarding plan and the nomination as a whole.Overall, the ‘stricter control’ approach can be seen as enhancing the quality of nomination files and the rigour of their evaluation, but correspondingly would likely translate into a decreased number of inscribed elements per cycle. |
| **Maximum inclusivity**: Another proposal made by some experts would seek to mobilize web based platforms, and electronically supported interactions, to allow for an almost unlimited number of inscriptions (up to thousands of them per year) on a refurbished Urgent Safeguarding List with simultaneous requests for financing (crowdfunding) and/or expert assistance for the corresponding safeguarding plans. Communities, groups and where applicable, individuals, could use a web-based tool to request international assistance and resources from various types of actors to safeguard their intangible cultural heritage. Inclusion on the refurbished Urgent Safeguarding List, with the approval of the States Parties concerned, would be for a maximum of six or twelve years (corresponding to one or two reporting cycles).The effects that this type of intervention might have on the functioning of the Representative List and the Register would have to be studied; the same goes for its compatibility with Article 7 (g)(i) and Articles 16, 17 and 18 of the Convention. As for the Representative List, several nominations per submitting State of elements included in a State’s inventory might be treated through a simplified process on the basis of the strict minimum criteria and without going through the Evaluation Body. |

1. **Details of the main approaches**

11. Since the vast majority of experts expressed opinions situated between the ‘fine-tuning’ and ‘repositioning’ approaches, these approaches are elaborated following the three reflection themes concerning issues related to the inscription criteria, the follow-up of inscribed elements and methodology for the evaluation of nominations. The ‘stricter control’ and ‘maximum inclusivity’ approaches, being outlier positions supported by a small minority of experts, are therefore not considered further here.

**Issues related to the inscription criteria (Theme B)**

**Fine-tuning**

12. A number of experts consider that inscription criteria for each of the three mechanisms are there for a reason and generally see no need to remove or revise them with the possible exception of the following adjustments:

Representative List

* Simplify the questions under criterion R.2 in Form ICH-02 by focusing on how the inscription would contribute to encouraging dialogue and mutual respect rather than on raising the visibility of intangible cultural heritage or on raising awareness of its significance (considering that the Convention has already achieved these two latter objectives). In that sense, it would not be necessary to include questions related to raising awareness at the local, national and international levels in Form ICH-02.
* Link the questions in Form ICH-02 to sustainable development by asking how inscription on the Representative List might contribute to issues such as reducing poverty, supporting inclusive social development, fighting or mitigating climate change or promoting gender equality.
* Revise the questions in Form ICH-02 to ensure that submitting States and the communities, groups and individuals concerned understand that inscription on the Representative List does not place their element above anybody else’s and shall not be understood as a claim of ownership or geographical origin for an element of intangible cultural heritage.

Urgent Safeguarding List

* Replace ‘may’ with ‘shall’ in the wording of criterion U.3 to underline the importance of foreseeing an effective safeguarding plan.
* Simplify section 3 of Form ICH-01 and focus it on requesting information about the necessary time and resources for effective interventions through a realistic plan, in order to make the preparation of the safeguarding plan more practical and less demanding.

Register of Good Safeguarding Practices

* Delete criterion P.9 (common with the ‘repositioning’ approach) considering the lack of clarity on how to evaluate the needs of developing countries. This criterion is also seen to give a misguided impression that developed countries can provide good examples to developing countries but not vice versa.

**Repositioning**

13. Under this approach, the criteria for the Representative List and the Register would be significantly reduced, while the Urgent Safeguarding List would receive enhanced attention in terms of support to communities so as to make it easier to fulfil criterion U.3:

Representative List

* Revise Form ICH-02 to include a question under R.1 on the compatibility of proposed elements with existing international human rights instruments as well as with the requirements of mutual respect among communities, groups and individuals. Also remove criterion R.2, because once an element is considered to be intangible cultural heritage under criterion R.1 it can be assumed that its inclusion in the Representative List would increase awareness about intangible cultural heritage in general.
* Make criterion R.3 optional, depending on the viability of the elements nominated (to be indicated under criterion R.1).
* Revise criterion R.4 to incorporate a part of the current criterion R.2 to solicit communities’ perspectives through consent, by: (a) asking why inscription of their elements might inspire other communities to safeguard their living heritage; and (b) ensuring that the communities understand clearly that the inscription is for the Representative List under the 2003 Convention and not the 1972 World Heritage List.
* Revise the questions under criterion R.5 in Form ICH-02 to simplify the requirements by linking the criterion fully to the Periodic Reporting mechanisms. If a submitting State reported to including the nominated element in the inventory(ies) concerning intangible cultural heritage in its territory, it would be sufficient to refer to a specific element’s place in the inventorying systems explained in that State’s periodic report.
* Consider the introduction of a sunset clause so that elements are included on the Representative List for a limited period, after which they would move to a ‘hall of fame’ for posteriority but would no longer require monitoring or reporting.

Urgent Safeguarding List

* Criterion U.1, U.2, U.3 and U.4 would remain unchanged.
* As regards U.3, systematically provide financial and/or technical assistance to communities to prepare safeguarding plans as part of the preparation of nominations. Or:
* In case a nomination meets all criteria except for criterion U.3, ‘tentatively’ inscribe the element pending a fast-track process for technical support on developing an adequate safeguarding plan to be approved at the next session of the Committee.
* Criterion U.5 – see R.5 above, as similar adjustments are proposed.

Register of Good Safeguarding Practices

* Delete criteria P.2, P.6 and P.8, as they are considered either redundant with each other or with criterion P.4. If a proposal satisfies criteria P.1 and P.4, it can be assumed that the safeguarding practice in question would encourage coordination (criterion P.2), serve as a model (criterion P.6) and be susceptible to assessment of the results (criterion P.8).
* Delete criterion P.9 (common with the ‘fine-tuning’ approach) considering the lack of clarity on how to evaluate the needs of developing countries. This criterion is also seen to give a misguided impression that developed countries can provide good examples to developing countries but not vice versa.
* Initiate a separate reflection on the implementation of article 18 of the Convention regarding better ways of promoting and disseminating good safeguarding practices (whether included in the Register or not).

**Issues related to the follow-up of inscribed elements (Theme C)**

14. In both approaches under this theme, experts proposed that:

* An ‘arm’s-length’ online platform of intangible cultural heritage safeguarding could be created with the objective of establishing a monitoring mechanism that could involve communities more directly in follow-up processes. This global online platform could include community representatives linked to inscribed elements and selected good safeguarding practices or from accredited NGOs, UNESCO Chairs, relevant expert institutions, UNESCO facilitators and category 2 centres. It could encourage dialogue at interregional and regional levels for the purposes of follow-up, including information-sharing and capacity-building. Furthermore, the platform could provide an important communication mechanism allowing for the consideration of community views on different issues.
* Systematic and fast-tracked technical and financial support from the Intangible Cultural Heritage Fund would be provided to elements that would be transferred from the Representative List to the Urgent Safeguarding List, so as to promote the Urgent Safeguarding List as a mechanism that provides intensive support to safeguarding issues.

**Fine-tuning**

15. Under this approach:

1. If an element is still in need of urgent safeguarding eight years after its inscription on the Urgent Safeguarding List, a new safeguarding plan may be submitted to the Committee and International Assistance for its implementation may be requested.
2. The Committee may initiate a study to understand the impact of inscription on the Representative List on elements concerned and on their bearers, and to assess that impact against the communities’ expectations.
3. The priority for the examination of nomination files might be lowered for States Parties that, for a certain period, have failed to 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.
4. It would be important to establish a methodology whereby transfer – and to a lesser extent, removal – of an element could take place in the framework of the Periodic Reporting and International Assistance mechanisms. A strong alignment could be sought between the transfer process and the periodic reporting exercise, whereby the request for transfer might follow the periodicity established for reporting – every four years for the reports on the status of the elements inscribed on the Urgent Safeguarding List and every six years for those inscribed on the Representative List. Specific questions may be integrated in the Periodic Reporting Forms ICH-10 (for the status of elements on the Representative List) and ICH-11 (for elements on the Urgent Safeguarding List), as a possibility for States and/or communities to generate reflection on the need for transfer and to initiate the request for the appropriate process.

**Repositioning**

16. Under this approach:

1. A follow-up system will be established in such a way that no element would remain on the Urgent Safeguarding List for more than sixteen years. Elements on the Urgent Safeguarding List would undergo a monitoring process sixteen years following inscription. Depending on the outcome of this exercise, elements would either be proposed for transfer to the Representative List (if their viability has been sufficiently restored and the elements are no longer in need of urgentsafeguarding) or removed from the Urgent Safeguarding List. In exceptional cases four more years of inscription, conditional on a new safeguarding plan, might be granted. The successful safeguarding plan might be proposed for inscription on the Register of Good Safeguarding Practices.
2. The requirement to report on the status of all elements inscribed on the Representative List could be limited to the first twelve years after inscription:
* States Parties could then have the option to go on reporting, about significant developments concerning elements inscribed on the Representative List as may be appropriate.
* Alternatively, issues related to elements on the Representative List could be reported in an overall manner by States, rather than element by element. This would continue to take place in the framework of the overall reporting on the implementation of the Convention due every six years.
1. Furthermore, the procedures for transfer and removal would follow distinct and separate processes:
* For transfer, a lighter process could be implemented involving specific criteria for transfer that are different from those for inscription, with a focus on the current level of viability of the elements concerned and on community consent for transfer. The aforementioned ‘arm’s-length’ online platform could be mobilized to assist this purpose.
* For cases of removal, a more elaborate mechanism could be envisaged to facilitate an informed decision-making process, with the main criteria for decision being compliance with the definition of intangible cultural heritage in the sense of Article 2 of the Convention. This mechanism would also include interim measures such as a temporary observation period with possibilities of conducting field visits, in order to identify and address the issues raised as reasons for removal in direct consultation with the communities concerned.

**Methodology for the evaluation of nominations (Theme D)**

17. The expert consultations showed that, in general, the current evaluation process is satisfactory, including the composition of the Evaluation Body as well as its working methods and timetable. A few suggestions were made that would be applicable for both approaches:

1. The evaluation of nominations can be based not only on information provided in the files submitted by the States Parties, but also on information that Body members identify outside the file. Such extra-file information could be gathered through the Body’s own experience, proactive research carried out by its members or correspondence received by the Secretariat ([Decision 7.COM 15](https://ich.unesco.org/en/Decisions/7.COM/15)). The information could be used on the condition that due diligence is applied to ensure the reliability of the additionally acquired information, that members of the Body come to a consensus on its use and that it be accounted for in the report and in the Evaluation Body’s draft decisions. It must be noted that the desirability of this proposal was questioned by some experts, as it could complicate the evaluation process because of the different levels and kinds of information available for different elements.
2. The possibility of extending nominations to include other States Parties should be simplified whenever possible. Experts stressed that community consent should be a key requirement in the extension process, particularly to indicate the willingness of the communities under the original nominations to be associated with newly joining communities and vice-versa. At the same time, a new procedure should be established that would not require the submission of a full nomination dossier for the part(s) concerning the original communities.
3. Experts highlighted the importance of using gender-neutral and inclusive language within all aspects of the implementation of the Convention, and advised in particular to avoid utilising such terms as 'gentleman’s agreement'.

**Community involvement**

18. The following suggestions for change might contribute to achieving broader and more direct participation of communities, groups and where applicable, individuals, in all aspects of the listing mechanisms:

1. Submitting States shall provide their nomination files in the language(s) of the communities concerned (or in a national language that is accessible to them), to be published online alongside the English and French versions, so as to ensure better access to, and understanding of, the information contained in the files for the concerned communities, groups or individuals.
2. For the Register of Good Safeguarding Practices, a mechanism could be put in place allowing civil society (for instance, community representatives, accredited NGOs, academia or facilitators) to submit potential proposals to States Parties.
3. Communities should be allowed and encouraged to provide their views and experiences using audio-visual and web-based technologies, for example for giving their consent for the submission of nomination files and the safeguarding plans or measures therein, for responding to the Evaluation Body’s questions through the dialogue process and for conveying their concerns and wishes in case of removal or transfer. It was stressed that access to audio-visual technologies (phones and internet) has greatly increased since the Convention was drafted, and this should be leveraged to enhance community involvement.
4. A network of inscribed elements may be established to leverage the increasing number of inscribed elements and proposals selected to facilitate networking and experience-sharing among concerned States and communities. This could, for instance, take the form of initiatives and events that provide an opportunity for communities facing similar concerns in the safeguarding of their heritage to share lessons learnt regarding their own safeguarding experiences. This could be linked to, or incorporated within, the aforementioned ‘arm’s-length body’.
5. The Committee may consider the creation of a special forum that would allow the governing bodies of the Convention to consult community representatives in a structured manner.
6. **Implications on the number of files**

19. The two main approaches described above have direct consequences for the stakeholders of the Convention (i.e. communities, submitting States, the Evaluation Body and the Secretariat), most notably in terms the number of files to be treated per cycle.

|  |
| --- |
| **Fine-tuning*** There would be no significant decrease in the workload of the stakeholders. Consequently, the current number of annual files would be maintained.
* Since a high number of files (particularly multinational nominations) continue to be presented each year and with 180 States Parties to the Convention, it will likely not be possible to respect the principle of treating one file per State Party every two years should the trend continue. For the same reasons, the priorities set out in paragraph 34 of the Operational Directives are already proving themselves to be unsustainable, and so alternative measures would have to be introduced.
 |
| **Repositioning*** Significant time needed for the Evaluation Body to make its recommendations for nominations could be liberated and consequently, a higher number of nominations could be included in each cycle, particularly for the Representative List.
* However, extra human and financial resources would likely be needed for the Secretariat to able to implement recommendations relating to the proposed follow-up mechanisms.
 |

1. **Towards a reformed listing system**

20. It must be stressed once again that the categorisation of the two main approaches analysed should not be taken as fixed but rather as a framework to facilitate discussion. In other words, it is perfectly feasible to mix and match some of the recommendations from both approaches, provided that any new system to be established forms a coherent whole.

21. When considering the proposed recommendations, it would also be important to bear in mind the practicality of certain proposals in terms of, for example, financial, operational or institutional implications. The working group is further invited to give priority in the recommendations that it will formulate to the specific requests that were made by the Committee. Namely, challenges related to criterion R.2, procedures for removing or transferring elements and the extension of multinational nominations (see the annex of document [LHE/21/16.COM WG/2](https://ich.unesco.org/doc/src/LHE-21-16.COM_WG-2-EN.docx)).

1. **Draft recommendations of Part I of the working group**

22. The working group will adopt the recommendations of Part I of the meeting. The draft below will be revised during the session by the Bureau of the working group to be elected at the beginning of the meeting.

|  |
| --- |
| **Draft recommendations of Part I of the Open-ended intergovernmental working group**1. The Open-ended intergovernmental working group (the working group) in the framework of the global reflection on the listing mechanisms of the 2003 Convention met for its Part I meeting online on 8 and 9 July 2021.
2. The Bureau of the working group consisted of xxx (country name) as Chairperson as well as of a group of Vice-Chairpersons, one for each from the remaining Electoral Group, who also acted as Rapporteurs: xxx (country name), xxx (country name), xxx (country name), xxx (country name) and xxx (country name).
3. The working group thanks the experts who participated in the online survey and in the category VI expert meeting for their hard work and dedication as their recommendations laid the ground for the present meeting of the working group.
4. Having discussed possible overall approaches identified through the expert consultation, the working group decides to recommend that the reform of the listing system be guided by:

[Option A] The ‘fine-tuning’ approach.[Option B] The ‘repositioning’ approach.1. On the issues related to the inscription criteria, the working group recommends:

(a) *to be completed*(b) *to be completed*…1. On the issues related to the follow-up of inscribed elements, the working group recommends:

(a) *to be completed*(b) *to be completed*…1. On the issues related to the methodology for the evaluation of nominations, the working group recommends:

(a) *to be completed*(b) *to be completed*…1. On the proposals to ensure a broader involvement of communities, groups, and where applicable individuals, in the listing system, the working group recommends:

(a) *to be completed*(b) *to be completed*…1. The working group further considers that the following issues be discussed again during Part II of the meeting:

(a) *to be completed*(b) *to be completed*…1. The working group requests the Secretariat to prepare the draft recommendations taking into account the points agreed above, in time for Part II of the meeting (9 and 10 September 2021).
 |

1. . Throughout this document, reference to ‘communities’ should be understood to also refer to ‘communities, groups and, where applicable, individuals’. [↑](#footnote-ref-1)