

## ANNEX 1(a)

CONVENTION on the protection and promotion of the diversity of cultural expressions

The General Conference of the United Nations Educational, Scientific and Cultural Organization, meeting in Paris from 3 to 21 October 2005 at its 33rd session,

AFFIRMING that cultural diversity is a defining characteristic of humanity,

CONSCIOUS that cultural diversity forms a common heritage of humanity and should be cherished and preserved for the benefit of all,

BEING AWARE that cultural diversity creates a rich and varied world, which increases the range of choices and nurtures human capacities and values, and therefore is a mainspring for sustainable development for communities, peoples and nations,

RECALLING that cultural diversity, flourishing within a framework of democracy, tolerance, social justice and mutual respect between peoples and cultures, is indispensable for peace and security at the local, national and international levels,

CELEBRATING the importance of cultural diversity for the full realization of human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and other universally recognized instruments,

EMPHASIZING the need to incorporate culture as a strategic element in national and international development policies, as well as in international development cooperation, taking into account also the United Nations Millennium Declaration (2000) with its special emphasis on poverty eradication,

TAKING INTO ACCOUNT that culture takes diverse forms across time and space and that this diversity is embodied in the uniqueness and plurality of the identities and cultural expressions of the peoples and societies making up humanity,

RECOGNIZING the importance of traditional knowledge as a source of intangible and material wealth, and in particular the knowledge systems of indigenous peoples, and its positive contribution to sustainable development, as well as the need for its adequate protection and promotion,

RECOGNIZING the need to take measures to protect the diversity of cultural expressions, including their contents, especially in situations where cultural expressions may be threatened by the possibility of extinction or serious impairment,

EMPHASIZING the importance of culture for social cohesion in general, and in particular its potential for the enhancement of the status and role of women in society,

BEING AWARE that cultural diversity is strengthened by the free flow of ideas, and that it is nurtured by constant exchanges and interaction between cultures,

REAFFIRMING that freedom of thought, expression and information, as well as diversity of the media, enable cultural expressions to flourish within societies,

RECOGNIZING that the diversity of cultural expressions, including traditional cultural expressions, is an important factor that allows individuals and peoples to express and to share with others their ideas and values,

RECALLING that linguistic diversity is a fundamental element of cultural diversity, and REAFFIRMING the fundamental role that education plays in the protection and promotion of cultural expressions,

TAKING INTO ACCOUNT the importance of the vitality of cultures, including for persons belonging to minorities and indigenous peoples, as manifested in their freedom to create, disseminate and distribute their traditional cultural expressions and to have access thereto, so as to benefit them for their own development,

EMPHASIZING the vital role of cultural interaction and creativity, which nurture and renew cultural expressions and enhance the role played by those involved in the development of culture for the progress of society at large,

RECOGNIZING the importance of intellectual property rights in sustaining those involved in cultural creativity,

BEING CONVINCED that cultural activities, goods and services have both an economic and a cultural nature, because they convey identities, values and meanings, and must therefore not be treated as solely having commercial value,

NOTING that while the processes of globalization, which have been facilitated by the rapid development of information and communication technologies, afford unprecedented conditions for enhanced interaction between cultures, they also represent a challenge for cultural diversity, namely in view of risks of imbalances between rich and poor countries,

BEING AWARE of Unesco's specific mandate to ensure respect for the diversity of cultures and to recommend such international agreements as may be necessary to promote the free flow of ideas by word and image,

REFERRING to the provisions of the international instruments adopted by Unesco relating to cultural diversity and the exercise of cultural rights, and in particular the Universal Declaration on Cultural Diversity of 2001,

ADOPTS THIS CONVENTION ON 20 OCTOBER 2005.

## *I.*

### *OBJECTIVES AND GUIDING PRINCIPLES*

#### *Article 1*

#### **Objectives**

The objectives of this Convention are:

- (a) to protect and promote the diversity of cultural expressions;
- (b) to create the conditions for cultures to flourish and to freely interact in a mutually beneficial manner;
- (c) to encourage dialogue among cultures with a view to ensuring wider and balanced cultural exchanges in the world in favour of intercultural respect and a culture of peace;
- (d) to foster interculturality in order to develop cultural interaction in the spirit of building bridges among peoples;
- (e) to promote respect for the diversity of cultural expressions and raise awareness of its value at the local, national and international levels;

- (f) to reaffirm the importance of the link between culture and development for all countries, particularly for developing countries, and to support actions undertaken nationally and internationally to secure recognition of the true value of this link;
- (g) to give recognition to the distinctive nature of cultural activities, goods and services as vehicles of identity, values and meaning;
- (h) to reaffirm the sovereign rights of States to maintain, adopt and implement policies and measures that they deem appropriate for the protection and promotion of the diversity of cultural expressions on their territory;
- (i) to strengthen international cooperation and solidarity in a spirit of partnership with a view, in particular, to enhancing the capacities of developing countries in order to protect and promote the diversity of cultural expressions.

## *Article 2*

### **Guiding principles**

1.

#### Principle of respect for human rights and fundamental freedoms

Cultural diversity can be protected and promoted only if human rights and fundamental freedoms, such as freedom of expression, information and communication, as well as the ability of individuals to choose cultural expressions, are guaranteed. No one may invoke the provisions of this Convention in order to infringe human rights and fundamental freedoms as enshrined in the Universal Declaration of Human Rights or guaranteed by international law, or to limit the scope thereof.

2.

#### Principle of sovereignty

States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to adopt measures and policies to protect and promote the diversity of cultural expressions within their territory.

3.

#### Principle of equal dignity of and respect for all cultures

The protection and promotion of the diversity of cultural expressions presuppose the recognition of equal dignity of and respect for all cultures, including the cultures of persons belonging to minorities and indigenous peoples.

4.

#### Principle of international solidarity and cooperation

International cooperation and solidarity should be aimed at enabling countries, especially developing countries, to create and strengthen their means of cultural expression, including their cultural industries, whether nascent or established, at the local, national and international levels.

5.

#### Principle of the complementarity of economic and cultural aspects of development

Since culture is one of the mainsprings of development, the cultural aspects of development are as important as its economic aspects, which individuals and peoples have the fundamental right to participate in and enjoy.

6.

#### Principle of sustainable development

Cultural diversity is a rich asset for individuals and societies. The protection, promotion and maintenance of cultural diversity are an essential requirement for sustainable development for the benefit of present and future generations.

7.

Principle of equitable access

Equitable access to a rich and diversified range of cultural expressions from all over the world and access of cultures to the means of expressions and dissemination constitute important elements for enhancing cultural diversity and encouraging mutual understanding.

8.

Principle of openness and balance

When States adopt measures to support the diversity of cultural expressions, they should seek to promote, in an appropriate manner, openness to other cultures of the world and to ensure that these measures are geared to the objectives pursued under the present Convention.

## *II.*

### *SCOPE OF APPLICATION*

#### *Article 3*

#### **Scope of application**

This Convention shall apply to the policies and measures adopted by the Parties related to the protection and promotion of the diversity of cultural expressions.

## *III.*

### *DEFINITIONS*

#### *Article 4*

#### **Definitions**

For the purposes of this Convention, it is understood that:

1. **Cultural diversity**

‘Cultural diversity’ refers to the manifold ways in which the cultures of groups and societies find expression. These expressions are passed on within and among groups and societies.

Cultural diversity is made manifest not only through the varied ways in which the cultural heritage of humanity is expressed, augmented and transmitted through the variety of cultural expressions, but also through diverse modes of artistic creation, production, dissemination, distribution and enjoyment, whatever the means and technologies used.

2. **Cultural content**

‘Cultural content’ refers to the symbolic meaning, artistic dimension and cultural values that originate from or express cultural identities.

3. **Cultural expressions**

‘Cultural expressions’ are those expressions that result from the creativity of individuals, groups and societies, and that have cultural content.

4. **Cultural activities, goods and services**

‘Cultural activities, goods and services’ refers to those activities, goods and services, which at the time they are considered as a specific attribute, use or purpose, embody or convey cultural expressions, irrespective of the commercial value they may have. Cultural activities may be an end in themselves, or they may contribute to the production of cultural goods and services.

5. **Cultural industries**

‘Cultural industries’ refers to industries producing and distributing cultural goods or services as defined in paragraph 4 above.

6. **Cultural policies and measures**

‘Cultural policies and measures’ refers to those policies and measures relating to culture, whether at the local, national, regional or international level that are either focused on culture as such or are designed to have a direct effect on cultural expressions of individuals, groups or societies, including on the creation, production, dissemination, distribution of and access to cultural activities, goods and services.

7. **Protection**

‘Protection’ means the adoption of measures aimed at the preservation, safeguarding and enhancement of the diversity of cultural expressions.

“Protect” means to adopt such measures.

8. **Interculturality**

‘Interculturality’ refers to the existence and equitable interaction of diverse cultures and the possibility of generating shared cultural expressions through dialogue and mutual respect.

*IV.*

*RIGHTS AND OBLIGATIONS OF PARTIES*

*Article 5*

**General rule regarding rights and obligations**

1 The Parties, in conformity with the Charter of the United Nations, the principles of international law and universally recognized human rights instruments, reaffirm their sovereign right to formulate and implement their cultural policies and to adopt measures to protect and promote the diversity of cultural expressions and to strengthen international cooperation to achieve the purposes of this Convention.

2 When a Party implements policies and takes measures to protect and promote the diversity of cultural expressions within its territory, its policies and measures shall be consistent with the provisions of this Convention.

### *Article 6*

#### **Rights of parties at the national level**

1 Within the framework of its cultural policies and measures as defined in Article 4.6 and taking into account its own particular circumstances and needs, each Party may adopt measures aimed at protecting and promoting the diversity of cultural expressions within its territory.

2 Such measures may include the following:

### *Article 7*

#### **Measures to promote cultural expressions**

1 Parties shall endeavour to create in their territory an environment which encourages individuals and social groups:

2 Parties shall also endeavour to recognize the important contribution of artists, others involved in the creative process, cultural communities, and organizations that support their work, and their central role in nurturing the diversity of cultural expressions.

### *Article 8*

#### **Measures to protect cultural expressions**

1 Without prejudice to the provisions of Articles 5 and 6, a Party may determine the existence of special situations where cultural expressions on its territory are at risk of extinction, under serious threat, or otherwise in need of urgent safeguarding.

2 Parties may take all appropriate measures to protect and preserve cultural expressions in situations referred to in paragraph 1 in a manner consistent with the provisions of this Convention.

3 Parties shall report to the Intergovernmental Committee referred to in Article 23 all measures taken to meet the exigencies of the situation, and the Committee may make appropriate recommendations.

### *Article 9*

#### **Information sharing and transparency**

Parties shall:

- (a) provide appropriate information in their reports to Unesco every four years on measures taken to protect and promote the diversity of cultural expressions within their territory and at the international level;
- (b) designate a point of contact responsible for information sharing in relation to this Convention;
- (c) share and exchange information relating to the protection and promotion of the diversity of cultural expressions.

### *Article 10*

#### **Education and public awareness**

Parties shall:

- (a) encourage and promote understanding of the importance of the protection and promotion of the diversity of cultural expressions, *inter alia*, through educational and greater public awareness programmes;
- (b) cooperate with other Parties and international and regional organizations in achieving the purpose of this article;
- (c) endeavour to encourage creativity and strengthen production capacities by setting up educational, training and exchange programmes in the field of cultural industries. These measures should be implemented in a manner which does not have a negative impact on traditional forms of production.

### *Article 11*

#### **Participation of civil society**

Parties acknowledge the fundamental role of civil society in protecting and promoting the diversity of cultural expressions. Parties shall encourage the active participation of civil society in their efforts to achieve the objectives of this Convention.

### *Article 12*

#### **Promotion of international cooperation**

Parties shall endeavour to strengthen their bilateral, regional and international cooperation for the creation of conditions conducive to the promotion of the diversity of cultural expressions, taking particular account of the situations referred to in Articles 8 and 17, notably in order to:

- (a) facilitate dialogue among Parties on cultural policy;
- (b) enhance public sector strategic and management capacities in cultural public sector institutions, through professional and international cultural exchanges and sharing of best practices;
- (c) reinforce partnerships with and among civil society, non-governmental organizations and the private sector in fostering and promoting the diversity of cultural expressions;
- (d) promote the use of new technologies, encourage partnerships to enhance information sharing and cultural understanding, and foster the diversity of cultural expressions;
- (e) encourage the conclusion of co-production and co-distribution agreements.

### Article 13

#### **Integration of culture in sustainable development**

Parties shall endeavour to integrate culture in their development policies at all levels for the creation of conditions conducive to sustainable development and, within this framework, foster aspects relating to the protection and promotion of the diversity of cultural expressions.

### Article 14

#### **Cooperation for development**

Parties shall endeavour to support cooperation for sustainable development and poverty reduction, especially in relation to the specific needs of developing countries, in order to foster the emergence of a dynamic cultural sector by, *inter alia*, the following means:

- (a) the strengthening of the cultural industries in developing countries through:
  - (i) creating and strengthening cultural production and distribution capacities in developing countries;
  - (ii) facilitating wider access to the global market and international distribution networks for their cultural activities, goods and services;
  - (iii) enabling the emergence of viable local and regional markets;
  - (iv) adopting, where possible, appropriate measures in developed countries with a view to facilitating access to their territory for the cultural activities, goods and services of developing countries;
  - (v) providing support for creative work and facilitating the mobility, to the extent possible, of artists from the developing world;
  - (vi) encouraging appropriate collaboration between developed and developing countries in the areas, *inter alia*, of music and film;
- (b) capacity-building through the exchange of information, experience and expertise, as well as the training of human resources in developing countries, in the public and private sector relating to, *inter alia*, strategic and management capacities, policy development and implementation, promotion and distribution of cultural expressions, small-, medium- and micro-enterprise development, the use of technology, and skills development and transfer;
- (c) technology transfer through the introduction of appropriate incentive measures for the transfer of technology and know-how, especially in the areas of cultural industries and enterprises;
- (d) financial support through:
  - (i) the establishment of an International Fund for Cultural Diversity as provided in Article 18;
  - (ii) the provision of official development assistance, as appropriate, including technical assistance, to stimulate and support creativity;



- (iii) other forms of financial assistance such as low interest loans, grants and other funding mechanisms.

#### *Article 15*

### **Collaborative arrangements**

Parties shall encourage the development of partnerships, between and within the public and private sectors and non-profit organizations, in order to cooperate with developing countries in the enhancement of their capacities in the protection and promotion of the diversity of cultural expressions. These innovative partnerships shall, according to the practical needs of developing countries, emphasize the further development of infrastructure, human resources and policies, as well as the exchange of cultural activities, goods and services.

#### *Article 16*

### **Preferential treatment for developing countries**

Developed countries shall facilitate cultural exchanges with developing countries by granting, through the appropriate institutional and legal frameworks, preferential treatment to artists and other cultural professionals and practitioners, as well as cultural goods and services from developing countries.

#### *Article 17*

### **International cooperation in situations of serious threat to cultural expressions**

Parties shall cooperate in providing assistance to each other, and, in particular to developing countries, in situations referred to under Article 8.

#### *Article 18*

### **International Fund for Cultural Diversity**

1 An International Fund for Cultural Diversity, hereinafter referred to as ‘the Fund’, is hereby established.

2 The Fund shall consist of funds-in-trust established in accordance with the Financial Regulations of Unesco.

3 The resources of the Fund shall consist of:

4 The use of resources of the Fund shall be decided by the Intergovernmental Committee on the basis of guidelines determined by the Conference of Parties referred to in Article 22.

5 The Intergovernmental 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 it.

6 No political, economic or other conditions that are incompatible with the objectives of this Convention may be attached to contributions made to the Fund.

7 Parties shall endeavour to provide voluntary contributions on a regular basis towards the implementation of this Convention.

#### *Article 19*

### **Exchange, analysis and dissemination of information**

1 Parties agree to exchange information and share expertise concerning data collection and statistics on the diversity of cultural expressions as well as on best practices for its protection and promotion.

2 Unesco shall facilitate, through the use of existing mechanisms within the Secretariat, the collection, analysis and dissemination of all relevant information, statistics and best practices.

3 Unesco shall also establish and update a data bank on different sectors and governmental, private and non-profit organizations involved in the area of cultural expressions.

4 To facilitate the collection of data, Unesco shall pay particular attention to capacity-building and the strengthening of expertise for Parties that submit a request for such assistance.

5 The collection of information identified in this Article shall complement the information collected under the provisions of Article 9.

#### *V.*

### *RELATIONSHIP TO OTHER INSTRUMENTS*

#### *Article 20*

### **Relationship to other treaties: mutual supportiveness, complementarity and non-subordination**

1 Parties recognize that they shall perform in good faith their obligations under this Convention and all other treaties to which they are parties. Accordingly, without subordinating this Convention to any other treaty,

2 Nothing in this Convention shall be interpreted as modifying rights and obligations of the Parties under any other treaties to which they are parties.

#### *Article 21*

### **International consultation and coordination**

Parties undertake to promote the objectives and principles of this Convention in other international forums. For this purpose, Parties shall consult each other, as appropriate, bearing in mind these objectives and principles.

## VI.

### ORGANS OF THE CONVENTION

#### Article 22

##### **Conference of Parties**

- 1 A Conference of Parties shall be established. The Conference of Parties shall be the plenary and supreme body of this Convention.
- 2 The Conference of Parties shall meet in ordinary session every two years, as far as possible, in conjunction with the General Conference of Unesco. It may meet in extraordinary session if it so decides or if the Intergovernmental Committee receives a request to that effect from at least one-third of the Parties.
- 3 The Conference of Parties shall adopt its own rules of procedure.
- 4 The functions of the Conference of Parties shall be, *inter alia*:

#### Article 23

##### **Intergovernmental Committee**

- 1 An Intergovernmental Committee for the Protection and Promotion of the Diversity of Cultural Expressions, hereinafter referred to as 'the Intergovernmental Committee', shall be established within Unesco. It shall be composed of representatives of 18 States Parties to the Convention, elected for a term of four years by the Conference of Parties upon entry into force of this Convention pursuant to Article 29.
- 2 The Intergovernmental Committee shall meet annually.
- 3 The Intergovernmental Committee shall function under the authority and guidance of and be accountable to the Conference of Parties.
- 4 The Members of the Intergovernmental Committee shall be increased to 24 once the number of Parties to the Convention reaches 50.
- 5 The election of Members of the Intergovernmental Committee shall be based on the principles of equitable geographical representation as well as rotation.
- 6 Without prejudice to the other responsibilities conferred upon it by this Convention, the functions of the Intergovernmental Committee shall be:
- 7 The Intergovernmental Committee, in accordance with its Rules of Procedure, may invite at any time public or private organizations or individuals to participate in its meetings for consultation on specific issues.
- 8 The Intergovernmental Committee shall prepare and submit to the Conference of Parties, for approval, its own Rules of Procedure.

*Article 24***Unesco Secretariat**

- 1 The organs of the Convention shall be assisted by the Unesco Secretariat.
- 2 The Secretariat shall prepare the documentation of the Conference of Parties and the Intergovernmental Committee as well as the agenda of their meetings and shall assist in and report on the implementation of their decisions.

*VII.**FINAL CLAUSES**Article 25***Settlement of disputes**

- 1 In the event of a dispute between Parties to this Convention concerning the interpretation or the application of the Convention, the Parties shall seek a solution by negotiation.
- 2 If the Parties concerned cannot reach agreement by negotiation, they may jointly seek the good offices of, or request mediation by, a third party.
- 3 If good offices or mediation are not undertaken or if there is no settlement by negotiation, good offices or mediation, a Party may have recourse to conciliation in accordance with the procedure laid down in the Annex of this Convention. The Parties shall consider in good faith the proposal made by the Conciliation Commission for the resolution of the dispute.
- 4 Each Party may, at the time of ratification, acceptance, approval or accession, declare that it does not recognize the conciliation procedure provided for above. Any Party having made such a declaration may, at any time, withdraw this declaration by notification to the Director-General of Unesco.

*Article 26***Ratification, acceptance, approval or accession by Member States**

- 1 This Convention shall be subject to ratification, acceptance, approval or accession by Member States of Unesco in accordance with their respective constitutional procedures.
- 2 The instruments of ratification, acceptance, approval or accession shall be deposited with the Director-General of Unesco.

## *Article 27*

### **Accession**

1 This Convention shall be open to accession by all States not Members of Unesco but members of the United Nations, or of any of its specialized agencies, that are invited by the General Conference of Unesco to accede to it.

2 This Convention shall also be open to accession by territories which enjoy full internal self-government recognized as such by the United Nations, but which have not attained full independence in accordance with General Assembly resolution 1514 (XV), and which have competence over the matters governed by this Convention, including the competence to enter into treaties in respect of such matters.

3 The following provisions apply to regional economic integration organizations:

4 The instrument of accession shall be deposited with the Director-General of Unesco.

## *Article 28*

### **Point of contact**

Upon becoming Parties to this Convention, each Party shall designate a point of contact as referred to in Article 9.

## *Article 29*

### **Entry into force**

1 This Convention shall enter into force three months after the date of deposit of the thirtieth instrument of ratification, acceptance, approval or accession, but only with respect to those States or regional economic integration organizations that have deposited their respective instruments of ratification, acceptance, approval, or accession on or before that date. It shall enter into force with respect to any other Party three months after the deposit of its instrument of ratification, acceptance, approval or accession.

2 For the purposes of this Article, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by Member States of the organization.

## *Article 30*

### **Federal or non-unitary constitutional systems**

Recognizing that international agreements are equally binding on Parties regardless of their constitutional systems, the following provisions shall apply to Parties which have a federal or non-unitary constitutional system:

(a) with regard to the provisions of this Convention, the implementation of which comes under the legal jurisdiction of the federal or central legislative power, the obligations

of the federal or central government shall be the same as for those Parties which are not federal States;

- (b) with regard to the provisions of the Convention, the implementation of which comes under the jurisdiction of individual constituent units such as States, counties, provinces, or cantons which are not obliged by the constitutional system of the federation to take legislative measures, the federal government shall inform, as necessary, the competent authorities of constituent units such as States, counties, provinces or cantons of the said provisions, with its recommendation for their adoption.

### *Article 31*

#### **Denunciation**

- 1 Any Party to this Convention may denounce this Convention.
- 2 The denunciation shall be notified by an instrument in writing deposited with the Director-General of Unesco.
- 3 The denunciation shall take effect 12 months after the receipt of the instrument of denunciation. It shall in no way affect the financial obligations of the Party denouncing the Convention until the date on which the withdrawal takes effect.

### *Article 32*

#### **Depositary functions**

The Director-General of Unesco, as the depositary of this Convention, shall inform the Member States of the Organization, the States not members of the Organization and regional economic integration organizations referred to in Article 27, as well as the United Nations, of the deposit of all the instruments of ratification, acceptance, approval or accession provided for in Articles 26 and 27, and of the denunciations provided for in Article 31.

### *Article 33*

#### **Amendments**

- 1 A Party to this Convention may, by written communication addressed to the Director-General, propose amendments to this Convention. The Director-General shall circulate such communication to all Parties. If, within six months from the date of dispatch of the communication, no less than one half of the Parties reply favourably to the request, the Director-General shall present such proposal to the next session of the Conference of Parties for discussion and possible adoption.
- 2 Amendments shall be adopted by a two-thirds majority of Parties present and voting.
- 3 Once adopted, amendments to this Convention shall be submitted to the Parties for ratification, acceptance, approval or accession.
- 4 For Parties which have ratified, accepted, approved or acceded to them, amendments to this Convention shall enter into force three months after the deposit of the instruments referred to in paragraph 3 of this Article by two-thirds of the Parties. Thereafter, for each Party that

ratifies, accepts, approves or accedes to an amendment, the said amendment shall enter into force three months after the date of deposit by that Party of its instrument of ratification, acceptance, approval or accession.

5 The procedure set out in paragraphs 3 and 4 shall not apply to amendments to Article 23 concerning the number of Members of the Intergovernmental Committee. These amendments shall enter into force at the time they are adopted.

6 A State or a regional economic integration organization referred to in Article 27 which becomes a Party to this Convention after the entry into force of amendments in conformity with paragraph 4 of this Article shall, failing an expression of different intention, be considered to be:

#### *Article 34*

#### **Authoritative texts**

This Convention has been drawn up in Arabic, Chinese, English, French, Russian and Spanish, all six texts being equally authoritative.

#### *Article 35*

#### **Registration**

In conformity with Article 102 of the Charter of the United Nations, this Convention shall be registered with the Secretariat of the United Nations at the request of the Director-General of Unesco.