

## II

*(Acts whose publication is not obligatory)*

## COUNCIL

## COUNCIL DECISION

of 18 May 2006

**on the conclusion of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions**

(2006/515/EC)

THE COUNCIL OF THE EUROPEAN UNION,

contributes towards ensuring mutual respect and understanding between cultures at world level.

Having regard to the Treaty establishing the European Community, and in particular Articles 133, 151, 181 and 181a in conjunction with the second sentence of the first subparagraph of Article 300(2), and the first subparagraph of Article 300(3), thereof,

(4) The UNESCO Convention should be approved as soon as possible.

Having regard to the proposal from the Commission,

(5) Both the Community and its Member States have competence in the fields covered by the UNESCO Convention. The Community and the Member States should therefore become Contracting Parties to it, so that together they can fulfil the obligations laid down by the UNESCO Convention and exercise the rights invested in them by it, in situations of mixed competence in a coherent manner,

Having regard to the Opinion of the European Parliament <sup>(1)</sup>,

Whereas:

(1) In November 2004, the Council authorised the Commission to participate, on behalf of the Community, in negotiations at the United Nations Educational, Scientific and Cultural Organisation (UNESCO) concerning a Convention on the Protection and Promotion of the Diversity of Cultural Expressions, hereinafter referred to as the 'UNESCO Convention'. The Commission participated in these negotiations, together with the Member States.

HAS DECIDED AS FOLLOWS:

*Article 1*

1. The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions is hereby approved on behalf of the Community.

(2) The UNESCO Convention was adopted at the General Conference of UNESCO in Paris on 20 October 2005.

2. The text of the UNESCO Convention is contained in Annex 1(a) to this Decision.

(3) The UNESCO Convention constitutes a relevant and effective pillar for promoting cultural diversity and cultural exchanges, to which both the Community, as reflected in Article 151(4) of the Treaty, and its Member States, attach the greatest importance. It

*Article 2*

1. The President of the Council is hereby authorised to designate the person(s) empowered to deposit the instrument of accession, on behalf of the Community, with the Director-General of UNESCO, in accordance with Article 27(4) of the UNESCO Convention.

<sup>(1)</sup> Opinion delivered on 27.4.2006 (not yet published in the Official Journal).

2. The President of the Council is hereby authorised to designate the person(s) empowered to deposit, on behalf of the Community, the declaration of competence contained in Annex 1(b) to this Decision, in accordance with Article 27(3)(c) of the UNESCO Convention.

3. The President of the Council is hereby authorised to designate the person(s) empowered to issue the Unilateral Declaration reproduced in Annex 2 to this Decision at the time of the deposition of the instrument of accession.

*Article 3*

In respect of matters falling within the Community's competence, the Commission shall represent the Community

at meetings of the bodies created by the UNESCO Convention, in particular the Conference of the Parties referred to in Article 22 thereof, and shall negotiate on its behalf concerning questions falling within the remit of those bodies.

*Article 4*

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 18 May 2006.

*For the Council*

*The President*

Franz MORAK

## 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:

- (i) regulatory measures aimed at protecting and promoting diversity of cultural expressions;
- (ii) measures that, in an appropriate manner, provide opportunities for domestic cultural activities, goods and services among all those available within the national territory for the creation, production, dissemination, distribution and enjoyment of such domestic cultural activities, goods and services, including provisions relating to the language used for such activities, goods and services;

(iii) measures aimed at providing domestic independent cultural industries and activities in the informal sector effective access to the means of production, dissemination and distribution of cultural activities, goods and services;

(iv) measures aimed at providing public financial assistance;

(v) measures aimed at encouraging non-profit organizations, as well as public and private institutions and artists and other cultural professionals, to develop and promote the free exchange and circulation of ideas, cultural expressions and cultural activities, goods and services, and to stimulate both the creative and entrepreneurial spirit in their activities;

(vi) measures aimed at establishing and supporting public institutions, as appropriate;

(vii) measures aimed at nurturing and supporting artists and others involved in the creation of cultural expressions;

(viii) measures aimed at enhancing diversity of the media, including through public service broadcasting.

### Article 7

#### Measures to promote cultural expressions

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

- (a) to create, produce, disseminate, distribute and have access to their own cultural expressions, paying due attention to the special circumstances and needs of women as well as various social groups, including persons belonging to minorities and indigenous peoples;
- (b) to have access to diverse cultural expressions from within their territory as well as from other countries of the world.

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:

(a) voluntary contributions made by Parties;

(b) funds appropriated for this purpose by the General Conference of Unesco;

(c) contributions, gifts or bequests by other States; organizations and programmes of the United Nations system, other regional or international organizations; and public or private bodies or individuals;

(d) any interest due on resources of the Fund;

(e) funds raised through collections and receipts from events organized for the benefit of the Fund;

(f) any other resources authorized by the Fund's regulations.

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,

(a) they shall foster mutual supportiveness between this Convention and the other treaties to which they are parties; and

(b) when interpreting and applying the other treaties to which they are parties or when entering into other international obligations, Parties shall take into account the relevant provisions of this Convention.

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*:

(a) to elect the Members of the Intergovernmental Committee;

(b) to receive and examine reports of the Parties to this Convention transmitted by the Intergovernmental Committee;

(c) to approve the operational guidelines prepared upon its request by the Intergovernmental Committee;

(d) to take whatever other measures it may consider necessary to further the objectives of this Convention.

#### 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:
  - (a) to promote the objectives of this Convention and to encourage and monitor the implementation thereof;
  - (b) to prepare and submit for approval by the Conference of Parties, upon its request, the operational guidelines for the implementation and application of the provisions of the Convention;
  - (c) to transmit to the Conference of Parties reports from Parties to the Convention, together with its comments and a summary of their contents;
  - (d) to make appropriate recommendations to be taken in situations brought to its attention by Parties to the Convention in accordance with relevant provisions of the Convention, in particular Article 8;
  - (e) to establish procedures and other mechanisms for consultation aimed at promoting the objectives and principles of this Convention in other international forums;
  - (f) to perform any other tasks as may be requested by the Conference of Parties.
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:

(a) This Convention shall also be open to accession by any regional economic integration organization, which shall, except as provided below, be fully bound by the provisions of the Convention in the same manner as States Parties;

(b) In the event that one or more Member States of such an organization is also Party to this Convention, the organization and such Member State or States shall decide on their responsibility for the performance of their obligations under this Convention. Such distribution of responsibility shall take effect following completion of the notification procedure described in subparagraph (c). The organization and the Member States shall not be entitled to exercise rights under this Convention concurrently. In addition, regional economic integration organizations, in matters within their competence, shall exercise their rights to vote with a number of votes equal to the number of their Member States that are Parties to this Convention. Such an organization shall not exercise its right to vote if any of its Member States exercises its right, and vice-versa;

(c) A regional economic integration organization and its Member State or States which have agreed on a distribution of responsibilities as provided in subparagraph (b) shall inform the Parties of any such proposed distribution of responsibilities in the following manner:

(i) in their instrument of accession, such organization shall declare with specificity, the distribution of their responsibilities with respect to matters governed by the Convention;

(ii) in the event of any later modification of their respective responsibilities, the regional economic integration organization shall inform the depositary of any such proposed modification of their respective responsibilities; the depositary shall in turn inform the Parties of such modification;

(d) Member States of a regional economic integration organization which become Parties to this Convention shall be presumed to retain competence over all matters in respect of which transfers of competence to the organization have not been specifically declared or informed to the depositary;

(e) 'Regional economic integration organization' means an organization constituted by sovereign States, members of

the United Nations or of any of its specialized agencies, to which those States have transferred competence in respect of matters governed by this Convention and which has been duly authorized, in accordance with its internal procedures, to become a Party to it.

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:

- (a) Party to this Convention as so amended; and
- (b) a Party to the unamended Convention in relation to any Party not bound by the amendments.

*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.

## ANNEX

**CONCILIATION PROCEDURE***Article 1***Conciliation Commission**

A Conciliation Commission shall be created upon the request of one of the Parties to the dispute. The Commission shall, unless the Parties otherwise agree, be composed of five members, two appointed by each Party concerned and a President chosen jointly by those members.

*Article 2***Members of the Commission**

In disputes between more than two Parties, Parties in the same interest shall appoint their members of the Commission jointly by agreement. Where two or more Parties have separate interests or there is a disagreement as to whether they are of the same interest, they shall appoint their members separately.

*Article 3***Appointments**

If any appointments by the Parties are not made within two months of the date of the request to create a Conciliation Commission, the Director-General of Unesco shall, if asked to do so by the Party that made the request, make those appointments within a further two-month period.

*Article 4***President of the Commission**

If a President of the Conciliation Commission has not been chosen within two months of the last of the members of the Commission being appointed, the Director-General of Unesco shall, if asked to do so by a Party, designate a President within a further two-month period.

*Article 5***Decisions**

The Conciliation Commission shall take its decisions by majority vote of its members. It shall, unless the Parties to the dispute otherwise agree, determine its own procedure. It shall render a proposal for resolution of the dispute, which the Parties shall consider in good faith.

*Article 6***Disagreement**

A disagreement as to whether the Conciliation Commission has competence shall be decided by the Commission.

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## ANNEX 1(b)

**Declaration of the European Community in application of Article 27(3)(c) of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions**

The current members of the European Community are the Kingdom of Belgium, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland.

This Declaration indicates the competences transferred to the Community by the Member States under the Treaties, in the areas covered by the Convention.

The Community has exclusive competence for the common commercial policy (Articles 131-134 of the Treaty), except for the commercial aspects of intellectual property and trade in services in those areas set out in Article 133 (5) and (6) of the Treaty (in particular, in this context, trade in cultural and audiovisual services) where responsibility is shared between the Community and the Member States. It conducts a development cooperation policy (Articles 177-181 of the Treaty) and a policy of cooperation with industrialised countries (Article 181a of the Treaty) without prejudice to the respective competences of the Member States. It has shared competence as regards the free movement of goods, persons, services and capital (Articles 23-31 and 39-60 of the Treaty), competition (Articles 81-89 of the Treaty) and the internal market, including intellectual property (Articles 94-97 of the Treaty). Pursuant to Article 151 of the Treaty, in particular paragraph 4 thereof, the Community takes cultural aspects into account in its action under other provisions of the Treaty, in particular in order to respect and to promote the diversity of its cultures.

The Community Acts listed below illustrate the extent of the area of competence of the Community in accordance with the provisions establishing the European Community.

Council Decision 94/800/EC of 22 December 1994 concerning the conclusion on behalf of the European Community, as regards matters within its competence, of the Agreements reached in the Uruguay Round multilateral negotiations (1986 to 1994) (OJ L 336, 23.12.1994, p. 1).

Council Regulation (EC) No 2501/2001 of 10 December 2001 applying a scheme of generalised tariff preferences for the period from 1 January 2002 to 31 December 2004 — Statements on a Council Regulation applying a scheme of generalised tariff preferences for the period from 1 January 2002 to 31 December 2004 (OJ L 346, 31.12.2001, p. 1).

Council Decision 2005/599/EC of 21 June 2005 concerning the signing, on behalf of the European Community, of the Agreement amending the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States, of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 (OJ L 209, 11.8.2005, p. 26).

Council Regulation (EC) No 2698/2000 of 27 November 2000 amending Regulation (EC) No 1488/96 on financial and technical measures to accompany the reform of economic and social structures in the framework of the Euro-Mediterranean Partnership (MEDA) (OJ L 311, 12.12.2000, p. 1).

Council Regulation (EEC) No 3906/89 of 18 December 1989 on economic aid to the Republic of Hungary and the Polish People's Republic, and subsequent amendments, still applicable to Bulgaria and Romania (OJ L 375, 23.12.1989, p. 11).

Council Regulation (EC) No 2666/2000 of 5 December 2000 on assistance for Albania, Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia and the Former Yugoslav Republic of Macedonia and repealing Regulation (EC) No 1628/96 and amending Regulations (EEC) No 3906/89 and (EEC) No 1360/90 and Decisions 97/256/EC and 1999/311/EC (OJ L 306, 7.12.2000, p. 1).

Council Regulation (EEC) No 443/92 of 25 February 1992 on financial and technical assistance to, and economic cooperation with, the developing countries in Asia and Latin America (OJ L 52, 27.2.1992, p. 1).

Council Regulation (EC, Euratom) No 99/2000 of 29 December 1999 concerning the provision of assistance to the partner States in Eastern Europe and Central Asia (OJ L 12, 18.1.2000, p. 1).

Decision No 792/2004/EC of the European Parliament and of the Council of 21 April 2004 establishing a Community action programme to promote bodies active at European level in the field of culture (OJ L 138, 30.4.2004, p. 40).

Decision No 508/2000/EC of the European Parliament and the Council of 14 February 2000 establishing the Culture 2000 programme (OJ L 63, 10.3.2000, p. 1).

Decision No 1419/1999/EC of the European Parliament and of the Council of 25 May 1999 establishing a Community action for the European Capital of Culture event for the years 2005 to 2019 (OJ L 166, 1.7.1999, p. 1).

Council Decision of 22 September 1997 regarding the future of European cultural action OJ C 305, 7.10.1997, p. 1

Council Decision of 22 September 1997 on cross-border fixed book prices in European linguistic areas (OJ C 305, 7.10.1997, p. 2

Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by Law, Regulation or Administrative Action in Member States concerning the pursuit of television broadcasting activities (OJ L 298, 17.10.1989, p. 23). Directive amended by Directive 97/36/EC of the European Parliament and of the Council (OJ L 202, 30.7.1997, p. 60)

Council Decision 2000/821/EC of 20 December 2000 on the implementation of a programme to encourage the development, distribution and promotion of European audiovisual works (MEDIA Plus - Development, Distribution and Promotion) (2001-2005) (OJ L 336, 30.12.2000, p. 82).

Decision No 163/2001/EC of the European Parliament and of the Council of 19 January 2001 on the implementation of a training programme for professionals in the European audiovisual programme industry (MEDIA-Training) (2001-2005) (OJ L 26, 27.1.2001, p. 1).

Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty (OJ L 83, 27.3.1999, p. 1), relating to State aid.

Directive 2004/48/EC of the European Parliament and the Council of 29 April 2004 on the enforcement of intellectual property rights (OJ L 157, 30.4.2004, p. 45).

Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (OJ L 167, 22.6.2001, p. 10).

Directive 2001/84/EC of the European Parliament and of the Council of 27 September 2001 on the resale right for the benefit of the author of an original work of art (OJ L 272, 13.10.2001, p. 32).

Council Directive 93/83/EEC of 27 September 1993 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission (OJ L 248, 6.10.1993, p. 15).

Council Directive 93/98/EEC of 29 October 1993 harmonising the term of protection of copyright and certain related rights (OJ L 290, 24.11.1993, p. 9).

Council Directive 92/100/EEC of 19 November 1992 on rental right and lending right and on certain rights related to copyright in the field of intellectual property (OJ L 346, 27.11.1992, p. 61)

The exercise of Community competence is, by its nature, subject to continuous development. In this respect, therefore, the Community reserves the right to notify other future declarations regarding the distribution of competences between the European Community and the Member States.

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## ANNEX 2

**Unilateral declaration on behalf of the community in connection with deposition of the instrument of accession**

'As regards the Community competences described in the Declaration pursuant to Article 27(3)(c) of the Convention, the Community is bound by the Convention and will ensure its due implementation. It follows that the Member States of the Community which are party to the Convention in their mutual relations apply the provisions of the Convention in accordance with the Community's internal rules and without prejudice to appropriate amendments being made to these rules.'

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