IFACCA Briefing Note for National Arts Funding Agencies:
UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions

June 2010
Foreword

In June 2009, key operational guidelines for the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005) were unanimously approved by the 2nd Conference of Parties of the Convention.

As two thirds of IFACCA’s national members are among the 110 countries that have ratified the Convention and many others have a keen interest in its scope and potential impact on the arts and cultural sector, IFACCA has been monitoring developments for some time.

To assist national arts funding agencies to gain a better understanding of the objectives, terminology and implementation of the Convention and the current issues around it, we commissioned the ERICarts Institute in Bonn to prepare the following Briefing Note. We very much welcome the endorsement received for this Briefing Note from UNESCO’s Division of Cultural Expressions and Creative Industries, where the 2005 Convention Secretariat is located.

IFACCA is interested in receiving members’ responses to the issues raised in this Briefing Note with a view to providing input to the work of the organs of the Convention, namely the Intergovernmental Committee and the Conference of Parties.

IFACCA recognises that there are a number of approaches to cultural policies in general and those aimed at diversity in particular, and that the interpretation and implementation of the Articles of the Convention by individual members will vary.

Nevertheless, we believe that it is appropriate to continue to participate as an observer in the meetings of the Intergovernmental Committee and Conference of Parties and to inform members of further issues as they arise. There is also a role for IFACCA in facilitating the sharing of information and good practices between members about the implementation and reporting on the impact of the Convention.

This Briefing Note is available in English, French and Spanish at www.ifacca.org.

We welcome any feedback from members.

Sarah Gardner
Executive Director, IFACCA
UNESCO Foreword

UNESCO would like to congratulate the International Federation of Arts Councils and Culture Agencies (IFACCA) for its initiative in raising awareness of the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions as well as the ERICarts Institute for its work to produce this Briefing Note.

We encourage IFACCA members in countries that have signed the 2005 Convention to take up the call for action to participate as observers in the regular meetings of the States Parties and to engage in activities such as the sharing of information and good practice on measures to protect and promote the diversity of cultural expressions.

In addition to underlining the main objectives and principles at the core of the 2005 Convention, this Briefing Note provides an overview of some of the priority activities set by the Conference of Parties and the Intergovernmental Committee to make the Convention work.

An important development is the introduction of the International Fund for Cultural Diversity aimed at providing financial support to programmes, projects and activities that aim to foster the emergence of a dynamic cultural sector in developing countries that are Parties to the Convention.

The Briefing Note also demonstrates how the 2005 Convention strives to create an enabling environment in which the diversity of cultural expressions may be affirmed and renewed in a globalised world for the benefit of all societies. It does so by reaffirming the ties that bind culture, development and dialogue and establishes an innovative basis for international cultural cooperation.

We trust that the reflection encouraged by this Briefing Note will result in IFACCA’s meaningful input to the work of the organs of the Convention and, where appropriate, to the implementation of the Convention in general.

Galia Saouma-Forero
Director, Cultural Expressions and Creative Industries Division, UNESCO
On the 20 October 2005, 148 Member States to the 33rd UNESCO General Conference voted in favour of adopting a legally binding Convention on the Protection and Promotion of the Diversity of Cultural Expressions. It will be referred to in this briefing note as the Convention.

On 18 March 2007, the Convention entered into force with 57 countries (or 'States Parties') around the world having ratified the text, the majority in their national parliaments. The speed at which this Convention was adopted is considered an extraordinary achievement and signals the urgency and commitment for action from governments around the world.

The purpose of this note is to provide IFACCA members and other national arts funding agencies with a briefing on the Convention and to indicate a series of current activities that are of potential interest. The full Convention text is provided in Annex 1.

1. Main objectives and guiding principles

As a binding international legal instrument, the Convention has been heralded by some as the Magna Carta of International Cultural Policy reaffirming the right of governments to maintain, adopt and implement cultural policies and measures they deem necessary to protect and promote the diversity of cultural expressions and to ensure the free flow of ideas and works.

Among the main objectives of the Convention are to:
- recognise that cultural goods and services convey identity, values and meaning and therefore can not be treated as mere commodities or consumer goods;
- encourage governments to introduce cultural policies and measures for diversity that address all links in the value chain from the creation to the production, distribution, access and enjoyment of cultural expressions;
- promote international cooperation.

The Convention spells out eight key principles that are to guide the formulation and implementation of cultural policies and measures to protect and promote the diversity of cultural expressions. They are:
- respect for human rights and fundamental freedoms
- sovereignty to adopt cultural policy measures within their territory
- equal dignity and respect for all cultures
- international solidarity and cooperation

1 Of the 154 UNESCO Member States present, 148 voted in favour, two opposed (the United States and Israel), and four abstained (Australia, Nicaragua, Honduras and Liberia).

- economic and cultural aspects of development
- sustainable development
- equitable access to cultural expressions from around the world
- openness and balance.

Several proposals for concrete action are put forward in the Convention text ranging from the adoption of specific policy measures, information sharing and awareness, education and public awareness, participation of civil society, areas for sustainable cooperation and preferential treatment to be given to developing countries as well as the establishment of an international cultural diversity fund.

2. Clarifying terms

Article 4 defines a series of concepts at the heart of the Convention. Some of them are:

- Cultural expressions are defined in the Convention as those that result from the creativity of individuals, groups and societies, and that have cultural content (Article 4.3).
- Cultural content is understood as the symbolic meaning, artistic dimension and values that originate from or express cultural identities (Article 4.2).
- Cultural expressions are conveyed through cultural activities, goods and services irrespective of the commercial value they may have (Article 4.4).
- Cultural industries produce and distribute cultural goods or services (Article 4.5).
- Cultural policies and measures, whether at the local, national, regional or international level, are those 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 (Article 4.6).

The Convention also makes a distinction between promoting and protecting cultural expressions in separate Articles (Articles 7 and 8 respectively). According to Ten Keys to the Convention published by UNESCO, this distinction is somewhat arbitrary:

‘the paired terms promotion and protection are inseparable and reinforce each other…when the term “protection” is used in conjunction with “promotion”, it implies the need to keep alive cultural expressions imperilled by the quickening pace of globalisation … and calls for the perpetual regeneration of cultural expressions to ensure they are not confined to museums, “folklorized” or reified’(UNESCO 2006: 5)

This means that if cultural expressions that are materialised as cultural goods, such as books or films, are to be ‘protected’, i.e. to be preserved or safeguarded against abuse in the market, then policies and measures are needed to create the means and the spaces for them to be ‘promoted’. This pair of terms will also have different meanings and implications for policy-making in various countries around the world based on various traditions and circumstances.

3. Main organs of the Convention

There are two main organs responsible for the implementation of the Convention. They are the Conference of Parties and the Intergovernmental Committee. The UNESCO
Secretariat supports their work. Below is a brief overview of these organs and their activities to date.

**Conference of Parties (CoP):** Once a country has ratified the Convention and it has entered into force, it becomes a member of the CoP. It is the ultimate decision-making body and meets every two years. Article 22 of the Convention outlines the main responsibilities of the CoP (See Annex 1). Observer countries, representatives of international organisations and civil society can participate in the meetings of the CoP as indicated in its official Rules of Procedure.

The first ordinary meeting of the CoP took place in Paris in June 2007 where rules of procedure were established. Much of the discussion centred on the composition of the Intergovernmental Committee (IGC) emphasising equitable geographic distribution and rotation as well as the participation of civil society as observers in the meetings of the CoP and IGC. A list of Convention articles to be addressed in operational guidelines was adopted and development cooperation was established as a priority. 24 States Parties were elected to the IGC for two and four year terms. Several Parties indicated their intention to contribute 1 percent of their overall contribution to the UNESCO budget to the new International Fund on Cultural Diversity established through Article 18 of the Convention. It was determined that priority on the use of the Fund should focus on capacity-building activities to assist developing countries in the formulation and implementation of laws, policies and measures to promote the diversity of cultural expressions.

The second ordinary meeting of the CoP took place in Paris in June 2009 where operational guidelines for Articles 7, 8, 11, 13-18 were adopted unanimously and without question. New members to the IGC were voted in. The Executive Director of IFACCA attended this meeting as an Observer.

The third ordinary meeting is to take place in Paris in June 2011.

**Intergovernmental Committee (IGC):** The IGC is composed of 24 elected representatives of the Conference of Parties for a period of either two or four years. Members of the IGC Bureau include an elected Chairperson, four Vice-Chairs and a Rapporteur. The IGC is to meet on an annual basis and may meet in extraordinary session at the request of at least two thirds of its Members to address specific issues. The Committee may also invite public or private organisations or individuals to participate in its meeting for consultation on specific issues as well as members of civil society as observers. To date, the IGC has met in three ordinary sessions (December 2007, 2008 and 2009) and in two extraordinary sessions (June 2008 and March 2009); the latter addressing issues such as the role and participation of civil society and fundraising and visibility strategies.

Article 23.6 of the Convention outlines the main responsibilities of the IGC (See Annex 1). One of its main tasks is to prepare the operational guidelines on the application and implementation of the Convention for approval by the Conference of Parties.

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3 Full reports of the CoP sessions can be downloaded from the UNESCO website: http://www.unesco.org/culture/en/diversity/convention
4 Full reports of the IGC sessions can be downloaded from the UNESCO website: http://www.unesco.org/culture/en/diversity/convention
5 Rules of procedure for the IGC are available from: http://portal.unesco.org/culture/en/ev.php-URL_ID=37378&URL_DO=DO_TOPIC&URL_SECTION=201.html#II
**UNESCO Secretariat to the Convention:** The Division of Cultural Expressions and Creative Industries, Section on the Diversity of Cultural Expressions (Paris) is responsible for providing support to the organs of the Convention and to assist both the Intergovernmental Committee and Conference of Parties to implement their decisions.

4. **The role of civil society**

The participation of civil society in the implementation of the Convention is provided for in Article 11 of the Convention (see Annex 1).

Civil society has been defined in the operational guidelines as:
- non-governmental organisations, non-profit organisations, professionals in the culture sector and associated sectors, groups that support the work of artists and cultural communities.

Representatives of civil society have participated in the meetings of the Conference of Parties and of the Intergovernmental Committee and are working to encourage more governments around the world to ratify the Convention.

The role of civil society as a key actor involved in the implementation of the Convention was acknowledged by the CoP and IGC and they have officially established that civil society representatives can attend their meetings and are allowed to make spoken and written contributions as input to their work.

Furthermore, the operational guidelines for the Convention underline that:

Civil society plays an essential role in the implementation of the Convention: it brings citizen’s, association’s and enterprise’s concerns to public authorities, monitors policies and programmes implementation, plays a watchdog role, serves as-value guardian and innovator, as well as contributes to the achievement of greater transparency and accountability in governance.’

Another important role of civil society is to ‘advocate widespread ratification of the Convention and its implementation by governments and to assist Parties to promote the objectives and principles of the Convention in other international forum.’

In the context of cooperation for development at local, national and international levels, civil society can ‘initiate, create or be associated to innovative partnerships with the public and private sectors as well as with civil society of other regions of the world.’

The guidelines also propose concrete areas for action by States Parties (governments and public bodies) to help facilitate the involvement of civil society in the implementation of the provisions of the Convention. Some are to:
- recognise civil society as an innovator and change-agent in the implementation of the Convention;
- involve civil society in cultural policy making and encourage them to bring new ideas and approaches to the formulation of cultural policies, as well as to the development of innovative cultural processes, practices or programmes that
help promote the cultural expressions of women, persons belonging to minorities and indigenous peoples;
- support civil society activities to collect data and facilitate their access to information;
- involve civil society in the design and preparation of reports to be submitted by Parties on actions taken to implement the Convention. These reports are to be submitted every four years to the CoP. First reports are expected in 2012 by those countries having ratified the Convention on or before 2007.

Partnerships between public and private (commercial and non-governmental) actors\(^6\) are also encouraged (Article 15) and are to be based on basic principles of equity, transparency, mutual benefit, responsibility and complementarity. They should be built on already existing structures and networks and undertake a range of activities, particularly with developing countries, from capacity and institution building to cultural policy elaboration and advocacy. The UNESCO Global Alliance for Cultural Diversity\(^7\) is to play a role as facilitator and motivator of such partnerships on an international level.

5. **Current activities and issues**

Several priorities can be identified as activities to be pursued over the next four years by all organs of the Convention as well as by civil society. Some of these are to:

- continue to work towards a complete set of operational guidelines;
- work with States Parties to encourage additional ratifications from all regions of the world and raise visibility of the Convention;
- test and manage the International Fund on Cultural Diversity (Article 18);
- implement mechanisms that provide preferential treatment for artists and other cultural professionals from developing countries and provide access for their cultural goods, services and activities in developed countries (Article 16);
- implement a framework for the exchange of information and good practices (Articles 9, 19) focussed specifically on cultural policy measures that protect and promote diversity (Articles 6, 7, 8) and projects of cooperation and innovative partnerships that reflect spirit of the Convention (Articles 15).

In the context of Articles 14 (international cooperation), 16 (preferential treatment), and 18 (international fund), developing countries have been requested to identify their priorities, specific needs and interests and to produce an operational action plan to optimise international cooperation. From this action plan, a number of activities can be pursued, for example, the introduction of a capacity building programme designed to assist developing countries in the formulation of cultural policies and measures (e.g. regulatory, legal and financial incentives) that provide support for artists and cultural professionals and different stages of the value chain (Article 14).

5.1 **Operational Guidelines**

At their first ordinary meeting held in June 2007 (Paris), the CoP took a decision that work on drafting operational guidelines should give priority to:

\(^6\) These actors are defined in the operational guidelines as: governmental authorities (at the local and national levels) and authorities (at the regional and international levels) and civil society – including the private sector, the media, academia, artists and artistic groups, etc.

\(^7\) Information on the Global Alliance for Cultural Diversity is at http://portal.unesco.org/culture/en/ev.php-URL_ID=24468&URL_DO=DO_TOPIC&URL_SECTION=201.html
- Articles 7, 8 and 17 concerning policies and measures to protect and promote cultural expressions
- Article 11 on the role and participation of civil society
- Article 12 on the promotion of international cooperation
- Article 13 on the integration of culture in sustainable development
- Article 14 on cooperation for development
- Article 15 on collaborative arrangements (to promote partnerships between and within the public and private sectors and non-profit organisations)
- Article 16 on preferential treatment for developing countries
- Article 18 on the International Fund for Cultural Diversity

The purpose of the operational guidelines is not to reproduce the text of the Convention, but to provide governments with a general framework on how they may implement and apply provisions of the Convention in their own countries.

It has been stressed by the members of the IGC that these guidelines should not dictate what types of cultural policies or measures governments should adopt. Governments are to remain free to draft, adopt or implement cultural policies or measures they deem appropriate and necessary to implement the Convention according to their individual needs and challenges.

Draft operational guidelines for each of the Articles mentioned above were approved by the second meeting of CoP in June 2009 (with the exception of Article 12 given that it was considered explicit enough in its intentions).

Work on operational guidelines for the following Articles is currently underway:
- Article 9 on information sharing and transparency;
- Article 19 on the exchange, analysis and dissemination of information.

5.2 Increase ratifications and raise awareness/visibility of the Convention

As of May 2010, the number of countries having ratified the Convention reached 110 States Parties (+ the European Union). Below is a breakdown according to UNESCO regional groupings:
- 20 percent from Group I (West Europe, North America)
- 20 percent from Group II (East Europe, Russia, Caucasus etc)
- 19 percent from Group III (Latin America/Caribbean region)
- 10 percent from Group IV (Asia Pacific)
- 24 percent from Group Va (Africa)
- 7 percent from Group Vb (Arab States).

A concerted effort is thus needed on the part of various stakeholders including public, private and civil society actors to encourage countries from all regions of the world to ratify the Convention and to generate a more balanced geographic representation and input to the work of the CoP.

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9 A complete list of countries having ratified the Convention, is available on: http://portal.unesco.org/la/convention.asp?KO=31038&language=E
At its March 2009 extraordinary session, the IGC discussed the development of a visibility strategy. They agreed that it would be extremely important to work together with professionals to develop a clear and understandable message that reflects the intention of the Convention.

A background paper was presented and identified various types of activities that could be pursued such as:

- the translation of the Convention in multiple languages;
- the development of information and teaching kits that can also address school age children (targeting the age group 10-16);
- national awareness raising campaigns;
- collection and dissemination of best practices;
- engagement of media professionals to communicate the main objectives of the Convention;
- organisation of festivals and exhibitions;
- establishment of networks of artists (at national, regional and international levels);
- financing flagship pilot projects from the International Fund on Cultural Diversity.

A questionnaire was subsequently developed and sent to States Parties and to civil society via the NGO-UNESCO Liaison Committee to gather their input on ways and means to increase the visibility of the Convention. The results formed the basis of draft operational guidelines outlining a strategic framework for future activities adopted by the IGC in December 2009 that includes the development of new information tools.

Over the years, civil society has indeed been actively engaged in raising awareness of the Convention through, for example, the activities of international networks on cultural diversity such as the International Network of Cultural Diversity (INCD). They are now encouraged to pursue parallel activities on the local level (=country level) to:

- bring local public and private stakeholders into a dialogue about the objectives and concepts put forth in the Convention and the potential impact of the Convention on their work (e.g. through the activities of Diversity Coalitions now located in 40 countries around the world);
- encourage cross-sectoral discussions or workshops involving different public agencies, for example, those responsible for culture, for development cooperation, for trade etc;
- undertake research activities that advance the understanding of cultural policies for diversity as a transversal issue that connects links in the chain between creation, production and distribution and enjoyment of cultural expressions (i.e. cultural activities, goods and services).

In addition, civil society can play a key role in the design and implementation of the overall visibility strategy. One suggestion is to participate in the development and execution of a FAIR CULTURE campaign; based on the Fair Trade concept in general and the Fair Music Campaign\(^\text{10}\) in particular. The latter pursues a diversity of activities aimed a promoting fairness and justice in the music business through recognised standards such as a fair music label and award. In this spirit, civil society could be engaged in the development of a Fair Culture Label and/or FAIR Culture Award for

\(^{10}\) The FAIR MUSIC Campaign is an initiative of mica- music austria, is recognised by the International Music Council and is supported by the European Commission. For more information see: http://www.fairmusic.net
businesses with a corporate social responsibility mission and that provide fair distribution opportunities for cultural goods and services from developing countries as well as fair contracts for artists to be properly remunerated for their works.

5.3 International Fund for Cultural Diversity (Article 18)

Article 18 of the Convention provides for the creation of an International Fund for Cultural Diversity (IFCD).

The purpose of the Fund is to provide financial support to programmes, projects and activities that aim to foster the emergence of a dynamic cultural sector in developing countries that are Parties to the Convention. These could be designed to:

- facilitate the introduction of cultural policies that protect and promote the diversity of cultural expressions and, where appropriate, strengthen the corresponding institutional infrastructure;
- provide capacity-building opportunities aimed at formulating and implementing cultural policies;
- strengthen existing local cultural industries;
- foster the emergence of new cultural industry businesses;
- protect cultural expressions at risk of extinction, under serious threat, or in need of urgent safeguarding.

The Fund will also provide support for preparatory assistance to identify the specific needs of developing countries that are Parties to the Convention and to assist them when preparing their requests for IFCD funding within the framework of activities described above. This may include, for example, engaging in stakeholder consultations, undertaking a mapping exercise, research study and/or situational analysis.

Costs associated with the participation of individuals/organisations from developing countries who are invited by the IGC or the CoP to its meetings may be covered by the resources in the IFCD. This form of support is not available for conferences in general organised by other groups or networks.

Those who are eligible to apply to the Fund are:
- all developing countries which are Parties to the Convention;
- all State Parties to the Convention which have determined the existence of special situations that require support to protect cultural expressions at risk;
- non-governmental organizations coming from developing countries that are Parties to the Convention;
- international non-governmental organizations;
- micro, small and medium enterprises of the private sector active in the cultural field of developing countries that are Parties to the Convention (limited to contributions provided by the private sector);
- representatives of vulnerable groups and other social groups identified in Article 7 of the Convention (i.e. women and other social groups, including persons belonging to minorities and indigenous peoples) from developing countries that are Parties to the Convention.

Decision making process and procedures: The IGC decides on the use of the resources in the Fund based on guidelines approved by the CoP. A pilot phase of 36 months
began in June 2009 (lasting until 2012). Below is an overview of the process for making proposals and approving projects. Note: the purpose of the Fund is to provide support to programmes, projects and activities in developing and least developed countries.

- Step 1: Prepare proposal taking into consideration the priorities of the Fund and operational guidelines on the format of proposals.\(^\text{11}\)

- Step 2: Those seeking funding must submit proposals to the Secretariat of the Convention (Paris) through their National Commissions for UNESCO or other official channels. National Commissions will set their own application deadline. The deadline for the submission of proposals to the UNESCO Secretariat is 30 June each year. First project proposals are to be submitted to the Secretariat by 30 June 2010.

- Step 3: An *international panel of six experts* from all UNESCO regions, appointed by the Intergovernmental Committee in December 2009, will conduct a first evaluation of proposals and make recommendations to the IGC.

- Step 4: The IGC will review proposals and make a decision on projects to be funded during its annual ordinary session, usually held in December each year.

- Step 5: Project implementation phase.

- Step 6: Reporting including financial and evaluation reports to be submitted to the Secretariat six months following the conclusion of the project.

As of May 2010, the resources raised through voluntary contributions to the Fund by States Parties, from gifts and individual donations\(^\text{12}\) totalled 2,391,489.52 USD. The IGC decided at its 3\(^{\text{rd}}\) ordinary meeting in December 2009 that 70% of the resources in the Fund as of July 2010 will be made available for the Fund’s pilot phase.

Raising the level of resources available in the Fund is considered a priority by the IGC. Experts from UNITAID, the TOTAL Foundation (France), TOUSCOPROD and UNICEF\(^\text{13}\) were invited to participate in an extraordinary session of the IGC to share their experience on the development and implementation of innovative fundraising tools.

### 5.4 Preferential treatment for developing countries (Article 16)

Article 16 calls upon developed countries to grant preferential treatment to artists and other cultural professionals from developing countries, including better access for their cultural goods and services to their markets. Preferential treatment is to be understood as having both a trade and culture component. It is suggested that this is to be achieved

\(^{11}\) According to the operational guidelines, requests for funding shall include a brief summary and outline of the project, the name/address of entity/person assuming financial and administrative responsibility, a detailed budget proposal, work schedule and time frame, etc.


through national policies and measures as well as multilateral, regional and bilateral frameworks and mechanisms in the fields of cultural cooperation, development and trade.

Key areas of support have been identified in several expert papers presented to the second ordinary session of the IGC in December 2008 and adopted in the operational guidelines. 14

Some examples:
- capacity-building to provide assistance to developing countries in the formulation of national policies and programmes to support artists, their cultural goods, services and activities (ranging from export strategies to measures aimed at strengthening local cultural industries and markets);
- strengthening and opening up access to distribution networks and systems;
- sharing information on existing legal frameworks and best practices;
- promoting mobility of artists and cultural professionals including improving procedures, rapid access and lower costs of visas;
- funding and resource sharing;
- new partnerships and networks between civil society actors in developed and developing countries;
- addressing issues of double-taxation, technology transfer, investment schemes and financial incentives, research, information sharing and monitoring.

A recent example that is used to illustrate the functioning of this Article is the new EU cultural cooperation protocols developed within the framework of its European Partnership Agreements. The first cultural cooperation protocol was introduced in October 2008 in a trade agreement negotiated with CARIFORUM countries (Caribbean countries). This means that the works of CARIFORUM artists and cultural producers, particularly from the audiovisual sector, are to receive greater access to the EU marketplace. Countries that have ratified CARIFORUM are Cuba, Jamaica and St. Lucia. Those EU countries that have not ratified the agreement are Belgium, the Czech Republic and the Netherlands. Additional agreements are planned with 78 African-Caribbean-Pacific (ACP) countries, India, Canada and Andean countries. An agreement has been signed with South Korea.

Many States Parties have welcomed this initiative. A briefing note published by the International Federation of Coalitions for Cultural Diversity (IFCCD), notes that this marks the first time that the EU has elected to rule out entry quotas, economic tests or eligibility criteria for non-EU artists. In principle, this would rule out citing economic criteria as a basis for refusing a visa application. However, it should be noted that visa policies fall under the authority of individual member States. In other words, coordination between the EU and member States will be required if Caribbean artists are going to experience easier access to the EU. If this does not happen, there is a danger that expectations that have been raised on this count will not be realized. 15

14 For more information see: http://portal.unesco.org/culture/en/ev.php-URL_ID=37869&URL_DO=DO_TOPIC&URL_SECTION=201.html
15 For more information see: http://www.ifccd.com/content/eu-cites-unesco-convention-embedding-cultural-cooperation-protocol-trade-pacts
In addition, the IFCCD argues that the introduction of the cultural cooperation protocols in trade agreements may be ‘risky’, that in the event of litigation, the protocol could be subject to trade dispute resolution procedures, which would have the effect of subordinating culture to trade interests … that the cultural cooperation protocol offered will become a bargaining chip in order to obtain benefits in other economic sectors … and that trade negotiators are not appropriate specialists to develop cultural cooperation protocols.  

Civil society actors have a very important role to play with regard to monitoring the implementation of Article 16. Operational guidelines ask civil society to, among other things provide feedback to the the CoP concerning difficulties and challenges in the implementation of preferential treatment (e.g. visa challenges) and to undertake research on related issues such as different types of incoming mobility schemes for artists from developing countries (see below).

5.5 Facilitating the exchange of information (Articles 9, 19)

Operational guidelines for Articles 9 and 19 are in development. A review of the existing guidelines demonstrates that there are several areas where information and good practice collection exercises as well as indicator development activities can already begin. For example on:
- public policies and measures taken by States Parties to protect and promote diversity at different stages of the value chain: creation, production, distribution/dissemination, enjoyment/consumption (Articles 6, 7). Emphasis is placed as much on providing support to artists as it is on creating an enabling environment for producers and access for the public. Information and data is to be collected on issues ranging from the system of governance for culture to public funding for culture, regulatory frameworks over cultural production and distribution channels, measures aimed to provide support to marginalised groups such as women, minorities, and indigenous people, etc.
- public policies, measures and actions taken by States Parties to protect cultural expressions under threat. (Articles 8, 17)
- legal and administrative measures to support cultural industries e.g. sponsorship laws, schemes that place levies on imports, compensation schemes that collect levies on the sales of e.g. blank disks and reinvest funds back into the sector in the form of artists grants, special loan and interest free credit schemes for micro, small and medium sized enterprises, etc. (Article 18)
- actions taken to raise the importance of the cultural dimension of development and to integrate culture in sustainable development policies. Work on the elaboration of statistical indicators to better evaluate the role of culture in sustainable development is to be pursued. (Article 13)
- actions to facilitate preferential treatment (Article 16) aimed at the mobility of artists and cultural professionals as well as greater market access for cultural goods and services from developing countries.
- new financing and business models aimed at strengthening local creative industries.

16 For more on this discussion see: http://www.ifccd.com/content/panorama-european-union-current-trade-negotiation.
cooperation for development (Article 14), such as export/import strategies that help to facilitate the flow of cultural professionals, goods and services across borders whether they are South-North, South-South, South-South-North.

The operational guidelines indicate that States Parties should put in place mechanisms to facilitate the exchange of information and the sharing of best practices. The use of new technologies and networked communication systems is encouraged as is support for ‘people to people’ networks that can foster contacts between artists, professionals and practitioners in the cultural sector and public administrators working in the different fields of the cultural sector of developed and developing. To this effect, Article 9 (c) of the Convention calls upon States Parties to identify and / or establish a contact point in each country to collect and disseminate this information.

The results of such exercises are to feed into the reports States Parties are to prepare and submit 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 (Article 9a). First reports are expected in 2012 from countries that ratified the Convention on or before 2007.

The process of creating these reports, their form and content will be extremely important to determine the state of cultural policies in support of cultural diversity by that time. With this knowledge (transparency), state parties and civil society actors can work together to, for example: evaluate goals, resolve strategic policy questions, improve upon existing policy instruments, devise new measures or make pertinent management decisions that meet the needs of all members of society; a cyclical process of knowledge production, transfer and uptake.

6. Future issues to be addressed

While the Convention can be considered a strong political instrument enshrined in international law, there are few genuine obligations that bind parties to its implementation. Indeed, one of the main weaknesses of the Convention is the absence of legally-binding compliance procedures and enforcement mechanisms. Another major challenge is the non-subordination clause (Article 20) which puts the weight of the Convention in comparison to other international instruments, notably World Trade Organisation (WTO) agreements on trade in goods and services, into question.

According to several legal scholars, the most effective way to legitimate and determine the normative impact of the Convention in WTO mechanisms is to build up a body of case law over time17 or to develop a body of potential or hypothetical cases18 that could test the longer term impact of the Convention in light of its weakness. Either or both of these activities could be pursued by the newly formed International Network of Lawyers for the Diversity of Cultural Expressions (RIJDEC)19.

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ANNEX 1

2005 UNESCO 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:

(a) regulatory measures aimed at protecting and promoting diversity of cultural expressions;

(b) 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;
(c) 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;

(d) measures aimed at providing public financial assistance;

(e) 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;

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

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

(h) 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.
The Arts Mean the World to us.
THE ARTS MEAN THE WORLD TO US