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# Evaluation of UNESCO's Standard-setting Work of the Culture Sector

## Part IV – 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions

**FINAL REPORT**

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## Executive Summary

As the only UN agency with a mandate in culture, UNESCO has developed a comprehensive series of standard-setting instruments in this field, including six main culture conventions, many recommendations and a number of declarations. Significant time and resources are spent on standard-setting activities related to these instruments and even though the visibility of some of this work is high, no comprehensive evaluation has ever been conducted of the standard-setting work of UNESCO. It is in this context that UNESCO decided to conduct this evaluation.

### Evaluation purpose, scope and methodology

The purpose of UNESCO's overall evaluation of the standard-setting work of the culture sector is to generate findings and recommendations regarding its relevance and effectiveness, with a **focus on its impact on legislation, policies, and strategies of Parties to UNESCO's culture conventions**; and on the implementation of the conventions at the national level. A separate report by the IOS Audit Section assesses the adequacy and efficiency of the working methods used in the standard-setting work.

The evaluation aims to help UNESCO's Culture Sector, Senior Management and the Governing Bodies of the conventions to strengthen, refocus and better coordinate the Organization's standard-setting activities. It also wants to contribute to generating a better understanding about how conventions work in practice, i.e. how they affect legislation and policies of Parties and the behaviour of key institutional actors. It thereby intends to serve as a source of information for Member States, who have the primary responsibility for the implementation of the standard-setting instruments at the national level.

The overall evaluation examines four of UNESCO's culture conventions (1970, 1972, 2003 and 2005). The present report constitutes part four of the overall evaluation. **It focuses on the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions (hereafter the 2005 Convention). Its emphasis is on the integration of the provisions of the Convention into national / regional legislation, policy and strategy.** It also looks at the extent to which Parties and other actors have integrated the Convention's provisions into international development strategies. The report is based on data gathered primarily through an analysis of existing literature.

### Key evaluation findings

**The 2005 Convention has had a positive impact in some policy areas and in some regions, for instance with regard to strengthening cultural policies and legislation in several countries in Africa, Latin America and Asia**, including the setting-up of specialised ministries or other governmental departments, as well as more specific policies and programmes in the field of cultural and creative industries. This is, however, a diverse, unequal picture. Some excellent examples exist, while other countries have so far failed to take any significant steps forward. **The impact of the 2005 Convention has been less visible in other policy areas, such as with regard to cultural policies in Western Europe and North America**, where national governments have generally maintained their existing policies and legislation.

**A broader exploration of the implications of the 2005 Convention in policy areas outside culture and economic development is needed**, including education, citizen participation, gender, social inclusion, etc. Furthermore, coordination mechanisms and governance models need to be further developed. Even though a number of excellent examples of cross-ministerial coordination and participation by local and regional authorities and civil society actors have been identified, more progress in this area is still necessary. Awareness-raising and clarification of the implications of the 2005 Convention, the strengthening of cultural policy departments, and the empowerment of civil society actors in many countries constitute necessary pre-conditions for further developments in this field.

**Cultural industries are weak in many countries, which can ultimately limit the effectiveness of legislation and policies in this area. This should be an issue of concern for all stakeholders** (including in particular national, regional and local authorities, as well as national development agencies operating in third countries). **Likewise, the weakness of civil society and its limited ability to take part in effective policy discussion dialogues with public authorities** in many countries is another factor that hampers the establishment of strong partnerships and the strengthening of an environment that supports the diversity of cultural expressions.

**Culture is increasingly recognized in national and regional sustainable development strategies**, although this is again an unequal picture, with some excellent examples alongside modest developments in other countries.

**The cultural dimension of international development policies particularly in European countries was strengthened, including the design and implementation of new international development strategies and new programmes with partner countries.** Increasingly, these initiatives address the more structural aspects of cultural development, including the setting-up of cultural policy frameworks and the capacity-building of individuals and organizations in the cultural industries. The inclusion of cultural aspects in international development programmes is partly hindered by the absence of culture from the main internationally-agreed development goals, including the Millennium Development Goals. However, there is some evidence to suggest that the diversity of cultural expressions has entered the international trade agenda and been taken into account in the negotiation of a number of bilateral or regional trade agreements.

**The transfer of good practice models will be important in the future, given the existence of a wealth of good examples that could inspire other countries, and the need to facilitate priority-setting within the broad range of potential measures to be adopted in the context of the Convention.** Regional organizations could play an important role in fostering cross-border policy discussion and exchange, while UNESCO should continue its efforts in strengthening the knowledge base, providing policy advice and generating shared knowledge frameworks. Other UN agencies and national development agencies should also be encouraged to take part in these exchanges and to foster common priority-setting and policy harmonisation.

**UNESCO's role has been particularly positive with regard to:**

- **the provision of a space for the exchange of experiences**, particularly through the meetings of the Convention's Governing Bodies and some publications;

- **the provision of technical assistance**, particularly through the UNESCO-EU Expert Facility on the Governance of Culture in Developing Countries, which has had a visible impact in terms of policies and legislation for some of the countries, and the International Fund for Cultural Diversity, which contributed to awareness-raising as well as civil society empowerment and networking, but its impact at cultural policy level is less visible; and
- **its support to the improvement of the knowledge base for cultural policy and the cultural industries**, through the ongoing work on the Culture for Development Indicator Suite.
- **The role of UNESCO has been less relevant as regards the policies and legislation of developed countries**, which can often resort to other policy-exchange spaces (e.g. the EU's Council of Ministers and working groups, as well as other regional or sub-regional bodies).

**A set of new issues introduced in the policy agenda in recent years will need to be considered from the 2005 Convention's point of view.** These include, in particular, a number of topics derived from digitisation, including changes in the value production chain of different cultural industry sectors, the digitisation of contents (and its implications both for cross-border access and trade and for international development policies) and e-commerce. UNESCO should play a key role in fostering policy discussions in these issues, as recently suggested by the Conference of Parties of the Convention.

**Capacity-building and awareness-raising will remain important in the future**, in order to clarify concepts and to explore policy synergies, as well as to ensure that existing international, regional and national instruments are effectively implemented. UNESCO, alongside other international organizations and development agencies, should place particular emphasis on this. The most innovative initiatives undertaken by Parties involved the establishment of cross-departmental and multi-level governance models. These are examples of areas, where support from UNESCO and others will be required in the future.

**Ratification of the 2005 Convention has been very high in several regions but remains limited in others, particularly Asia and the Arab States.** The continuation of existing awareness-raising efforts both by UNESCO and Parties to the Convention and the dissemination of examples of good practices, including their impact in terms of economic development, should be fostered in order to further encourage ratification.

**Data and indicators / benchmarks to measure progress in the implementation of policies and measures as well as to analyse broader cultural trends as a basis for identifying needs and priorities are lacking.**

The evaluation generated a number of recommendations directed to Parties, the Intergovernmental Committee and to the 2005 Convention Secretariat. They are included in the respective chapters of the report and a full list is available in [Chapter 6](#) of this report.

## 1. Introduction and Background

1. UNESCO has developed a comprehensive series of standard-setting instruments, including six main culture Conventions, many recommendations and a number of declarations. Significant time and resources are spent on standard-setting activities related to these instruments and even though the visibility of some of this work is high, no comprehensive evaluation has ever been conducted of the standard-setting work of UNESCO. It is in this context that UNESCO decided to conduct an evaluation of its standard-setting work.

### 1.1. Overall Evaluation Purpose

2. The purpose of the overall evaluation of UNESCO's standard-setting work of the culture sector is to generate findings and recommendations regarding the relevance and the effectiveness of the standard-setting work of the culture sector **with a focus on its impact on legislation, policies, and strategies of Parties to UNESCO's culture conventions**. A separate report by the IOS Audit Section assesses the adequacy and efficiency of the working methods used in the standard-setting work.
3. The evaluation aims to help the UNESCO Culture Sector, Senior Management and the Governing Bodies of the Conventions to strengthen, refocus and better coordinate the Organization's standard-setting activities. The evaluation also wants to contribute to generating a better understanding about how conventions work in practice, i.e. how they affect legislation and policies of Parties and the behaviour of key institutional actors. It thereby also intends to serve as a source of information for Member States, who have the primary responsibility for the implementation of the standard-setting instruments at national level. Last but not least, the evaluation is expected to feed into ongoing discussions about the challenges and lessons learned with regard to evaluating normative work in the UN.
4. The overall evaluation examines four of UNESCO's Culture Conventions (1970, 1972, 2003 and 2005). The results of the analysis will inform the design, implementation and management of the standard-setting work to be carried out under the new eight-year Medium-Term Strategy (C4) for 2014-2021 and the new four-year Programme (C5) for 2014-2017. **The present report constitutes part IV of the overall evaluation exercise. Its focus is on the standard-setting work related to the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions (hereafter, the 2005 Convention).**

### 1.2. Objective and Scope

5. **The primary objective of the present study is to assess the integration of the provisions of the 2005 Convention into Parties' national / regional legislation, policy and development plans, as well as in international development strategies.** Broader issues related to the implementation of the Convention, its ratification, its impact on regional or

international multilateral frameworks, and the visibility of policies and legislation within programmes at national or sub-national level, have occasionally been addressed as well but are not the core focus of the evaluation.

6. Key questions tackled by this report can be grouped under the following:

- ▶ The extent to which Parties have integrated the Convention's provisions into relevant policies and legislation, both in the field of culture and in other policy areas (e.g. economic development, international relations, trade, education, etc.).
- ▶ The extent to which Parties have integrated the Convention's provisions into national development plans or strategies, both in the field of culture and in other policy areas (e.g. economic development, international relations, trade, education, etc.).
- ▶ The extent to which Parties and other development actors have integrated the Convention's provisions into international development strategies.
- ▶ Key factors that enabled or constrained efforts to integrate provisions in policies, legislation and development plans or strategies.
- ▶ Support, partnerships or other interventions that led to the successful incorporation of the Convention's provisions into legislation, policies and plans.
- ▶ Stakeholders' involvement in policy development and their expectations.
- ▶ Other issues, including to what extent the Convention's provisions were already integrated in Parties' policies, legislation and plans before ratification.<sup>1</sup>

7. The present report builds on other evaluations and studies related to the Convention including the Evaluation of the Pilot Phase of the International Fund for Cultural Diversity<sup>2</sup> and the Evaluation of the Expert Facility Project to Strengthen the System of Governance for Culture in Developing Countries<sup>3</sup>.

### 1.3. Methodology

8. The report is based on data gathered primarily through an analysis of existing literature (desk study).<sup>4</sup> Documents consulted in the course of the evaluation exercise include legislation and policy and programme documents produced by Parties to the Convention, as well as the quadrennial reports submitted by these since 2012 and several papers and reports elaborated or commissioned by the Secretariat of the Convention.<sup>5</sup> In addition,

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<sup>1</sup> An extract of the initial work plan, including the set of key questions guiding the evaluation study, has been included as Annex 1 to this final report.

<sup>2</sup> Barbara Torggler et al., *Evaluation of the Pilot Phase of the International Fund for Cultural Diversity. Final Report* (Paris: UNESCO, 2012), IOS/EVS/PI/116; available at <http://unesdoc.unesco.org/images/0021/002184/218443e.pdf>

<sup>3</sup> Florent Loiseau, *Evaluation externe du Projet UNESCO/UE Banque d'expertise pour renforcer le système de gouvernance de la culture dans les pays en développement (2010-2013)* (Paris, September 2013)

<sup>4</sup> The list of bibliography consulted in the course of the evaluation exercise is included in the annex of this report.

<sup>5</sup> 65 Parties to the Convention have submitted their first quadrennial reports describing the implementation of the Convention in 2012 and 2013, in accordance with Article 9 on information-sharing and transparency. The figure is, however, lower than expected. The consultant has examined several of the reports available, placing emphasis on those of countries within the evaluation sample (see below), as well as the summary analyses produced by the Convention Secretariat on the basis of commissioned reports. Cf. UNESCO, 'Strategic and action-oriented analytical summary of the quadrennial periodic reports', 6<sup>th</sup> Ordinary Session of the Intergovernmental Committee for the

academic articles, conference proceedings and documents produced by international networks and other stakeholders have been consulted where relevant, as indicated in footnotes throughout the study.

9. The main emphasis has been placed on a sample of 22 Parties identified in the early stages of the project. The sample includes countries from all geographical regions; some of them have already effectively integrated the provisions of the Convention into legislation and policies, while others still have a long way to go.<sup>6</sup> Where relevant, information concerning other countries has also been taken into account, as has evidence from regional or international organizations and civil society networks which have directly or indirectly contributed to the implementation of the Convention.
10. Relevant literature in the field, including the quadrennial reports submitted by Parties to the Convention, documents produced or commissioned by the Convention's Secretariat, academic texts and some news items have been examined on the basis of a grid adapted to the key issues listed in the previous section. Interviews conducted have also included some common questions as well as others specific to the context and practices in the countries concerned.

#### 1.4. Limitations

11. The evaluation faced the following limitations:
  - Data collection and analysis for the evaluation of the standard-setting work related to the 2005 Convention were limited to a very short time frame between October 2013 and January 2014.
  - The resources available for this evaluation were limited. Therefore, data was gathered primarily through a desk study, no extensive interviewing or country visits took place.
  - Even though efforts were made to cross-examine Parties' own reports with primary sources (e.g. laws, national strategies, programme documents), this has not always proven possible. Therefore, some of the evidence described in chapter 3 should be treated with caution.

#### 1.5. Status of Ratification of the 2005 Convention

12. In accordance with its Article 29, the 2005 Convention entered into force on 18 March 2007 for the thirty-eight States and one regional economic integration organization that

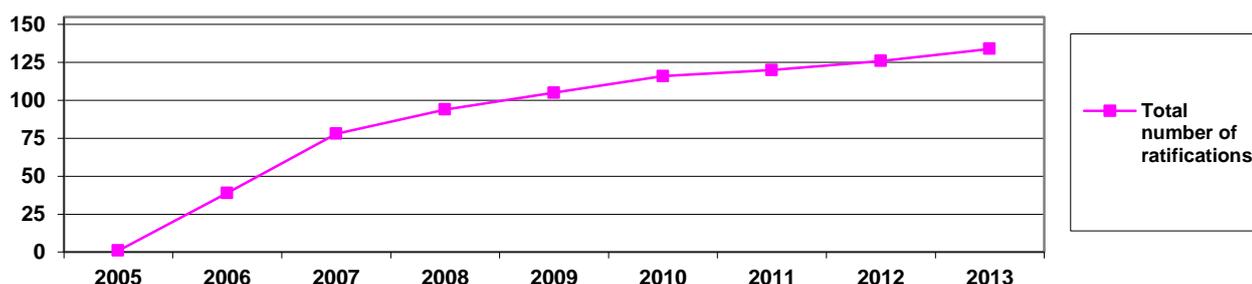
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Protection and Promotion of the Diversity of Cultural Expressions, Paris, December 2012, CE/12/6.IGC/4; available at <http://unesdoc.unesco.org/images/0022/002210/221062e.pdf>; and UNESCO, 'Quadrennial periodic reporting: new reports and analytical summary', 7<sup>th</sup> Ordinary Session of the Intergovernmental Committee for the Protection and Promotion of the Diversity of Cultural Expressions, Paris, December 2013, CE/13/7.IGC/5 Rev; available at <http://unesdoc.unesco.org/images/0022/002248/224826E.pdf> [Both last viewed: 29.12.2013].

<sup>6</sup> The complete list of sample countries includes Australia, Austria, Brazil, Burkina Faso, Canada, Chile, China, Jordan, Lao PDR, Latvia, Mexico, Oman, Peru, Rep. of Korea, Senegal, Slovakia, South Africa, Spain, Sweden, Tunisia, Vietnam and Zimbabwe.

deposited their ratification (acceptance or accession) instrument by 18 December 2006. At the time of this evaluation, a total of 134 Parties (133 States - 68% of UNESCO's Member States - and one regional economic integration organization (European Union)) had ratified (accepted or accessed) the Convention. As UNESCO's youngest culture convention, the 2005 Convention has seen an exceptionally high number of ratifications in a very short period of time as shown in Figure 1.

**Figure 1: Ratification of the 2005 Convention: 2005 – 2013**



Source: UNESCO Legal Instruments website (21 February 2014)

Ratification levels are, however, uneven world-wide, as shown in Table 1 below:

**Table 1: Ratification of the 2005 Convention by Regional Group**

UNESCO Regional Group	Number of UNESCO Member States	Number of State that have ratified	Percentage of Regional Group that Ratified	States that have not ratified
I	27	23	85	Israel, San Marino, Turkey, United States of America
II	25	23	92	Russian Federation, Uzbekistan
III	33	28	85	Bahamas, Belize, Saint Kitts and Nevis, Suriname, Dominica
IV	44	12	27	Bhutan, Brunei Darussalam, Cook Islands, Democratic People's Republic of Korea, Fiji, Islamic Republic of Iran, Japan, Kazakhstan, Kiribati, Kyrgyzstan, Malaysia, Maldives, Marshall Islands, Federated States of Micronesia, Myanmar, Nauru, Nepal, Niue, Pakistan, Palau, Papua New Guinea, Philippines, Samoa, Singapore, Solomon Islands, Sri Lanka, Thailand, Timor-Leste, Tonga, Turkmenistan, Tuvalu, Vanuatu
Va	46	35	76	Botswana, Cape Verde, Eritrea, Ghana, Guinea-Bissau, Liberia, Sao Tome and Principe, Sierra Leone, Somalia, Uganda, Zambia
Vb	20	12	60	Algeria, Bahrain, Lebanon, Libya, Mauritania, Saudi Arabia, South Sudan, Yemen
Total:	195	133		

Source: UNESCO website, 21 February 2014

13. While the ratification rate is high in Regional Groups I, II, III, Va and Vb (ranging between 60% and 92%, the highest being Group II), only 27% of Member States have ratified in Asia-

Pacific (Group IV). Within this Regional Group, only 2 out of 16 Member States of the Oceania UN Regional Group (Australia and New Zealand) have ratified, while none of the small islands have. Similarly, within the same Group IV, only 10 out of 28 Member States in the Asia UN Regional group have ratified.

14. It was not in the scope of this evaluation to determine the exact causes for the non-ratification of the Convention. However, the exercise has revealed that reasons vary from the lack of an institutional framework (i.e. absence of a dedicated department in the Ministry of Culture) and related resources, to a limited understanding of the Convention, of the benefits of the diversity of cultural expressions and of its role in sustainable development. These issues are addressed in more detail throughout the report.

### **1.6 Structure of this report**

15. Following the introduction and a short section which summarises the main implications of the 2005 Convention for policies and legislation (chapter 2), the core of the report analyses the trends observed as regards the Convention's impact at policy, legislation and programme level, for both internal and external policies (chapter 3), as well as the partnerships and participative arrangements identified (chapter 4). A summary of the key factors which enable or constrain the integration of the Convention in policy and legislation (chapter 5) and a set of conclusions and recommendations (chapter 6) complete the report.

## 2. Policy Implications of the 2005 Convention

16. This section briefly describes some of the issues raised by the 2005 Convention that should have an impact within legislation, policies and programmes among the Parties which have ratified it. Whilst it does not aim to cover thoroughly or in detail all the policy implications of the text,<sup>7</sup> this general framework serves to highlight the main fields covered by the Convention and which should be taken into account by Parties when implementing it – in this sense, it has provided guidance in the course of the evaluation exercise.
17. The main areas where changes in policy and legislation derived from the implementation of the 2005 Convention should be expected are briefly mentioned hereafter:
- a) **Increased legitimacy for cultural policies:** among the stated objectives of the Convention is *'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'*.<sup>8</sup> Article 6 describes a range of measures which could be adopted by Parties in this respect, whereas articles 7 and 8 further explore the aims which should be pursued by measures taken in order to, respectively, promote and protect cultural expressions. Measures to promote cultural expressions should enable Parties *'to create in their territory an environment which encourages individuals and social groups... 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...'*<sup>9</sup> The large scope of this article can be understood to provide legitimacy for a wide range of cultural policy measures which contribute to generating an 'enabling environment' for the diversity of cultural expressions (e.g. cultural education, provision of opportunities for accessing culture at grassroots level, etc.), beyond a more restricted focus on cultural goods and services or on the actors which make up the so-called cultural and creative industries. On the other hand, the call for Parties to ensure that citizens can *'have access to diverse cultural expressions from within their territory as well as from other countries of the world'*<sup>10</sup> serves to ensure a degree of openness towards the external world.

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<sup>7</sup> Several conferences and academic contributions have addressed the policy implications of the 2005 Convention in recent years. Among many others, the following key references can be mentioned: Nina Obuljen and Joost Smiers (eds.), *UNESCO's Convention on the Protection and Promotion of the Diversity of Cultural Expressions: Making It Work* (Zagreb: Institute for International Relations, 2006), available at [http://www.culturelink.org/publics/joint/diversity01/Obuljen\\_Unesco\\_Diversity.pdf](http://www.culturelink.org/publics/joint/diversity01/Obuljen_Unesco_Diversity.pdf) [Last viewed: 29.12.2013]; Christine M. Merkel and Anna Steinkamp (eds.), *Cultural Diversity – Our Common Wealth. The Essen/RUHR 2010 Bellini Manual on Prospects of Cultural Diversity* (Bonn: German Commission for UNESCO, 2007), available at <http://www.unesco.de/2084.html?&L=1> [Last viewed: 29.12.2013]; and Sabine von Schorlemer and Peter-Tobias Stoll (eds.), *The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions. Explanatory Notes* (Berlin and Heidelberg: Springer, 2012).

<sup>8</sup> Article 1(h).

<sup>9</sup> Article 7.1 and 7.1(a).

<sup>10</sup> Article 7.1(b)

**b) Implications for other policy fields:** the Convention highlights the links between culture and sustainable development (e.g. in articles 1(f) and 2.6) and calls Parties to *'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.'*<sup>11</sup> This, alongside the aforementioned call to create an environment which allows everyone, including vulnerable groups, to access cultural expressions, implies that the Convention should inform the activities not only of ministries and policy departments concerned strictly with cultural affairs, but also of several other bodies active with regard to sustainable development – e.g. those in charge of employment, economic development, education, social affairs, youth, environment, trade, etc. The so-called 'dual nature' of cultural goods and services, i.e. their having simultaneously a commercial and a cultural value, is particularly relevant for decisions within the economic and commercial sphere, where cultural expressions should be treated differently from other goods and services. This has potential implications at the global scene, including in particular in bilateral and multilateral trade negotiations, and is reinforced by article 21's commitment *'to promote the objectives and principles of this Convention in other international forums'*, as well as article 20's call to *'foster mutual supportiveness between this Convention and... other treaties'*.<sup>12</sup>

**c) Promotion of international cooperation:** the international dimension of the Convention's policy implications also results from a set of articles which stress the commitment to promote international cooperation in areas such as cultural policy dialogue, capacity-building, partnerships, technology transfer, co-production and co-distribution (article 12); cooperation for development (i.e. the strengthening of the cultural industries, capacity-building, technology transfer and financial support to foster the contribution of the cultural sector to sustainable development and poverty reduction, article 14), preferential treatment for developing countries (article 16), international cooperation in situations of serious threat to cultural expressions (article 17), as well as the design of innovative collaborative arrangements (article 15) and the aforementioned call to integrate culture in sustainable development (article 13), which should also inform international development policies. The effects of these commitments should be visible in Parties' bilateral and multilateral agreements, as well as the international activities of ministries, policy departments and development agencies, among others. Even though these measures are valid in the relationships between all types of countries (including the relations among 'developed' and 'emerging' countries, as well as relations at regional or sub-regional level), some of the aforementioned articles call for specific attention to be paid to the context of 'developing' countries and are particularly relevant for North-South and South-South relations – the implementation of the 2005 Convention should ultimately be conducive

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<sup>11</sup> Article 13.

<sup>12</sup> Articles 21 and 20.

to more balanced international cultural exchange and the broadening of opportunities for the cultural expressions from developing countries.

**d) Participation of civil society:** the 2005 Convention places significant emphasis on the importance of civil society actors within its area of focus (*'Parties acknowledge the fundamental role of civil society in protecting and promoting the diversity of cultural expressions'*) and as a result calls Parties to *'encourage the active participation of civil society in their efforts to achieve the objectives of the Convention.'*<sup>13</sup> Although the exact implications of this 'active participation' is open to Parties to determine, article 15's call for collaborative arrangements, which again entail the involvement of civil society organizations, indicates with particular reference to the context of developing countries that partnerships should contribute to the *'development of infrastructure, human resources and policies, as well as the exchange of cultural activities, goods and services.'* Therefore, the implementation of the 2005 Convention should be visible in the articulation of new partnerships among different public, private and non-profit actors, both in the domestic and the international scene.

18. The degree to which these principles have been transferred to legislation and policies among Parties to the Convention will be examined successively in sections 3 and 4 below. It should be noted that, since the evaluation focuses primarily on the standard-setting effects of the 2005 Convention on the legislation and policies of Parties which have ratified it, the Convention's more direct implications for UNESCO (e.g. article 18's setting-up of the International Fund for Cultural Diversity, IFCD; article 19's call to foster the exchange, analysis and dissemination of information; as well as the organs of the Convention described in articles 22 to 24) have not been described in detail above. Reference to some of them, including projects funded under the IFCD as well as programmes managed by the Secretariat of the Convention in areas such as technical assistance to the Parties or the design of indicator sets, will however be made below, insofar as they can be seen to have supported the adoption and implementation of legislation and policies along the lines suggested by the 2005 Convention.

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<sup>13</sup> Article 11.

### 3. Policy, Legislation and Programme Developments

19. This section presents a summary of trends and visible changes in the policies, legislation and programmes adopted by Parties to the Convention and the contents of which contribute to protecting and promoting the diversity of cultural expressions. Rather than aiming to map all relevant evidence, which would lie outside the scope of the present evaluation, it should help to identify the areas where more visible changes can be perceived, as well as some outstanding gaps, and to facilitate the observation of factors which facilitate or hinder implementation, and which will be further explored in section 5.
20. Some examples are given in order to illustrate the points made. Rather than serving as 'good' or 'best' practices, these examples, most of which come from the countries identified in the sample, aim to help clarify the legislative and policy implications of the Convention in practice. The emphasis has generally been placed on developments with a structural, mid- to long-term impact, rather than individual, short-term initiatives.
21. Even though available evidence shows that initiatives related to the aims of the Convention were already in existence in several countries before its coming into force, a number of shifts also become visible, including in the legitimacy of public cultural policies, the ability of cultural ministries to negotiate new partnerships with other ministerial departments, the broader, more structural and interconnected view of the role of culture in sustainable development and the enhanced opportunities for civil society's participation in policy discussions, among others.

#### 3.1. Domestic cultural legislation, policies and programmes

##### 3.1.1. Institutional developments

22. In a number of countries, the ratification and coming into force of the Convention has given the necessary impetus to set up new ministries, policy departments or agencies concerned with cultural policy and cultural industries. The establishment of these institutions, which needs to be accompanied by the provision of adequate financial, technical and human resources, can provide a basis for the subsequent development or strengthening of cultural policies.
23. Among the relevant examples in this area is **Peru**, where a Ministry of Culture was set up in 2010, the structure of which also includes a Directorate-General for Cultural Industries and Arts, among the aims of which was to revise existing legislation in the sector and develop a new cultural policy framework. The setting-up of this Ministry had been requested for several years and was the result of several factors, including the Convention. Likewise, in **Burkina Faso** a Directorate for the Promotion of the Cultural and Creative Industries was set up in 2011, whereas **Seychelles** established a Creative Industries and National Events Agency in 2013. The integration of departments with a remit focusing on

the cultural industries can partly be linked to the strengthening of the discourse on the economic dimension of culture through the 2005 Convention, which will be further explored below.

24. On the other hand, the setting-up of policy departments, or their actual effectiveness where they exist, should rely on the availability of sufficient, well-trained human resources, budgetary means and political will within the relevant ministry or elsewhere in government. Evidence shows, however, that Ministries of Culture, or their equivalent bodies in some countries, are often under-resourced, are not provided with well-trained personnel or play a minor role in broader governmental strategies and in cross-departmental dialogue.

### 3.1.2. Cultural legislation, policy and programmes

25. The Convention has been mentioned as a source of inspiration in a number of countries which have adopted new framework legislation or national policies in the field of culture in recent years. It could be argued that the text has led national governments to increase references to the Convention as well as the cultural and creative industries in major policy and legislative documents.
26. Relevant examples include **Burkina Faso's** adoption of a National Cultural Policy in 2009, the strategic objectives of which include the preservation of cultural diversity in order to promote cultural awareness and to strengthen social cohesion; the structuring and development of the cultural economy (including through the development of cultural entrepreneurship and the cultural industries and the mainstreaming of a cultural dimension in other development-related policies); and the reinforcement of cultural cooperation and the external dissemination of Burkinabe cultural products. Similar developments were visible in other countries, including the **Democratic Republic of Congo**. In **Peru**, the Cultural Policy Guidelines 2013-2016 include some references to UNESCO and the Convention; among the priority areas identified is the support for the cultural industries, by stressing the 'double nature' of cultural goods and services, which are both carriers of identity and creative expression and a source of employment and wealth.<sup>14</sup>
27. In **Zimbabwe**, a document updating the national cultural policy was adopted in 2007, the foreword of which highlights how '*[the] Arts and Cultural Industries have over the past few years emerged as one of Zimbabwe's major sources of foreign currency, employment and a tool to assert the people's national identity.*'<sup>15</sup> However, the document fails to refer to the

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<sup>14</sup> Ministerio de Cultura (Peru), *Lineamientos de Política Cultural 2013-2016. Versión preliminar* (Lima: Ministerio de Cultura, 2012); available at <http://www.cultura.gob.pe/sites/default/files/pagbasica/tablaarchivos/11/lineamientomc.pdf> [Last viewed: 1.12.2013].

<sup>15</sup> Honourable A.S. Chigwedere, 'Foreword', in Government of Zimbabwe, *Cultural Policy of Zimbabwe* (Harare, c. 2007), p. 4; available at

2005 Convention, whereas some observers have noted its failure to take into account previous contributions to policy discussions and to involve several relevant stakeholders in the discussion process.<sup>16</sup> Also in Africa, some countries have taken advantage of existing UNESCO programmes to adapt pre-existing policy documents to the context and objectives of the Convention. In **Malawi**, this was the aim of the technical assistance mission carried out in the context of the UNESCO-EU Expert Facility Project on the Governance of Culture in Developing Countries, which made recommendations for updating the existing regulatory framework.<sup>17</sup> In **Togo**, a 10-year Cultural Policy Plan was developed with support from the IFCD. Its preparations involved an assessment of the cultural context in the country's six regions, as well as a participative workshop attended by over 50 representatives from different government departments, regional arts and culture directors, cultural associations, artists and other sector professionals. The Plan's seven pillars include 'training and education in cultural entrepreneurship and information and communication technologies', 'financing for arts and culture', 'encouraging regional cultures' and 'greater cooperation and cultural diplomacy'. In this context, other policy documents in the fields of cinema and the publishing industries were also drafted, whereas a funding mechanism for culture was prepared by the government, which should lead to approximately USD 800,000 being made available to bolster the country's cultural sector.<sup>18</sup>

28. Whereas the previous examples mainly indicate how the Convention may have helped some countries to lay the foundations for contemporary cultural policies, in other cases governments have found in the Convention an additional basis to raise the profile of existing cultural policies, including by strengthening their links with other policy areas concerned with sustainable development. A relevant case in point is provided by **Brazil**, where the National Culture Plan 2011-2020 includes references to the Convention under several of its major goals, including those concerned with the mapping of the diversity of cultural expressions existing across the country, the mapping of the value production chain in all sectors of the creative economy and the development of 300 projects contributing to the economic sustainability of local cultural production. On the other hand, the Plan attests to an integrated vision of sustainable development, which recognises, among others, the role played by culture in fostering citizen participation and social inclusion; its development was also the result of a broad consultation.<sup>19</sup> On the other hand, the

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[http://www.artsinafrica.com/uploads/2011/06/CULTURAL\\_POLICY\\_OF\\_ZIMBABWE\\_2007.pdf](http://www.artsinafrica.com/uploads/2011/06/CULTURAL_POLICY_OF_ZIMBABWE_2007.pdf) [Last viewed: 29.12.2013]

<sup>16</sup> Cf. Stephen Chifunyise and Florence Mukanga, 'Zimbabwe/ 1. Historical perspective: cultural policies and instruments', in *World CP. International Database of Cultural Policies*, available at

<http://www.worldcp.org/zimbabwe.php> [Last viewed: 29.12.2013].

<sup>17</sup> Cf. Danielle Cliche (chief editor), *Strengthening the Governance of Culture to Unlock Development Opportunities. Results of the UNESCO-EU Expert Facility Project* (Paris: UNESCO, 2013a); available at

<http://unesdoc.unesco.org/images/0022/002246/224630E.pdf> [Last viewed: 29.12.2013]

<sup>18</sup> Cf. Danielle Cliche (chief editor), *Investments and culture: the more diverse, the better. Success stories, facts, figures and performance results* (Paris: UNESCO, 2013b); available at

[http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/pdf/ENG\\_2013\\_IFCD\\_Brochure\\_FINAL\\_low\\_resolution.pdf](http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/pdf/ENG_2013_IFCD_Brochure_FINAL_low_resolution.pdf) [Last viewed: 29.12.2013]; also UNESCO, 'Policy action revives Togolese arts scene', news item (c. 2013), available at <http://www.unesco.org/new/en/culture/themes/cultural-diversity/diversity-of-cultural-expressions/funded-projects/2011/togo/story/> [Last viewed: 29.12.2013].

<sup>19</sup> Ministério da Cultura (Brazil), *As metas do Plano Nacional de Cultura* (Brasília: Ministério da Cultura, 2013).

National Culture Policy Guidelines adopted in **Latvia** for the decade 2006-16 contain explicit reference to the Convention, which is used as their basis. Specific objectives include improving the cooperation between culture and sectors of the economy to facilitate the diversity of Latvian culture and the sustainable development of the creative economy, as well as creating an environment favourable to the development of creative diversity and the stimulation of excellence, and promoting balanced development of culture processes and the accessibility of culture throughout Latvia, ensuring the right to good quality of life for all inhabitants. Similarly, in **Sweden**, the new national cultural policy objectives established in 2009 recognise creativity, diversity and artistic quality as integral parts of society's development. Among the three major priorities for cultural policy identified by the government is the right of children and young people to have access to cultural expressions and artistic expressions. The social dimension of culture and the transversal role to be played by diversity is also emphasised by indicating that gender equality, diversity and international cooperation should be taken into account by all agencies operating in the field of culture. Even though no major legislative changes needed to be introduced as a result of the ratification of the Convention, the 2009 Government Bill on Cultural Policy includes clear references to international cultural cooperation and to collaboration across policy area boundaries and it mentions UNESCO explicitly, by asserting that Sweden will play an active role in cultural policy issues in the EU, UNESCO and the Nordic cooperation. In **Austria**, 'Maintaining and developing Austria's cultural diversity and open climate' has become the key mission of national cultural policy in the governmental term 2008-13. The programme also refers explicitly to the Convention, particularly as regards international development and trade policies and agreements. Of course, it could be argued that the 2005 Convention is merely one of several contributing factors to these developments.

29. Despite the several examples of positive development noted above, it is worth noting that slow or no change also exists elsewhere, including in many countries which have ratified the 2005 Convention. As mentioned on the previous section, limited technical or financial capacity and reduced political will mean that some governments may be unable to adopt relevant policy instruments, or to enforce them when adopted. The complexity of some of the issues raised by the Convention, which limits Parties' ability to translate it into effective legislation, policies and programmes, is also confirmed by the difficulties found by many countries to provide their quadrennial reports as requested, and by confusing evidence included within some of them, often unrelated to the main scope of application of the Convention.<sup>20</sup>

### *Cultural and creative industries*

30. In addition to the development of framework legislation and policies in the field of cultural policy outlined above, several countries have taken steps to strengthen their activities in the specific area of the cultural and creative industries. Documents presented hereafter

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<sup>20</sup> In this respect see, among others, the analytical summary of the reports submitted in 2012: UNESCO, CE/12/6.IGC/4 (2012), esp. pages 5-6.

attest to an increasing recognition of the economic potential of the cultural industries and the need for more strategic and international approaches in policies which address them.

31. The emphasis placed on this sector is particularly visible in **China**, where a number of regulations and administrative measures have been adopted since 2008, including the Administrative Measures for the Production of Audio-visual Products (2008), the Regulations for the Publishing of Electronic Publications (2008) and the Revitalisation Programme for the Cultural Industry (2009); at the time of submitting its quadrennial report on the implementation of the Convention in early 2013, a Law on the Promotion of the Film Industry was being formulated. In addition, the Ministry of Culture had signed a series of strategic cooperation agreements with banks, including the Bank of China and the Industrial and Commercial Bank of China, for supporting the development of the cultural industries, and subsequently recommended over 100 credit requests submitted by actors in the cultural industries, thus contributing to the strengthening of the enabling environment for the sector. The Ministry of Culture, alongside a number of actors in the financial sector, published a document on Guidance on Financial Support for the Revitalisation and Prosperous Development of the Cultural Industry in 2010. In **Viet Nam**, existing legislation, including the 2001 Publishing Law, the 2005 Law on Intellectual Property and the 2006 Cinema Law, was revised between 2009 and 2011. In the case of film, the amended law stressed the role of the State in supporting the cinema industry, including by regulating the percentage of domestic films shown in cinemas and other mass media, developing the Cinema Fund and fostering the participation of the private sector in film production and distribution. New regulations in the field of publishing addressed, among others, the trends towards international integration of the sector and the increase in electronic publications. More recently, technical assistance provided in the context of the UNESCO-EU Expert Facility Project on the Governance of Culture in Developing Countries has enabled the development of the national Viet Nam Creative Framework, with a Creative Industries Programme for Viet Nam being implemented as of 2012-2014. Technical assistance provided under this scheme helped to strengthen the political commitment towards the cultural and creative industries and facilitated the setting-up of a steering group to oversee the Creative Industries Programme and a Cultural Industries Regulatory Review Panel.<sup>21</sup> As a result, a *National Strategy for the Development of Cultural Industries in Vietnam*, which aims to make of the country a major centre and market leader for the sector in South East Asia by 2020 and a globally-recognised creative economy by 2030, was presented in late 2013. The preface to the strategy stresses that the ratification of the 2005 Convention was a significant impulse towards strengthening the national cultural industries. The strategy identifies five areas of focus (from 'creative education and skills', through governance, audiences and clustering, to 'international positioning'), which address several stages in the value chain of the cultural and creative industries, as well as an enabling environment for the sector.<sup>22</sup> Relevant policy documents have also been adopted in several other countries, including **Seychelles** and **Mauritius**. On

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<sup>21</sup> Cf. Danielle Cliche (chief editor) (2013a).

<sup>22</sup> Vietnam Institute of Culture and Arts Studies (VICAS) et al., *National Strategy for the Development of Cultural Industries in Vietnam. To 2020, Vision 2030 (Draft version)* (Hanoi: VICAS / UNESCO / British Council, 2013).

the other hand, steps towards the amendment of existing legislation have been taken in **Peru**, where existing legislation in the field of film and audio-visual and on the status of the artist are currently under review.

32. A number of action plans in the field of the cultural industries, often the first of this kind in their respective countries and thus attesting to an increasing recognition of the potential of the sector, have also been adopted. They include **Peru's** implementation of a broad Inclusive Creative Industries Joint Programme, resulting from the collaboration between several international agencies (FAO, ILO, UNDP, UNESCO, UNIDO, UNWTO) as well as national ministries (Agriculture; Environment; Production; External Trade and Tourism; Employment; Culture), regional authorities and other stakeholders, with a focus on the access of cultural goods and services to the markets and the analysis and transfer of successful business models in the cultural industries.<sup>23</sup> In **Burkina Faso**, the Framework Programme in Support of the Cultural Sector (PASC), co-funded with the European Union and implemented between 2007 and 2011, included measures aimed at supporting the country's role in the production and promotion of African film and strengthening the contribution of culture to national economic and social development. The quadrennial report submitted by the Burkinabe government in 2012 indicated that progress had been achieved in a number of areas, including the strengthening of organizations in the performing arts and the development of cultural life at regional level, whilst admitting that limited impact had been achieved with regard to the economic relevance of the cultural sector, partly as a result of the limited financial resources of the programme and the reduced number of sectors which had been provided with structural support. Another programme in Burkina Faso, the Support Programme for the Strengthening of Cultural Policies and Industries, a joint initiative of the national government and the Organisation Internationale de la Francophonie, has contributed to the strengthening of cultural governance in the country, enhanced cooperation among actors in cultural subsectors and increased recognition of the cultural industries as a relevant sector among decision-makers, leading to the design of a strategy to support developments in this field.
33. A number of European countries, including **Spain, Lithuania and Sweden**, have designed action plans and strategies to support the development of the cultural and creative industries in recent years, which often involve increased collaboration among different policy departments. In Sweden, the Action Plan on the Cultural and Creative Industries implemented between 2009 and 2012, was the result of cooperation between the Ministry of Culture and the Ministry of Enterprise, Energy and Communications and involved contributions by several other agencies. A special council for the sector was set up, with the aim of assisting the government in order to initiate and stimulate a broad discussion on culture and creativity and its meaning both for companies and for society at large. Of course, developments in this field cannot be accounted for exclusively on the basis of the 2005 Convention, but are rather the result of a number of factors. Among them is also the

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<sup>23</sup> For additional information, see <http://www.mdgfund.org/program/inclusivecreativeindustriestoolalleviatingpovertyperu> [Last viewed: 29.12.2013].

attention paid to the cultural and creative industries by the **European Union**, a Party to the Convention, which in recent years has published a number of policy documents addressing this field, including the European Agenda for Culture in a Globalising World (2007), which provided a general framework to its cultural policies, including references to the Convention and its implications in internal and external policies; and the Commission Communication 'Promoting cultural and creative sectors for growth and jobs in the EU' (2012).<sup>24</sup>

34. Even though developments in this field attest to an increasing recognition of the cultural and creative industries as a significant sector in economic and sustainable development strategies in several countries, some remaining difficulties and obstacles also become apparent. Among them is the weakness of creative enterprises in many countries, as well as the absence of sustainable markets at national, regional or sub-regional level. The environment where the cultural and creative industries operate is often further undermined by the difficulties found in accessing funding, including private or public credit sources, which are seldom adapted to the specificities of creative initiatives (e.g. recognising their income-generation potential, accepting intangible resources as assets, etc.). At the policy level, a limited understanding of the nature of the cultural and creative industries and the policy mix necessary to respond to them, as well as limited budgets, arise as frequent obstacles.<sup>25</sup> This is further affected by changes in the configuration of the cultural sector and the individual subsectors of the cultural industries, as well as in the patterns of access to culture, generated by digitisation (online access, e-commerce, creation mediated by the new technologies, etc.) – this generates a new set of challenges which will need to be addressed in policy in the coming years, as already implied by recent meetings of the Convention's Conference of Parties and Intergovernmental Committee.<sup>26</sup>

### **Broadcasting**

35. Whilst the field of broadcasting appears to have been less addressed in legislation and policy resulting from the Convention, as compared with other sectors in the cultural and creative industries, a number of policy instruments can be identified in this field. Given the

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<sup>24</sup> Cf. European Commission, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a European agenda for culture in a globalizing world*, COM(2007) 242 final; available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2007:0242:FIN:EN:PDF> ; and European Commission, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Promoting cultural and creative sectors for growth and jobs in the EU*, COM(2012) 537 final; available at [http://ec.europa.eu/culture/our-policy-development/documents/com537\\_en.pdf](http://ec.europa.eu/culture/our-policy-development/documents/com537_en.pdf) [Both last viewed: 29.12.2013];

<sup>25</sup> A recent meeting of African filmmakers and other film professionals regretted governments' progressive withdrawal from the film sector, the limited budgets available and the absence of tax or custom measures adapted to the needs of the sector, among others. "Déclaration solennelle d'Ouagadougou", adopted in the context of the 23<sup>rd</sup> edition of FESPACO, Pan-African Film Festival of Ouagadougou, February 2013; available at <http://www.rfi.fr/sites/filesrfi/D%C3%A9claration%20de%20Ouagadougou%20Fran%C3%A7ais.pdf> [Last viewed: 30.12.2013].

<sup>26</sup> Cf., among others, Véronique Guèvremont, 'Réflexion préliminaire sur la mise en oeuvre de la Convention sur la protection et la promotion de la diversité des expressions culturelles à l'ère numérique' (2013), available at [http://www.cdc-ccd.org/IMG/pdf/Rapport\\_sur\\_la\\_DEC\\_et\\_le\\_numerique\\_-\\_Version\\_finale\\_-\\_français\\_.pdf](http://www.cdc-ccd.org/IMG/pdf/Rapport_sur_la_DEC_et_le_numerique_-_Version_finale_-_français_.pdf) [Last viewed: 1.12.2013].

fundamental role played by TV, radio and other broadcasting media nowadays, the attention paid by some countries to this field, by diversifying both contents and opportunities for participation, becomes an essential step towards the achievement of the Convention results – in this respect, more developments should be expected in this area, including the online availability of contents from public or private broadcasters, in the years to come.

36. In **Brazil**, the new Law on Restricted-Access Audio-visual Communication (2011), which explicitly referred to the Convention, established a minimum quota of national content in private, subscription-based TV systems. According to recent data, the coming into force of this law in 2012 led to the doubling of national content broadcast in subscription-based TV systems over previous year data.<sup>27</sup> In **Argentina**, the Law on Audio-visual Communication Services, which came into force in 2010, requires open TV channels to devote three hours per day to children’s programming, with 50% of content to be locally produced. In **Austria**, two new funding schemes were established by the Federal Chancellery in 2009, based on an amendment to the Austrian Communication Authority Law. The new Commercial Broadcasting Fund and the Fund for the Promotion of Non-commercial Private Broadcasting strive to support the dual broadcasting system in Austria and a high-quality and diversified programme by private broadcasters, both commercial and non-commercial. The latter, including radio and TV channels, are particularly significant as regards the provision of access to production and broadcasting skills and opportunities for ethnic minorities and people with disabilities, among others. Relevant initiatives to ensure diversity of contents in the field of broadcasting have also been adopted in **Sweden**, where public authorities must pay attention to the interests of linguistic and minority groups in their programming and where conditions are established for part of the contents to be produced outside the national capital to ensure local and regional relevance.

#### *Diversifying access to cultural expressions and resources*

37. Even though the main emphasis of most legislation and policies identified as a result of the Convention has been placed on the economic dimension of the cultural sector and the potential of the cultural and creative industries to generate economic growth and employment, several initiatives have also highlighted how social and cultural inclusion is a pre-requisite for the diversity of cultural expressions - indeed, this can be understood to respond to the 2005 Convention’s broad call to *‘create... an environment which encourages individuals and social groups ... to create, produce disseminate, distribute and have access to their own cultural expressions... as well as from other countries of the world’*.<sup>28</sup> Often

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<sup>27</sup> Agência Nacional do Cinema (ANCINE), “ANCINE divulga informes anuais sobre o mercado de TV Paga e Aberta em 2012”, 15.7.2013; available at <http://ancine.gov.br/sala-imprensa/noticias/ancine-divulga-informes-anuais-sobre-o-mercado-de-tv-paga-e-aberta-em-2012> [Last viewed: 30.11.2013]

<sup>28</sup> Article 7.1. The Exchange Session on the periodic reporting regarding the implementation of the 2005 Convention convened in June 2013 on the occasion of the 4<sup>th</sup> meeting of the Conference of Parties discussed the scope of measures adopted in the context of the Convention, with participants expressing a preference either for a narrow (i.e. focusing on the cultural and creative industries) or a broader (i.e. addressing broader cultural policy measures) scope.

inspired by the right to take part in cultural life, programmes aim to broaden the opportunities for disadvantaged groups to access cultural resources (including those which facilitate the creation and production of new cultural expressions), and can be implemented in collaboration with other ministerial departments, including those in the fields of education and social affairs.

38. Among the most interesting initiatives in this field are those launched by **Brazil**, including the Living Culture programme (2004, thus preceding the signature of the Convention), which aims to broaden the access to resources and opportunities for the enjoyment, production and dissemination of culture, by supporting civil-society or public initiatives in different art forms and disciplines, which are labelled as 'Culture Points', their activities aiming to foster synergies between culture, education and citizenship. The programme has been seen to contribute to the strengthening of capacities among local actors receiving support, enhanced policy discussion as well as their networking capacities at regional and federal level. It is complemented with the Plural Brazil programme, which aims to foster the integration in public cultural policies of traditionally marginalised groups, including indigenous groups, LGBTT communities, young and elderly people, and people with disabilities. The programme has fostered synergies with other national policies in fields such as racial equality, children and young people, etc.<sup>29</sup> Similar initiatives have been undertaken in other Latin American countries, including **Peru**, which in 2011 established its own Culture Points programme, in order to recognise and support cultural initiatives emerging from civil society, strengthening the place of the arts as a space for social transformation and human development and reinforcing the building of intercultural citizenship.
39. In some countries, programmes have been established to foster the inclusion in cultural life of specific population groups, including indigenous peoples, ethnic minorities and rural communities. In **Sweden**, a new Act on National Minorities and Minority Languages came into force in 2010. The text regulates the right of national minorities to participation, including their consultation at local level and their opportunities to preserve and develop their culture, as well as minority children's possibilities to develop a cultural identity and their language. These initiatives show the importance of integrating opportunities for participation along all phases of the policy cycle, including consultation and decision-making, as well as different stages of the cultural value production chain. In **Slovakia**, two funding programmes provide support to publications and cultural events related, respectively, to the 'culture of disadvantaged groups of the population' (including people with disabilities, elderly people, Roma communities, vulnerable groups of children and

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<sup>29</sup> Information about the programme is available at <http://www2.cultura.gov.br/culturaviva/> [Last viewed: 30.12.2013]. See also Giuliana Kauark and Lilian Richieri Hanania, 'Social and Cultural Development through Cultural Diversity', in Anupama Sekhar and Anna Steinkamp (eds.), *Mapping Cultural Diversity. Good Practices from Around the Globe. A Contribution to the Debate on the Implementation of the UNESCO Convention on the Diversity of Cultural Expressions* (Bonn and Singapore: German Commission for UNESCO / Asia-Europe Foundation, 2010); available at [http://www.unesco.de/fileadmin/medien/Dokumente/Kultur/U40/Mapping\\_Cultural\\_Diversity\\_FINAL.pdf](http://www.unesco.de/fileadmin/medien/Dokumente/Kultur/U40/Mapping_Cultural_Diversity_FINAL.pdf) [Last viewed: 30.12.2013]

young people, women, homeless people, the unemployed, migrants, LGBTT groups, etc.) and to national minorities, the latter including intercultural or inter-ethnic activities.<sup>30</sup> In the **Republic of Korea**, the Ministry of Culture, Sports and Tourism and the Korea Arts and Culture Education Service have recently launched the 'Rainbow Bridge Project', in the context of the country's objectives in the field of cultural diversity and coexistence. The programme aims to broaden opportunities for access and participation in culture among migrants, North Korean defectors and local residents.<sup>31</sup>

40. Gender issues have been less frequently addressed in the cultural policies and legislation adopted in recent years. However, some relevant examples can be found. In **Austria**, a mentoring programme for female artists was introduced in 2011, as a result of a consultation process with civil society representatives and artists which showed the need for a special 'career exploration instrument' for female artists. The programme aims to support the transfer of know-how between established and emerging artists. Other measures to foster visibility and knowledge transfer have been adopted in specific sectors, including music. On the other hand, the integration of a gender perspective can be the result of broader governmental initiatives with an impact on, among others, cultural policy, as shown by the example of **Sweden**, where a gender equality perspective needs to be integrated in all decisions by ministries and public agencies, with the ultimate aim of ensuring equal power for women and men to shape decisions that affect society and their own lives.
41. The apparently limited attention paid to gender issues within countries' implementation of the 2005 Convention remains a shortcoming, which more Parties should be encouraged to address in the years to come. This would respond both to the Convention's call to '*[pay] attention to the special circumstances and needs of women as well as various social groups*'<sup>32</sup> and to remarks made by the UN Special Rapporteur on Cultural Rights, when indicating that '*Women's perspectives and contributions must move from the margins of cultural life to the centre of the processes that create, interpret and shape culture.*'<sup>33</sup>
42. More broadly, Parties should be expected to continue making efforts to address inequalities experienced by several social groups in the access to the resources necessary for the creation, production, dissemination, distribution and enjoyment of culture, along the lines of the significant examples presented elsewhere in this section. Ultimately, the 2005 Convention should involve the mainstreaming of a general concern with diversity, in its manifold cultural and social dimensions, in cultural policy and in related fields – thus

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<sup>30</sup> Ministry of Culture [Slovakia], 'UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (Convention 2005). Recent Developments in the Cultural Policy in the Slovak Republic' (2013), unpublished, sent by e-mail.

<sup>31</sup> Information obtained through an interview and via online article: 'Rainbow Bridge Project', Korea's Effort to Spread Cultural Diversity', *The Korea Bizwire*, 13.8.2013, available at <http://koreabizwire.com/rainbow-bridge-project-koreas-effort-to-spread-cultural-diversity/> [Last viewed: 30.12.2013].

<sup>32</sup> Article 7.1(a).

<sup>33</sup> It is worth noting that the Special Rapporteur has explored some synergies between her area of concern and the 2005 Convention. Farida Shaheed, 'Report of the Special Rapporteur in the field of cultural rights', A/67/287 (2012), p. 21; accessible via [http://ap.ohchr.org/documents/dpage\\_e.aspx?m=177&m=197](http://ap.ohchr.org/documents/dpage_e.aspx?m=177&m=197) [Last viewed: 30.12.2013]

overcoming the risk of seeing the Convention as a tool to protect national production from external influences, whilst neglecting the need for internal diversity to thrive.<sup>34</sup>

### *Improving the knowledge base for cultural policy*

43. Given the lack of baseline information on cultural policies and cultural industries noted in several recent analyses, including the quadrennial reports submitted by Parties to the Convention, which is seen as a hindrance to the effective implementation of the text in some countries, it should come as no surprise that efforts have been made to improve the availability of data. Steps in this field also respond to the Convention's commitments in the field of information-sharing and transparency (article 9) and exchange, analysis and dissemination of information (article 19).
44. Relevant initiatives include the creation of the Information System on Cultural Industries and Arts in **Peru**, which aims to become a useful tool for the cultural sector, by providing current and systematised information on, among others, the contribution of culture to national development and how diverse cultural expressions, including those of indigenous peoples, play a role in this area. In fact, the design of national cultural information systems has been an area of focus in several Latin American countries in recent years, some of which have received support to this end in the context of the UN's Millennium Development Goals Achievement Fund (MDG-F)<sup>35</sup> or through sub-regional organizations such as Mercosur, which has developed a regional cultural information system known as SICSUR, covering 10 countries.<sup>36</sup> In **Latvia**, a Digital Culture Map has been established in order to provide information about the variety of cultural events and resources in Latvian region and to gather cultural statistics. The system of national cultural statistics has been adjusted in order to diminish the burden of gathering statistics.

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<sup>34</sup> Ranaivoson has warned against the risk of neglecting internal diversity, particularly when governments take measures to regulate the media: '*... la volonté de soustraire, des contraintes du libre-échange, les systèmes existants de régulation des industries culturelles, peut se faire au nom de la diversité culturelle. Mais cet objectif de diversité culturelle devrait également être appliquée de manière critique aux systèmes existants, afin de vérifier qu'ils donnent véritablement toute leur place à des voix différentes, à des contenus originaux, à des créateurs innovants.*' Heritiana Ranaivoson, 'Numérique et diversité culturelle : la numérisation appelle à modifier la prise en compte politique des expressions culturelles', *Culture, commerce et numérique*, vol. 8, n°6 (2013), pp. 6-7 ; available at <http://www.ieim.uqam.ca/IMG/pdf/oif-volume8-numero6-juillet-2013.pdf> [Last viewed: 30.12.2013]

<sup>35</sup> E.g. Honduras, Costa Rica, Uruguay. The MDG-F, funded by Spain, included a Thematic Window on Culture and Development which was strongly influenced by the 2005 Convention and other UNESCO instruments. For additional information, visit [www.mdgfund.org](http://www.mdgfund.org); <http://www.unesco.org/new/en/culture/achieving-the-millennium-development-goals/mdg-f-culture-and-development/>; and Jordi Baltà Portolés, *Culture and Development. Review of MDG-F Joint Programmes Key Findings and Achievements* (New York: MDG-F, 2013); available at [http://www.mdgfund.org/sites/default/files/Culture\\_Thematic%20Study.pdf](http://www.mdgfund.org/sites/default/files/Culture_Thematic%20Study.pdf) [Last viewed: 1.12.2013].

<sup>36</sup> The programme, launched in 2009 at the initiative of the Council of Ministers of Culture of Mercosur, aims to provide standardised cultural data from Argentina, Bolivia, Brazil, Colombia, Chile, Ecuador, Paraguay, Perú, Uruguay and Venezuela. For additional information, visit [www.sicsur.org](http://www.sicsur.org); and Organización de los Estados Americanos, *Cultura, común denominador para el desarrollo. 18 prácticas exitosas* (OEA-OAS, 2011), available at <http://scm.oas.org/pdfs/2012/CIDI03698S01.pdf> [Last viewed: 30.12.2013].

45. It is also worth noting that UNESCO's own activities, particularly through initiatives such as the Culture for Development Indicator Suite (CDIS),<sup>37</sup> commissioned publications and the exchange of views and experiences in the context of meetings of the Conference of Parties and the Intergovernmental Committee, also contribute to improving the knowledge base in cultural policy and the broader cultural sector. Likewise, the IFCD has supported the production of a study on the impact of culture on social and economic development in **Burkina Faso**, as well as another survey on the economic contribution of **Zimbabwe's** cultural industries.<sup>38</sup> The improvement of the knowledge management system is also one of the areas which the Conference of Parties, at its latest meeting of June 2013, instructed the Intergovernmental Committee to focus on in its forthcoming period.<sup>39</sup> Indeed, the provision of systematic, comparable information on cultural resources, industries and policies remains a challenge in many countries, which should deserve particular attention by Parties in the coming years.

### *Awareness-raising*

46. The provision of an environment conducive to the diversity of cultural expressions may require increased awareness on a range of issues, including the recognition of diversity as a value and the importance of cultural aspects in sustainable development. Whilst this does not directly impact on the adoption of new legislation or policies, it can provide the basis for the preparation of new policy documents or for the effective implementation of existing texts.

47. Relevant initiatives include **Sweden's** Year of Cultural Diversity (2006), which although not directly related to the implementation of the Convention was seen to have contributed to raising social awareness about diversity and about the need for all kinds of voices to be heard in the cultural scene. Other initiatives are particularly targeted at government officials, either in the field of culture or in other relevant areas: with support from the IFCD, in 2012 **Lao PDR's** National Commission for UNESCO organised a seminar on the Convention for government officials. It was followed by the first-ever baseline study on Laotian cultural industries, supported by the Korea Funds-In-Trust.<sup>40</sup>

48. The need to raise awareness of the Convention is visible not only at national level, where governments and civil society actors should be further encouraged to take measures, but also at international level, particularly with regard to the countries which have not ratified the Convention yet. As regards the latter, which abound particularly in Asia and the Arab

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<sup>37</sup> For additional information, visit <http://www.unesco.org/new/en/culture/themes/cultural-diversity/diversity-of-cultural-expressions/programmes/culture-for-development-indicators/> [Last viewed: 30.12.2013]

<sup>38</sup> Danielle Cliche (chief editor) (2013b).

<sup>39</sup> Conference of Parties to the Convention on the Protection and Promotion of the Diversity of Cultural Expressions, resolution 4.CP.13, para 7, June 2013, available at [http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/pdf/Conv2005\\_4CP\\_Resolutions\\_ENG.pdf](http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/pdf/Conv2005_4CP_Resolutions_ENG.pdf) [Last viewed: 30.12.2013]

<sup>40</sup> UNESCO, 'Critical steps taken to nurture new creativity in Lao PDR', c. 2013, available at <http://www.unesco.org/new/en/culture/themes/cultural-diversity/diversity-of-cultural-expressions/funded-projects/2010/lao/> [Last viewed: 30.12.2013]

region, research commissioned by UNESCO found that the reasons for non-ratification included, among Arab countries, the absence of cultural policies and limited financial resources, unawareness about the Convention among both public officials and civil society actors and inadequate public sector structures, which rendered implementation difficult; in the case of Southeast Asia, lack of awareness of the Convention was identified as the most pressing issue to be tackled.<sup>41</sup> Therefore, raising awareness about the text, its relevance and implementation models should remain as an important area of activity, for UNESCO as well as for current Parties, concerned international and regional organizations and civil society actors.

49. Other awareness-raising activities could also be adopted in countries or regions where relevant policy documents exist but are only scarcely known or implemented. A recent survey of cultural officials and professionals in Southern Africa found that only a minority of those interviewed were aware of relevant regional (African Union, SADC) and national strategies or mentioned them spontaneously when inquired about existing measures to support the cultural industries.<sup>42</sup>

### 3.2. Other domestic legislation, policies and programmes

50. The coming into force of the Convention has given impetus to the establishment of new cross-departmental mechanisms and joined-up policymaking models as well as, more generally, an increased understanding of the cross-cutting role of culture in the achievement of other political objectives. Given the Convention's emphasis on the link between culture and sustainable development (mainly through article 13, but also present elsewhere in the text), it should come as no surprise that several countries have increasingly integrated cultural aspects in their national sustainable development strategies. Other steps at the national level have also been taken in fields such as education, trade, tourism and employment.

51. The *cross-cutting* nature of cultural aspects, which requires their being considered in a wide range of policy fields, has been emphasised by some of the governments which have taken more ambitious measures in the wake of the Convention's coming into force. Beyond the exclusive focus of some countries on the cultural industries and the economic dimension of cultural resources and capacities, these approaches attest to a more structural understanding of the place of culture in society and in collective and individual well-being. The quadrennial report submitted by **Austria** in 2012 indicates how *'the Convention introduced a new perspective and general framework for reference in Austria,*

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<sup>41</sup> Results of two regional studies commissioned by UNESCO, quoted in Barbara Torggler et al., *Evaluation of the Pilot Phase of the International Fund for Cultural Diversity. Final Report* (Paris: UNESCO, 2012), IOS/EVS/PI/116; available at <http://unesdoc.unesco.org/images/0021/002184/218443e.pdf> [Last viewed: 30.12.2013].

<sup>42</sup> Stephen Chifunyise, 'African commitments to the creative and cultural industries: Use of policy guidelines, policy action recommendations and leadership of the African Union and Southern African Development Community in the development of the creative and cultural industries in eight SADC countries', presented at the 3<sup>rd</sup> African Creative Economy Conference, Cape Town, South Africa, October 2013; available at [http://arterialnetwork.org/uploads/2013/10/Stephen\\_Chifunyise\\_African\\_commitments\\_to\\_the\\_creative\\_and\\_cultural\\_industries.docx](http://arterialnetwork.org/uploads/2013/10/Stephen_Chifunyise_African_commitments_to_the_creative_and_cultural_industries.docx) [30.12.2013]

which is reflected in the growing awareness for the cross-cutting nature of culture and its added value for economic and societal development.<sup>43</sup> Likewise, in **Brazil** the Ministry of Culture 'is working on policies that are complementary and cross-cutting and which strengthen civil rights with regard to citizenship, with government activities in the fields of education, health, social development, labour, racial equality, human rights, youth, international relations and others.'<sup>44</sup> Of course, other factors are at play in bringing about these policy initiatives.

### *Sustainable development strategies*

52. Recent sustainable development strategies and policies have increasingly addressed the connections between cultural aspects and the economic, social and environmental dimensions of sustainable development. They often recognise the role played by culture both as an *enabler* of sustainability in other fields and as a *driver* for sustainable development through the specific contributions that it can make as knowledge capital and a sector of activity.<sup>45</sup>
53. In **Burkina Faso**, the Accelerated Growth and Sustainable Development Strategy for the period 2011-2015 recognises culture for the first time as a priority sector for economic development, with steps taken in order to foster cultural entrepreneurship, the export of cultural goods and services, technical and financial support to cultural actors, infrastructural development and the promotion of cultural tourism. Similarly, in **Senegal**, the national Accelerated Growth Strategy, which set out national objectives for development up to 2015, identified tourism, the cultural industries and crafts as one of six areas of focus for growth. The recently-adopted National Strategy for Economic and Social Development (SNDES 2013-2017) stresses the aim to strengthen the visibility of cultural expressions and their relevance for social and economic development. Specific measures planned in this respect include the building or refurbishment of cultural facilities, the improvement of access to credit for cultural entrepreneurs, the promotion of the film, audio-visual and publishing industries, the devolution of public cultural services and the improvement of cultural statistics.<sup>46</sup>
54. A wide range of national strategies on sustainable development and regional planning documents have been adopted in **Latvia** in recent years, where a cultural dimension is

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<sup>43</sup> Government of Austria, 'Austrian Report 2012 on Measures to Protect and Promote the Diversity of Cultural Expressions' (2012), p. 2; available at [http://www.unesco.org/culture/cultural-diversity/2005convention/data.php?1385889528&dir=reports&link=Austria\\_Report\\_Ownformat\\_EN\\_2012.pdf](http://www.unesco.org/culture/cultural-diversity/2005convention/data.php?1385889528&dir=reports&link=Austria_Report_Ownformat_EN_2012.pdf) [Last viewed: 1.12.2013]

<sup>44</sup> English translation of the executive summary of the quadrennial report submitted by Brazil in 2012, presented originally in French. Taken from UNESCO, CE/12/6.IGC/4 (2012), p. 60.

<sup>45</sup> Cf. UNESCO, 'The Hangzhou Declaration. Placing Culture at the Heart of Sustainable Development Policies', adopted at the *Culture: Key to Sustainable Development* Congress, Hangzhou, China, 17.5.2013. Available at [http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/pdf/final\\_hangzhou\\_declaration\\_english.pdf](http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/pdf/final_hangzhou_declaration_english.pdf) [Last viewed: 1.12.2013]

<sup>46</sup> République du Sénégal, *SNDES 2013-2017. Stratégie nationale de développement économique et social* (Dakar : République du Sénégal, 2012), available at [http://www.gouv.sn/IMG/pdf/SNDES\\_2013-2017\\_-\\_version\\_finale\\_-\\_08\\_novembre\\_2012.pdf](http://www.gouv.sn/IMG/pdf/SNDES_2013-2017_-_version_finale_-_08_novembre_2012.pdf) [Last viewed: 30.12.2013].

strongly included. They include *Latvia 2030 – Sustainable Development Strategy of Latvia*, which ‘recommends solutions for efficient and sustainable use of culture, nature, economic and social capital, particularly singling out the fundamental value of Latvia – human capital.’ Notably, ‘[the] first priority is the development of culture space of Latvia because the identity of a strong and creative nation lies in our unique, inherited and newly created material and spiritual values. It joins and unites the society for the creation of new economic, social and cultural values, which are appreciated and known around the world... Culture determines the foundation for what we are and what we want to be... In [a] wider sense, culture is a system of values, which is the foundation of the identity and lifestyle of an individual, community, nation. Concurrently culture is also a mechanism for the creation of such values, analysis and transfer thereof, creating the sustainability of the culture space of Latvia.’<sup>47</sup> Cultural aspects have also been integrated in the National Development Plan 2007-13 produced by Latvia as a Member State of the European Union in order to contribute to the achievement of the Lisbon Objectives on growth and jobs, as well as in regional planning documents such as the *Latgale Strategy 2030*, produced by a regional planning agency involving national and local authorities. Finally, the ‘Creative Latvia’ platform, resulting from a protocol of intent among the ministries of Culture, Economy, Education and Science, and Environment Protection and Regional Development, has been established in order to include creative potential and innovation dimension in the National Development Plan of Latvia for 2014-2020. The Protocol, as some of the documents outlined above, contains explicit reference to the Convention.

55. A similarly interesting example is provided by **Quebec (Canada)**, which has integrated cultural aspects in a wide range of policy documents concerned with sustainable development over recent years. Existing legislation on sustainable development requires that all ministries and public bodies analyse how their policies can contribute to the province’s objectives in this field. In the case of culture, an action plan on culture and sustainable development was drawn for the period 2009-2013, which included several references to the 2005 Convention as well as a set of planned activities, including the adoption of an Agenda 21 for culture, the improvement of cooperation with local authorities, the promotion of sponsorship and private investment in the cultural sector, the launch of a cross-departmental working group on citizen participation and intercultural dialogue, the integration of a gender perspective and the updating of an action plan on the socio-economic conditions of artists.<sup>48</sup> In this context, Quebec’s Agenda 21 for culture, inspired by the 2005 Convention and United Cities and Local Government’s Agenda 21 for culture, was adopted in 2011, the result of a participative process involving several governmental departments, local authorities and civil society actors. It places culture

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<sup>47</sup> Ministry of Culture of the Republic of Latvia, ‘Quadrennial Periodic Report on Measures to Protect and Promote the Diversity of Cultural Expressions’ (2012), p. 27; available at [http://www.unesco.org/culture/cultural-diversity/2005convention/data.php?1385890872&dir=reports&link=Latvia\\_Report\\_Eform\\_EN\\_2012.pdf](http://www.unesco.org/culture/cultural-diversity/2005convention/data.php?1385890872&dir=reports&link=Latvia_Report_Eform_EN_2012.pdf) [Last viewed: 1.12.2013]

<sup>48</sup> Ministère de la Culture, des Communications et de la Condition féminine [Québec], *Notre culture, au cœur du développement durable. Plan d’action de développement durable 2009-2013* (Québec : MCCCCF, 2009), available at <http://www.mcc.gouv.qc.ca/fileadmin/documents/publications/developpement-durable.pdf> [Last viewed: 30.12.2013]

alongside other dimensions of sustainable development, reaffirming its specific, distinctive role as well as its interrelation with social, economic and environmental objectives. 21 specific objectives result from the exploration of these synergies.<sup>49</sup> It is worth noting that the adoption of this document had an effect on broader governmental strategies: a new objective, involving the support for creativity and for cultural production and distribution within all sectors of the cultural system, was added to the Province's Sustainable Development Strategy, initially adopted in 2008 and which will remain valid until 2014, thus reinforcing the transversal consideration of cultural aspects.<sup>50</sup>

## Trade

56. The implications of the Convention in the economic field, including in particular those which assert the 'dual nature' (economic and cultural) of cultural goods and services (as indicated in the Preamble and elsewhere), those which enable Parties to take measures regarding the protection and promotion of cultural activities, goods and services (articles 6-8 in particular) and those which call for preferential treatment to be granted to artists and cultural professionals and to cultural goods and services from developing countries (Article 16), involve the need to address the linkages between cultural and trade policies.
57. Several Parties to the Convention have introduced measures which facilitate the mobility of cultural goods, services and professionals from developing countries, thus responding to the notion of preferential treatment. Relevant steps in this field include invitations for artists or creative entrepreneurs to attend relevant international trade fairs or markets in the cultural and creative industries. These measures often take the form of small schemes linked to individual events or sectors, rather than broader legislation or policy measures. In other cases (e.g. the **European Union**) special fiscal measures and incentives for cultural enterprises from developing countries, such as tax credits and double taxation avoidance agreements, have been established.<sup>51</sup>
58. Future policy in the field of trade may need to take into account a few court cases which have provided an interpretation of the 2005 Convention and its implications in trade policy. Among them is the Court of Justice of the **European Union**'s ruling that measures taken by **Spain** to require TV operators to earmark 5% of their operating revenue for the pre-funding of European cinematographic films or films made for TV and to reserve 60% of this allocation for the production of films in one of the official languages of that EU Member State were legitimate and did not constitute State aid. Reference was made to the 2005 Convention, in order to reconcile its objectives with those of the EU's trade

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<sup>49</sup> Ministère de la Culture et des Communications [Québec] et al., *Culture aujourd'hui demain. Agenda 21 de la culture du Québec* (Québec : MCC, 2012), available at <http://www.agenda21c.gouv.qc.ca/> [Last viewed : 30.12.2013]

<sup>50</sup> Gouvernement du Québec, *Stratégie gouvernementale de développement durable 2008-2013 (prolongée jusqu'au 31 décembre 2014). Un projet de société pour le Québec* (Québec : Gouvernement du Québec, 2013, updated), available at [http://www.mddefp.gouv.qc.ca/developpement/strategie\\_gouvernementale/strat\\_gouv.pdf](http://www.mddefp.gouv.qc.ca/developpement/strategie_gouvernementale/strat_gouv.pdf) [Last viewed: 30.12.2013].

<sup>51</sup> Cf. UNESCO, CE/12/6.IGC/4 (2012).

policy.<sup>52</sup> Taking EU law and the Convention as its basis, the European Commission has approved the compatibility of national measures in support of specific sectors in the cultural industries (e.g. film, publishing, video games and music) with existing rules in the field of trade policy. Among the countries which have taken measures in this field is **Austria**, where a film support scheme in support of the production of feature films and documentaries with Austrian and European cultural content was set up and later approved by the European Commission.<sup>53</sup>

59. Even though raising awareness of decision-makers in the field of trade policies as regards the Convention's implications remains a challenge in many countries, and the same applies to international partners, whether in bilateral or multilateral frameworks, some interesting initiatives have been identified. In **Switzerland**, the Economy Secretariat, which is in charge of negotiating trade agreements, ensures that Swiss trade policy is compatible with the principles of the Convention. In **Tunisia**, good collaboration has been set up between the ministries in charge of culture and trade, thus ensuring that the Convention's implications are taken into account when negotiating international agreements in the field of trade. In fact, given that most relevant developments deriving from the Convention in the field of trade are included in bilateral and multilateral agreements, detailed information about these activities is presented in section 3.3.1 below, which deals with the international dimension of trade.

#### *Other policy fields contributing to an enabling environment*

60. The Convention's indication that Parties '*shall endeavour to create in their territory an environment which encourages individuals and social groups*' to create, produce, disseminate, distribute and have access to their own cultural expressions or those from other countries (article 7), i.e. the generation of an 'enabling environment' for the diversity of cultural expressions calls for the adoption of measures in a wide range of policy fields, with particular emphasis on those which play a structural role in sustainable development. Again, these approaches attest to a broad understanding of the issues to be tackled in the context of the Convention.

61. In this respect, relevant initiatives towards the integration of cultural aspects in educational policies have been adopted in **Burkina Faso**, through the Strategy to Promote the Arts and Culture in the Educational System, which aims to foster schools as a space to raise awareness on the role of culture as a fundamental pillar in sustainable development, through the rewriting of critical modules from the existing primary and secondary school curricula; rolling out robust teacher training throughout the country; and mobilising art school graduates to work alongside more established and experienced cultural

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<sup>52</sup> UNESCO, 'International consultation and coordination: report on the impact of Article 21 of the Convention', 7<sup>th</sup> Ordinary Session of the Intergovernmental Committee for the Protection and Promotion of the Diversity of Cultural Expressions, Paris, December 2013, CE/13/7.IGC/12 Rev; available at <http://unesdoc.unesco.org/images/0022/002249/224906e.pdf>. See also <http://www.unesco.org/culture/cultural-diversity/2005convention/en/internationalcoordination/d/documentview/49/> [Both last viewed: 29.12.2013].

<sup>53</sup> Cf. UNESCO, CE/13/7.IGC/12 (2013).

professionals. Support for the development of the Strategy was provided by UNESCO through the UNESCO-EU Expert Facility Project on the Governance of Culture in Developing Countries. It involved a broad consultation process and the strengthening of links between different ministries and with international donors. The project also led to the approval of the Status of the Artist legislation, which had been elaborated years earlier but was awaiting formal adoption.<sup>54</sup>

62. Measures to take account of the specificities of the cultural sector have also been adopted occasionally in the field of labour policy, in countries such as **Austria**. The new Artists' Social Security Structural Law, which resulted from an exhaustive consultative process involving public authorities and civil society and came into force in 2011, intending to simplify and facilitate administrative procedures by providing a 'one-stop shop' on social security matters for artists and introducing the possibility for self-employed artists to claim unemployment benefits during non-active periods, thus contributing to the sustainability of cultural professionals and resources and ultimately ensuring the continuity of the fabric for the diversity of cultural expressions.
63. Of course, the potential breadth of measures conducive to the diversity of cultural expression means that only more developments should be expected in the years to come, as further awareness is generated about the implications of policies and measures in several areas. Some authors have indicated that the nature of the cultural sector, and particularly the cultural and creative industries often included within the so-called 'creative economy', requires the adoption of *holistic* approaches<sup>55</sup> – this may increasingly call for the drafting of transversal, cross-departmental strategies.

#### *Awareness-raising and coordination mechanisms*

64. As noted in some of the aforementioned examples, the integration of the Convention's principles and objectives in other policy fields has often involved the setting-up of broad consultation processes, new working groups and cross-ministerial coordination mechanisms.
65. Likewise, strong awareness-raising activities have been necessary, in order to highlight the place of culture in the achievement of sustainable development objectives and to clarify doubts in this field. A relevant example is provided by **Viet Nam**, where policy and legislative developments have been accompanied by efforts aimed at raising awareness of different administrative departments and the broader public on the importance of cultural diversity for national cohesion and development. Likewise, awareness-raising has been a

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<sup>54</sup> Cf. Danielle Cliche (chief editor) (2013a).

<sup>55</sup> See e.g. Rostam Josef Neuwirth, '(De-)Regulating the Creative Economy', *Creative and Knowledge Society* (2011), available at <http://ssrn.com/abstract=1951611> [Last viewed: 30.12.2013]

core component of most projects undertaken in the context of the aforementioned UNESCO-EU Expert Facility Project,<sup>56</sup> as well as of some projects funded by the IFCD.

66. Further efforts will however be necessary, in order to highlight how objectives in the field of the diversity of cultural expressions should not merely *inform* policymaking in other policy areas but should increasingly be *reconciled* or *combined* with objectives in areas such as trade, competition or economic development, which often take precedence over the 2005 Convention's commitments. Observing a number of measures on the film market adopted by the European Commission's services in charge of competition and media in 2012 (e.g. as regards **Catalonia's** Film Law, where the aim to support local production was seen as detrimental to producers from other EU Member States), the specialised journal *Accords commerciaux et diversité culturelle* warned of the aim of some European Commission Directorates-General to isolate measures supporting the film sector from broader political considerations on cultural diversity and pluralism, opting for a narrower, technocratic approach revolving exclusively around effectiveness and competition principles.<sup>57</sup>

### 3.3. International development, cultural cooperation and trade legislation / policies

67. The integration of cultural aspects in the legislation, policies and strategies for international sustainable development of Parties has been a visible result of the Convention, even though, as in the case of cultural policies, some relevant initiatives in this field pre-existed its coming into force. References to the international implications of the Convention's principles and objectives can be found in particular in articles 12 to 17 of the text (i.e. those that address the promotion of international cooperation, the integration of culture in sustainable development, cooperation for development, collaborative arrangements, preferential treatment for developing countries and international cooperation in situations of serious threat to cultural expressions) and their operational guidelines but, more broadly, can be understood to result from the acknowledgment of and commitment with the Convention's general aims and purposes.

#### *Culture in international development*

68. The integration of cultural aspects in international development laws, policies and strategies has been particularly visible in Western European countries, some of which had already taken steps in this direction before the coming into force of the Convention.

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<sup>56</sup> Cf. Danielle Cliche (chief editor) (2013a). The recently-completed evaluation of the Expert Facility Project also argues that the initiative was relevant to the challenges identified and that the initiative amounts to an original, fruitful way of implementing the 2005 Convention. Cf. Florent Loiseau, *Évaluation externe du Projet UNESCO/UE: Banque d'expertise pour renforcer le système de gouvernance de la culture dans les pays en développement (2010-2013. Rapport final* (Paris : UNESCO, 2013), available at [http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/pdf/7IGC-INF\\_5\\_rapport-evaluation\\_projet\\_UNESCO\\_UE\\_fr.pdf](http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/pdf/7IGC-INF_5_rapport-evaluation_projet_UNESCO_UE_fr.pdf) [Last viewed: 31.12.2013].

<sup>57</sup> 'Polémique au sein de l'Union européenne', *Accords commerciaux et diversité culturelle. Chronique des industries culturelles*, vol. 8 (special edition) (2013) ; available at <http://www.ieim.uqam.ca/IMG/pdf/BulletinspecialCEIM.pdf> [Last viewed: 30.12.2013]

Explicit reference to this text can be found in some of the most recent documents in this field adopted by **Spain**, including the Culture and Development Strategy for Spanish Cooperation (2007) and the subsequent 3<sup>rd</sup> Management Plan of Spanish Cooperation (2009-12), which approaches culture from a dual perspective not dissimilar to the *enabler* and *driver* terminology adopted by UNESCO of late – in this case, culture is understood as a horizontal priority (with cultural aspects and respect for diversity being taken into consideration in all development interventions and sectors) and as a vertical or specific sector of cooperation, which should contribute to the promotion of material and immaterial cultural opportunities of individuals and communities as substantial elements in sustainable human development. A number of programmes have been set up by the Spanish Agency of International Cooperation for Development (AECID), including the ACERCA capacity-building initiative in the cultural sector and the FORMART programme which provides support for projects bringing together education and culture in international development. The USD 95.6 million contribution made by AECID to the UN's Millennium Development Goals Achievement Fund (MDG-F) for the implementation of 18 Joint Programmes which aimed to contribute to the achievement of the MDGs through projects in the cultural field between 2008 and 2012 should be particularly noted, as this amounts to possibly the largest financial contribution made to the integration of cultural aspects in international development since the coming into force of the Convention and introduced several innovative approaches in legislation, policy and governance arrangements, with sustainable results in the form of new institutional mechanisms, laws, policies and programmes. The 2005 Convention is clearly one of the main sources of inspiration behind the programme.<sup>58</sup>

69. In **Austria**, the new Federal Development Cooperation Act specifies that cultural aspects will be taken into consideration and included in development cooperation projects and programmes. In **Sweden**, a partnership between the Swedish International Development Agency (SIDA) and the Swedish Arts Council serves to strengthen cultural cooperation between the country and a number of international priority countries, including Botswana, Namibia, South Africa, China, India and Indonesia, with the aim of contributing to poverty reduction and equitable and sustainable global development.
70. The design by several Parties to the Convention (e.g. Austria, Canada, Republic of Korea, Slovakia, etc.) of many schemes favouring the mobility of artists, cultural professionals and cultural goods and services from developing countries and their access to regional and international markets should also be noted. Mobility has also been favoured in some countries through the improvement of inter-ministerial working groups and the setting-up of protocols adapted to the mobility needs of artists and culture professionals – e.g. in **France**, cooperation between the ministries of Culture, Foreign Affairs and Home Affairs has been strengthened, leading to the anticipation of potential problems, the provision of information to cultural stakeholders on the relevant procedures and the setting-up of an

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<sup>58</sup> Cf. Jordi Baltà Portolés (2013). For additional information, see also <http://www.mdgfund.org/content/cultureanddevelopment> and <http://www.unesco.org/new/en/culture/achieving-the-millennium-development-goals/mdg-f-culture-and-development/> [Both last viewed: 31.12.2013]

‘informal hotline’ between ministries and civil society organizations to solve last-minute problems.<sup>59</sup>

71. Recent years have progressively witnessed the adoption of a more structural approach to the place of culture in international development: rather than short-term exchanges, policies and programmes have increasingly focused on the context in which cultural and creative industries operate and the need for structural policies and resources to support them (e.g. through capacity-building schemes, the improvement of production spaces and distribution networks, etc.). Whilst this focus is to be welcomed, its effectiveness will need to be determined in the long term. Indeed, some authors argue that the actual impact of cooperation policies on the international flow of cultural goods and services will remain marginal, in a context which is increasingly determined by broader trade flows.<sup>60</sup>
72. The ultimate effectiveness of the integration of cultural aspects in international development policies is also determined by broader issues in the global agenda. In particular, the absence of a cultural chapter in 2000’s Millennium Declaration and its resulting Millennium Development Goals (MDGs) is seen as having diverted attention from cultural activities within development policies over the past decade. In this respect, even though data from the United Nations Development Assistance Frameworks (UNDAF) shows that an increasing number of beneficiary countries have integrated cultural aspects in their national development priorities,<sup>61</sup> it has often been argued that some developing countries remain reluctant to integrate culture as a core priority when negotiating bilateral or multilateral assistance frameworks with donor countries. An additional threat may lie in the trend towards a transversal mainstreaming of cultural aspects in some development strategies, which could lead to neglecting the specific, distinctive contribution of culture and to a reduction of the resources allocated to cultural actors and activities. The potential integration of culture in the post-2015, internationally-agreed sustainable development agenda, involving both a transversal and a ‘core’ or vertical component (i.e. culture as an ‘enabler’ and as a ‘driver’ of sustainability<sup>62</sup>), will be critical to determine the long-term integration of the Convention’s principles and objectives in future international development programmes.

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<sup>59</sup> On the Move, *Artists’ mobility and visas: a step forward. Final report of On the Move’s workshop on artists’ mobility and Schengen visas* (Brussels: On the Move, 2012), p. 30; available at [http://on-the-move.org/files/Artists-mobility-and-visas-OTM\\_Dec2012\\_final.pdf](http://on-the-move.org/files/Artists-mobility-and-visas-OTM_Dec2012_final.pdf) [Last viewed: 31.12.2013]

<sup>60</sup> ‘While international cooperation has been spurred under the auspices of the UNESCO Convention, in particular in the field of cooperation for development, the implications of this for the overall regime complex may also be marginal, as cooperation pledges are not far-reaching and/or are insufficiently funded.’ Mira Burri, ‘The UNESCO Convention on Cultural Diversity: An appraisal five years after its entry into force’, *NCCR Trade Regulation, Working Paper n°2013/1*, pp. 17-18; available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2223922](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2223922) [Last viewed: 31.12.2013]

<sup>61</sup> While only 30% of developing countries had introduced culture in their UNDAFs in the late 1990s, the figure had risen to 70% by 2012. Quoted in ‘Culture and development’, note by the UN Secretary-General, A/68/266 (2013), accessible through <http://www.un.org/en/ga/second/68/documentslist.shtml> [Last viewed: 31.12.2013]

<sup>62</sup> UNESCO, ‘The Hangzhou Declaration. Placing Culture at the Heart of Sustainable Development Policies’ (2013). See also International Federation of Arts Councils and Culture Agencies (IFACCA), *Agenda 21 for culture*, International Federation of Coalitions for Cultural Diversity (IFCCD) and Culture Action Europe, *Culture as a Goal in the Post-2015 Development Agenda* (2013), available at <http://media.ifacca.org/files/cultureasgoalweb.pdf> [Last viewed: 31.12.2013]

## *Culture, human rights and the promotion of democracy*

73. Whilst the programmes named above often focus on the strengthening of human, technical or institutional resources in the field of culture and the broadening of opportunities for the cultural industries (e.g. through mobility schemes), a number of initiatives have also placed emphasis on the need for a more exhaustive approach to the necessary pre-conditions for the diversity of cultural expressions, including those of a social or political nature (e.g. human rights, democratic participation), as well as the role that cultural actors can play in bringing forward citizen participation and political change.
74. In **Denmark**, the new Strategic Framework for Culture and Development, entitled *The Right to Art and Culture* (2013), highlights how the achievement of the Convention's objectives requires the guaranteeing of human rights and fundamental freedoms: *'Our capability to choose our cultural expressions – to be who we are and who we want to be and live our life as we like – is often referred to as **cultural liberty**. Thus, cultural diversity must not be achieved at the cost of cultural liberty... The ability to solve problems, exercise one's voice, engage in public debate and build social capital are capabilities and assets that are essential to the process of empowerment. Danish support will thus focus its support to culture on activities that have the potential to strengthen these capabilities and assets.'*<sup>63</sup> Likewise, in **Sweden** SIDA prioritises culture in the promotion of democracy and freedom of expression and four 'cities of refuge' provide professional writers under threat in their countries with a safe working space for at least one year. The Swedish Institute's Creative Force programme has also stressed the importance of culture in strengthening democracy and promoting freedom of expression in the Western Balkans, Eastern Europe, the Middle East and North Africa. The dual aims of the programme are to give women, children and young people a greater chance to influence and take part in cultural life, and to highlight freedom of expression, gender equality and cultural diversity. Sweden's exploration of the links between cultural diversity and broader political development has also led to the integration of references to culture and its place in development cooperation within a number of policy documents, including those on democracy and human rights (2010) and support to civil society (2009). In **Germany**, the German Commission for UNESCO's CONNEXIONS programme, launched in 2012 in the wake of the 'Arab Spring', aims to contribute to the democratic development in the Arab region, through the promotion of cultural diversity and cultural participation. The programme, implemented in Tunisia and Egypt but having a broader regional perspective, has fostered activities in capacity-building, training of young experts, knowledge transfer and networking. Senior officials in countries like **Tunisia** have observed that political transition processes provide the adequate environment for new forms of citizen participation, civil society engagement and the introduction of new issues to the political debate.

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<sup>63</sup> DANIDA, *The Right to Art and Culture. Strategic Framework for Culture and Development* (Copenhagen: DANIDA, 2013), p. 6; bold in the original; available at [http://www.cku.dk/en/wp-content/uploads/Strategy\\_ArtCulture\\_UK\\_web.pdf](http://www.cku.dk/en/wp-content/uploads/Strategy_ArtCulture_UK_web.pdf) [Last viewed: 1.12.2013]

### 3.3.1. Bilateral and multilateral agreements

75. Further to the adoption of legislation, policies and programmes, the 2005 Convention has also inspired national, regional and local governments to establish international bilateral or multilateral agreements and programmes to protect and promote the diversity of cultural expressions. In this respect, the observation shows how some governments have systematically made reference to the Convention in agreements in the fields of international cultural cooperation and international trade.<sup>64</sup>
76. On the one hand, references to the 2005 Convention in cultural cooperation agreements or protocols often provide the basis for mobility schemes or co-production or co-distribution agreements, either on a symmetric basis or with the particular aim of broadening the opportunities for less developed countries. This is the case of **Austria**, which has systematically included cultural diversity in bilateral cultural cooperation agreements. In the case of partner countries which have not ratified the Convention, references to it are made for awareness-raising purposes. Similar developments are also visible in countries such as **Slovakia**, which between 2008 and 2011 signed or implemented bilateral cooperation agreements with 14 developing countries; in the field of culture, agreements aim to create legal frameworks for the support of the mobility of artists and cultural professionals abroad and to provide greater access to the market for the distribution of cultural goods and services.
77. The progressive adoption of documents of this type by local or regional authorities particularly in federal countries (e.g. a declaration on cultural cooperation signed by Quebec City and the autonomous City of Buenos Aires in 2011; agreement between the Provincial Government of Quebec and the State of Rio de Janeiro in 2011) should also be noted, as it shows how a wide range of public actors are engaged in the achievement of the Convention's objectives.
78. On the other hand, several countries have indicated their efforts to include cultural reserves in international trade agreements, thus responding to the 'double nature' of cultural goods and services highlighted by the 2005 Convention and aiming to provide preferential treatment to developing countries. Relevant examples include the **European Union's** inclusion of Protocols on Cultural Cooperation in its Economic Partnership Agreements (such as the one signed with CARIFORUM countries) and Free Trade Agreements (such as the one signed with the Republic of Korea), with the aim of excluding cultural (including in particular audio-visual) services from the scope of trade agreements and provisions, whilst providing a related framework for the treatment of audio-visual and other cultural services. On the other hand, **Canada** has included a reference to the principles and objectives of the Convention in all bilateral and regional trade agreements signed after the adoption of the Convention, thus contributing to the assertion of the Parties' right to implement policies and measures to protect and promote the diversity of

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<sup>64</sup> Several of the references in this section are based on UNESCO, CE/13/7.IGC/12 (2013).

cultural expressions. **Peru** included cultural reservations in the text of its 2006 trade agreement with the US and has used this as a template for subsequent bilateral and multilateral trade agreements. **China** informed Japan and the US of the Convention's objectives and principles and the dual nature of audio-visual services in the respective negotiations on bilateral access to the services market. Finally, **Tunisia** has negotiated preferential treatment provisions for its cultural products in cooperation agreements with some EU Member States, taking advantage of the 2005 Convention to reinforce an approach which had only been enforced with some countries in the past.

79. The ability of cultural aspects to influence trade negotiations remains indeed one of the touchstones on which the 2005 Convention's ultimate effectiveness is to be judged. Recent years have witnessed, on the one hand, how some countries have succeeded in integrating the principles of cultural diversity in the international trade agenda;<sup>65</sup> yet, on the other, recent bilateral and multilateral negotiations, including the ongoing negotiations of the Trans-Pacific Partnership (TPP) and the EU-US Transatlantic Trade and Investment Partnership (TTIP) raise some doubts about the solidness of commitments towards the diversity of cultural expressions and the potential implications of multilateral and regional agreements on national policies and strategies.<sup>66</sup> Current challenges in international trade negotiations include the ability to integrate Internet service providers and the new means of access to cultural contents among the service areas which can potentially be subject to government regulation – this is an increasing area of contention and one which needs being addressed.<sup>67</sup> Finally, whilst cultural aspects have increasingly been taken into account in the international trade regime, some authors contend that the

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<sup>65</sup> 'The UNESCO Convention has... effectively contributed to promoting the notion of cultural diversity and establishing it as a global public good, as a regulatory objective worth pursuing in a wide range of activities, both domestically and internationally.' Mira Burri (2013), p. 10.

<sup>66</sup> In the case of the TTP, several of the countries which have agreed to take part in negotiations are not signatories to the 2005 Convention or have failed to protect audiovisual goods and services within previous negotiations at the World Trade Organization (WTO). As per the TTIP, whilst the EU has initially excluded cultural goods and services from trade negotiations with the US, some European Commission Directorates-General are known to favour dialogue on this matter and may re-open discussion in subsequent negotiation stages. Cf. 'Négociations commerciales: entre nouvelles approches et voies stratégiques déjà expérimentées', *Culture, commerce et numérique*, vol. 8, n°93 (2013), available at <http://www.ieim.uqam.ca/IMG/pdf/oif-volume8-numero3-avril-2013.pdf> [Last viewed: 31.12.2013]

<sup>67</sup> Note the former minister of the Quebec government Louise Beaudoin's recent remark on whether the 2005 Convention was not 'already obsolete': 'The convention does not cover specifically electronic commerce nor the dematerialization of cultural goods and services because such considerations were not that important in the late 90's as they are now. Maybe we need an amendment?' Quoted in Jehane Jaabouti and Catherine Pool, 'Impact of the digital era on the implementation of the Convention on the diversity of cultural expressions. Contribution of Canada's Coalition for Cultural Diversity', information document for the 7<sup>th</sup> Ordinary Session of the Intergovernmental Committee for the Protection and Promotion of the Diversity of Cultural Expressions (Paris, December 2013), p. 17. On this matter, see also other information documents produced on the occasion, including International Network of Lawyers for the Diversity of Cultural Expressions (RIJDEC), 'Implementation of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions in the Digital Age: Challenges, Priority Actions and Recommendations' (2013); and Association scientifique internationale d'Union latine d'économie politique de l'information, de la communication et de la culture (ULEPICC), 'Déclaration sur la protection et la promotion de la diversité culturelle à l'ère numérique' (2013), all available at <http://www.unesco.org/new/en/culture/themes/cultural-diversity/diversity-of-cultural-expressions/meetings/intergovernmental-committee/sessions/7igc/> [All last viewed: 31.12.2013]

prevailing notion of 'sustainable development' in the trade policy agenda is marked by environmental concerns, without reference to broader social or cultural components.<sup>68</sup>

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<sup>68</sup> *'En droit international du commerce, le concept de développement durable est présent. Le point de passage est présent, il ne s'est incarné que dans sa dimension environnementale à l'occasion de contentieux dans lesquels les États revendiquaient la possibilité d'appliquer des mesures de protection de l'environnement... Les potentialités dans le domaine culturel et social ne sont pour le moment que des potentialités.'* Hélène Ruiz Fabri, in the proceedings of *Culture – Développement durable. Colloque international 2012*, organised by the governments of France and Quebec (Paris, 2012), pp. 69-70, available at [http://culture-dd12.org/sites/default/files/attachments/transcription\\_integrale\\_colloque\\_culturedd12\\_finale.pdf](http://culture-dd12.org/sites/default/files/attachments/transcription_integrale_colloque_culturedd12_finale.pdf) [Last viewed: 31.12.2013]

## 4. Participation and Partnerships

80. As already explained in several of the examples described above, the implementation of the 2005 Convention at policy and programme level has required the involvement of a wide range of actors and often led to the setting-up of new consultative bodies or governance frameworks. In accordance with the requirements set out by the text (in particular in articles 11 and 15), arrangements favouring the participation of civil society and other actors, as well as the interaction among them, have been enhanced or established in several countries, as described below.

### 4.1. Participation by civil society and other key stakeholders

81. In several countries, the Convention has provided the framework for the establishment of new policy discussion frameworks involving public authorities and civil society, or reinforced the basis for pre-existing models.

82. An interesting example is provided by **Austria's** Working Group on Cultural Diversity (ARGE) and Advisory Panel on Cultural Diversity, which have a clear focus on the 2005 Convention. The former brings together representatives of three federal ministries, the nine provinces or regional governments as well as academic experts, artists, cultural professionals and their representative groups. Its activities include the sharing and exchange of information, the provision of expertise and know-how on cultural policy developments to public authorities, the organization of awareness-raising activities and the monitoring of the implementation of the Convention. On the other hand, the Advisory Panel is tasked with providing guidance to the national contact point on the Convention, as well as facilitating the exchange of information among key stakeholders and the setting of priorities. Its membership, more restricted than that of ARGE, includes federal ministries, provincial governments and civil society actors. It is worth noting that up to nine federal ministries have identified points of contact for Convention-related matters, following an inter-ministerial round table convened in 2009.

83. Broader participative spaces in the field of cultural policy, generally involving different tiers of government and civil society actors, have been identified in several countries, including **Brazil** (National Council of Cultural Policy), **Burkina Faso** (National Council on Culture) and **Slovakia** (Council of the Government of the Slovak Republic for Culture), whereas public events providing a space for discussion on cultural policy have been organised in **Sweden** or **Viet Nam**, among others. Finally, some governments (**Tunisia, Latvia**) have also indicated that meetings and effective dialogue with individual NGOs and cultural platforms have also been enhanced in recent years. However, this is not always the case: civil society organizations remain weak in some countries, where their role often focuses on the receipt of funding rather than on an active participation in cultural policy discussions or programme leadership. On the other hand, as in other cases, it should be recognised that

some of the processes described above may have taken place regardless of the Convention.

84. Temporary working groups, committees or consultations may also be established in order to develop new policy documents, as in the case of **Austria's** consultation with the film sector leading to an initiative aimed at the safeguarding of art house, small and regional cinemas (2011).
85. Other forms of engagement with civil society actors and sector representatives involve the setting-up of public-private partnerships for production or distribution programmes in the cultural industries, as well as sector-specific clusters. **Argentina's** Cultural Industries Market (MICA) constitutes a relevant example.
86. These examples show how the Convention may have helped to conceive new, more participative and decentralised models of governance for culture, an area which remains underdeveloped and which governments should be encouraged to continue exploring, including through the innovative uses of the new technologies.<sup>69</sup> The weakness of civil society actors, limited trust between them and public authorities and the lack of political will in some countries remain some of the obstacles to positive developments in this field.

#### 4.2. Key actors and partnerships

87. The wide range of policy fields affected by the 2005 Convention as well as its local, national and international implications provide opportunities to many actors, whether Parties to the Convention or not, to be directly or indirectly involved in activities under its aegis. Just as in the case of civil society noted above, the setting-up of adequate discussion spaces becomes fundamental in order to increase policy effectiveness.
88. At domestic level, collaboration between ministerial departments or public agencies has been encouraged in some countries, such as **Sweden** or **Austria**.

#### *Local and regional authorities*

89. The observation also shows that, given the important role played by local and regional authorities in the field of culture in many countries, the development of partnerships and new discussion arrangements involving different tiers of government has become an important feature in recent years, with specific implications for access to culture and the diversity of cultural expressions (e.g. **Brazil's** National Culture System; **Austria's** Working Group on Cultural Diversity; **Sweden's** new Cultural Cooperation Model, which provides a national framework of cultural policy priorities but reinforces the role of regional governments in adapting national strategies and bringing culture closer to the citizens).

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<sup>69</sup> In this respect see, among others, the contribution of Divina Frau-Meigs in the proceedings of *Culture – Développement durable. Colloque international 2012*, organised by the governments of France and Quebec (Paris, 2012), pp. 87-90.

Some regional authorities or provinces in federal states have adopted measures which are directly inspired by it, as proven by **Catalonia's** Film Law (the preamble of which refers to the Convention, aiming to counter existing imbalances in the film market and to promote the linguistic diversity of cultural expressions<sup>70</sup>) and the **Canary Islands' Culture Plan**, both in **Spain**, as well as the aforementioned activities of the government of **Quebec** in the field of sustainable development.

### UN Agencies

90. At international level, the implementation of the 2005 Convention has been facilitated by programmes involving a wide range of UN agencies. Whilst progress in this field cannot be solely attributed to this text (and other UNESCO Conventions, including those in the fields of tangible and intangible heritage, have played an important role as well), clear links can be established between the recognition of the diversity of cultural expressions and the progressive integration of cultural aspects in the agendas of several international agencies and in the global agenda, as proven by three resolutions of the UN General Assembly adopted since 2010.<sup>71</sup> As already mentioned, many beneficiary countries have increasingly included cultural aspects in their UNDAF frameworks, interestingly linking culture with all thematic areas: social and economic development, sustainable development, human rights and governance. The implementation of these programmes involves a wide range of agencies, including UNESCO, UNDP, UNICEF, UNIDO, UNFPA, ILO, UN-Women, FAO and WHO.
91. A recent report by the UN Secretary General highlights other major developments, including the reference to the importance of cultural diversity for sustainable development in the Outcome Document of 2012's UN Conference on Sustainable Development, the inclusion of culture in a ministerial review of the Economic and Social Council in 2013 and several international and regional meetings on sustainable development.<sup>72</sup> Relevant initiatives at agency or inter-agency level providing evidence of the attention paid to the diversity of cultural expressions at global level include the three editions of the *Creative Economy Report* (2008-2013, successively involving UNDP, UNCTAD and UNESCO, as well as WIPO and other bodies),<sup>73</sup> UNIDO's participation in Pakistan's Women Entrepreneurship Development Programme in the Creative Industries, UNCTAD's development of a Global Database on the Creative Economy and UNICEF's use of an animated series for children as an entry point to influence social change through cultural participation, among others. Inter-agency cooperation has also been strengthened in the context of the aforementioned MDG-F's Joint Programmes, such as the Inclusive Creative Industries Joint

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<sup>70</sup> Cf. Martí Petit et al., 'An International Laboratory for Diversity. The Catalan Law of Cinema', in Anupama Sekhar and Anna Steinkamp (eds.) (2010).

<sup>71</sup> The latter of these resolutions, which again refers to the 2005 Convention, was entitled 'Culture and sustainable development' and adopted in December 2013, A/C.2/68/L.69; accessible via <http://www.un.org/en/ga/second/68/proposals.shtml> [Last viewed: 31.12.2013]

<sup>72</sup> UN Secretary-General, A/68/266 (2013).

<sup>73</sup> Cf. UNESCO and UNDP, *Creative Economy Report 2013 Special Edition. Widening Local Development Pathways* (Paris and New York: UNESCO and UNDP, 2013), available at <http://www.unesco.org/culture/pdf/creative-economy-report-2013.pdf> [Last viewed: 31.12.2013].

Programme in **Peru**. A Task Team on culture and development, chaired by UNESCO, was set up in 2012 within the UN Development Group. These initiatives led the UN Secretary-General to argue that ‘... *There is movement towards increased inter-agency cooperation and joint policymaking and towards consolidated and strengthened regional approaches, strategies, decisions, policies, and action plans on the role of culture in sustainable development.*’<sup>74</sup>

### Regional and sub-regional organizations

92. Likewise, several regional organizations and sub-regional cooperation spaces (e.g. EU, Council of Europe, African Union, African Development Bank, Asia-Europe Meeting, Mercosur, Organization of Ibero-American States, General Ibero-American Secretariat, Council of Baltic Sea States, etc.) and international language-based organizations (OIF, CPLP) need to be mentioned because of their role in providing spaces for the exchange of experiences or the promotion of policy documents, funding schemes and awareness-raising initiatives responding to the aims of the 2005 Convention. Significant examples include the following:

- ▶ The European Commission’s inclusion of the 2005 Convention in its aforementioned European Agenda for Culture (2007) as well as in other policy documents;
- ▶ some Council of Europe recommendations on national film policies and on the funding of public service broadcasting;<sup>75</sup>
- ▶ the Programme of Cultural Cooperation (2009-2011) between the Ministries of Culture of Estonia, Latvia and Lithuania, including a commitment to exchange information on the implementation of the 2005 Convention;<sup>76</sup>
- ▶ the Euro-Mediterranean Conference of Ministers of Culture’s *Agreed Conclusions* adopted in Athens (2008);<sup>77</sup>
- ▶ the African Union’s Plan of Action on the Cultural and Creative Industries in Africa (2008);<sup>78</sup>
- ▶ the East African Community’s setting-up of a Department of Culture and Sports, in order to promote culture as a catalyst for creativity in the framework of strategies aimed at economic development;<sup>79</sup>

<sup>74</sup> UN Secretary-General, A/68/266 (2013), p. 21, para. 105.

<sup>75</sup> Council of Europe, ‘Recommendation CM/Rec(2009)7 of the Committee of Ministers to Member States on national film policies and the diversity of cultural expressions’ (2009), available at <https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Rec%282009%297&Language=lanEnglish&Ver=original&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB02&BackColorLogged=FDC864>; and Parliamentary Assembly of the Council of Europe, ‘Recommendation 1878 (2009) on Funding of public service broadcasting’ (2009), available at <http://assembly.coe.int/Documents/AdoptedText/ta09/EREC1878.htm> [Both last viewed: 31.12.2013]

<sup>76</sup> ‘Programme of Cultural Co-operation between the Ministry of Culture of the Republic of Latvia, the Ministry of Culture of the Republic of Estonia and the Ministry of Culture of the Republic of Lithuania for the years 2009-2011’ (2009), available at [http://www.km.gov.lv/lv/doc/starpnozares/arvalstis/Baltic\\_Programme\\_2009-2011.pdf](http://www.km.gov.lv/lv/doc/starpnozares/arvalstis/Baltic_Programme_2009-2011.pdf) [Last viewed: 31.12.2013]

<sup>77</sup> These conclusions included the aim of drawing ‘a fully-fledged Euro-Mediterranean Strategy on Culture’, building on the principles of the 2005 Convention and other relevant references, which has nevertheless not been approved yet. ‘Agreed Conclusions of the third Euro-Mediterranean Conference of Ministers of Culture (Athens, 29-30 May 2008)’ (2008), available at [http://www.eeas.europa.eu/euromed/docs/culture\\_concl\\_0508\\_en.pdf](http://www.eeas.europa.eu/euromed/docs/culture_concl_0508_en.pdf) [Last viewed: 31.12.2013]

<sup>78</sup> African Union, *Plan of Action on the Cultural and Creative Industries in Africa* (2008), available at [http://www.arterialnetwork.org/uploads/2011/08/Nairobi\\_Plan\\_of\\_Action-2008.pdf](http://www.arterialnetwork.org/uploads/2011/08/Nairobi_Plan_of_Action-2008.pdf) [Last viewed: 31.12.2013]

- ▶ the Organisation Internationale de la Francophonie (OIF) and ECOWAS Bank for Investment and Development's setting-up of a Guarantee Fund for Cultural Industries in West Africa, modelled on previous OIF-sponsored schemes in Morocco and Tunisia;<sup>80</sup>
- ▶ the Assemblée Parlementaire de la Francophonie's holding of an Inter-Parliamentary Conference on the Diversity of Cultural Expressions in 2011;<sup>81</sup>
- ▶ the Organization of Ibero-American States' and Ibero-American Secretariat's *Ibero-American Cultural Charter* (2006),<sup>82</sup> as well as programmes fostering mobility of professionals and works, such as Iberescena and Ibermedia;
- ▶ the Ministers and Representatives of Governments from the Asia-Pacific's adoption of the Dhaka Ministerial Declaration on the Diversity of Cultural Expressions (2012);<sup>83</sup> and
- ▶ OIF's provision of funding, technical assistance and capacity-building in the fields of the cultural industries and cultural policy, with close links with the implementation of the 2005 Convention in French-speaking countries, including through the promotion of innovative governance models.<sup>84</sup>

### Other actors

93. Other important actors at international level include networks such as the Culture Committee of United Cities and Local Governments (which promotes the Agenda 21 for culture); the International Federation of Coalitions for Cultural Diversity, as well as its national members; the International Network of Lawyers for the Diversity of Cultural Expressions (RIJDEC), which provides useful information and analysis resources on the legal implications of the Convention; and the U40 network 'Cultural Diversity 2030'.
94. It is also worth noting that national development agencies in third countries, cultural institutes (e.g. British Council, Institut Français, Goethe Institut, Spanish Cultural Centres) and embassies play an important role in the design and implementation of awareness-raising and funding programmes in their countries of destination, which can help to support the implementation of the 2005 Convention or foster ratification.
95. Finally, the private sector is less frequently involved in the implementation of policies and programmes related to the diversity of cultural expressions. Whilst a few instances of

<sup>79</sup> Cf. Bernard Bakaye Lubega, 'Strategies for Promotion of Regional Trade in Culture and Creative Industries in the EAC', presented at the African Creative Economy Conference, Cape Town, October 2013, available at [http://arterialnetwork.org/uploads/2013/10/Bernard\\_Bakaye\\_Presentation\\_ACEC2013.pdf](http://arterialnetwork.org/uploads/2013/10/Bernard_Bakaye_Presentation_ACEC2013.pdf) [Last viewed: 31.12.2013]

<sup>80</sup> For additional information, see <http://www.bidc-ebid.com/en/fondsculturel.php> [Last viewed: 31.12.2013]

<sup>81</sup> For additional information, see <http://apf-francophonie.org/cidec/> [Last viewed: 31.12.2013]

<sup>82</sup> *Iberoamerican Cultural Charter*, adopted at the 9th Iberoamerican Conference on Culture (Montevideo, July 2006), available at <http://www.oei.es/cultura/Montevideo-ing.pdf> [Last viewed: 31.12.2013]

<sup>83</sup> For additional information, see <http://www.unesco.org/new/fileadmin/MULTIMEDIA/FIELD/Dhaka/pdf/News/DHAKA%20DECLARATION.pdf> [Last viewed: 31.12.2013]

<sup>84</sup> Cf. Toussaint Tiendrébéogo, 'Le soutien au développement des industries créatives en Afrique : approches de l'Organisation internationale de la francophonie', presented at the African Creative Economy Conference, Cape Town, October 2013, available at [Last viewed: 31.12.2013]; see also the contribution by Toussaint Tiendrébéogo in the proceedings of *Culture – Développement durable. Colloque international 2012*, organised by the governments of France and Quebec (Paris, 2012).

collaboration with small and medium enterprises and entrepreneurship networks can be observed, larger groups or conglomerates in the cultural industry are seldom visible – this remains a pending issue for the future implementation and effectiveness of the 2005 Convention.

## 5. Key Factors

96. On the basis of the observations made, this section presents an appraisal of the enabling factors and the constraints in the context of the implementation of the 2005 Convention at legislative and policy level.

### 5.1. Enablers

97. The following factors have been identified as contributing to the effective implementation of the 2005 Convention in legislation and policy:

- ▶ **Explicit integration of the 2005 Convention in relevant policy documents or international agreements**, particularly when this is accompanied by an open, complex view of the scope of cultural policy, including its overlap or spill-over effects with other policy objectives. Relevant examples include the cultural policy frameworks and inter-ministerial arrangements in countries such as Brazil, Latvia, Austria and Quebec (Canada). In the context of international development, specific demands for the inclusion of cultural aspects in development strategies by the beneficiary countries, as observed in Burkina Faso and Senegal, are also important.
- ▶ **Design of strategic partnerships and new models of governance**, involving different tiers of government as well as civil society actors, as proven by the examples of Austria, Brazil and Sweden, among others. The important role played by local and regional authorities, where they exist, in the provision of access to culture and to the resources and capacities necessary to ensure the diversity of cultural expressions, should be noted.
- ▶ **Identification of focal points within different ministries affected by the 2005 Convention** and promotion of effective leadership in policy discussions and implementation, as exemplified by Austria among others.
- ▶ **Provision of training and awareness-raising at several levels**, since the understanding of the 2005 Convention remains limited among many actors who are directly or indirectly affected by it (e.g. different ministerial departments, local and regional authorities, cultural professionals, other civil society actors, etc.), whether at home or abroad. Several initiatives in this field exist, including Spain's ACERCA programme and Sweden's Year of Cultural Diversity 2006, which provided the basis for subsequent developments in this field. The efforts made by some Parties (e.g. Austria, Canada, European Union) to raise awareness of the Convention in countries which have not ratified it, through bilateral agreements and public education initiatives, should also be noted.
- ▶ **Improvement of the availability of information and data** on cultural policy and the cultural industries at national level (e.g. through national or regional cultural information systems)

and promotion of the exchange of good practices at regional or international level, thus responding to the aims of articles 9 and 19 of the Convention.

- ▶ **Promotion of cross-border collaboration and regional partnerships**, as shown by Baltic countries and other sub-regional spaces and linguistic communities (e.g. Mercosur, ECOWAS, OIF, Ibero-American States).
- ▶ **Strengthening of civil society actors**, particularly with a view to pooling their efforts in single, stronger platforms, networks or organizations and facilitating their dialogue with public authorities. In addition to the role played by UN bodies and international development agencies, the role of the International Federation of Coalitions for Cultural Diversity and its national affiliates should be noted.
- ▶ In some cases, **political transition processes** may broaden the opportunities for civil society engagement and participation, as well as for the re-thinking of cultural approaches, as shown in Tunisia.

98. Some of the items listed above can be seen as a response to the constraints described in the next section.

## 5.2. Constraints

99. The following factors have been identified as hindering the effective implementation of the 2005 Convention in legislation and policy:

- ▶ **Lack of an institutional framework for cultural policy or adequate inter-ministerial arrangements**: e.g. non-existence of a ministry or governmental department in charge of culture, weakness of the relevant ministry when compared with other governmental departments, lack of legislation or policy framework, absence of well-trained staff in the relevant ministry, etc.
- ▶ **Limited understanding of the place of culture and the diversity of cultural expressions in broader sustainable development** (e.g. impacts of culture in social and economic development, necessary pre-conditions for the development of the cultural industries, etc.), and the type of strategic, cross-sectoral partnerships needed to ensure effective implementation of the Convention. This is hampered further by an inadequate understanding of some of the key issues and concepts used by the 2005 Convention and the tendency to confuse related but different terms (cultural diversity, the diversity of cultural expressions, intercultural dialogue, etc.) in official policy discourses and reporting.
- ▶ **Lack of multi-level governance models**, involving in particular the role of local or regional authorities as key providers of opportunities for access to culture and the development of the cultural industries.

- ▶ **Inadequacy of public funding for culture** in relation to the objectives of the 2005 Convention. In some countries, this has been aggravated by the impact of the financial crisis on public budgets, which has been particularly felt in the areas of culture and international cooperation for development in some European countries.
- ▶ **Vagueness of some Convention provisions and need to adapt them to** contemporary issues in cultural policy and the cultural industries, such as digitisation, which calls for an understanding of the shifts in the cultural value chain of different cultural industry sectors, as well as the forms of access to cultural contents, including cross-border access.
- ▶ Tendency of some international development policies to **mainstream cultural aspects as a transversal feature**, which may lead to the reduction of resources allocated specifically to cultural actors and initiatives.
- ▶ **Reluctance of some actors, including countries benefiting from international development funds, to include cultural industries and policies as a priority sector** in bilateral or multilateral schemes implemented in their countries, partly as a result of the limited understanding of the place of culture in sustainable development. Likewise, but for different reasons, the integration of cultural reservations in international trade agreements has also proven difficult in some cases.
- ▶ **Prevalence of social and regional inequality**, which becomes a hindrance for large parts of the population to have access to culture and to creative resources.
- ▶ **Weakness of the cultural industries in some countries**, coupled with the **limited availability of private funding** for the development of the sector.
- ▶ **Lack of dialogue between the State and civil society**, sometimes coupled with the **weakness of civil society actors**, their reluctance to take part in formal dialogue or the inability of the public sector to introduce issues of concern for civil society in the agenda.

## 6. Conclusions and Recommendations

100. On the basis of the enabling factors and constraints as well as other evidence presented in the preceding chapters, this section presents the conclusions of the evaluation exercise, as well as the recommendations that derive from them.
101. The evaluation shows that the Convention has informed and influenced developments in several policy fields and countries, but that its impact is more reduced in other areas. It also needs to be acknowledged that, alongside a number of Parties, which have strongly introduced references to the Convention in their legislation and policies, evidence is much less visible in the official documents of many others. A more detailed appraisal of the trends observed is presented in the following paragraphs.
102. **The 2005 Convention has had a positive impact in some policy areas and in some regions.** Its impact is particularly visible in the following areas:
- The **strengthening of cultural policies and legislation in several countries in Africa, Latin America and Asia**, including the setting-up of ministries or other governmental departments and the design and adoption of framework cultural legislation and policy documents, as well as more specific policies and programmes in the field of the cultural and creative industries. This is, however, a diverse, unequal picture – alongside some excellent examples, other countries have so far failed to take steps in this area, or shown a limited understanding of the implications of the Convention, as proven by the quadrennial reports.
  - The **recognition of the place of culture in national and regional sustainable development strategies**, although this is again an unequal picture, with some excellent examples alongside modest developments in other countries.
  - The **strengthening of the cultural dimension of international development policies particularly in European countries**, including the design and implementation of new international development strategies and new programmes with partner countries. Increasingly, these initiatives address the more structural aspects of cultural development, including the setting-up of cultural policy frameworks and the capacity-building of individuals and organizations in cultural industries. Whilst initiatives in this field pre-existed the 2005 Convention, several of them have been launched in its wake and made explicit references to the text, its objectives and principles. This has also been enhanced by initiatives adopted by UNESCO and other UN agencies (e.g. the strengthening of the ‘creative economy’ paradigm through inter-agency reports, the MDG-F’s Joint Programmes on Culture and Development, etc.).
  - There is also some evidence to suggest that the **diversity of cultural expressions has entered the international trade agenda** and been taken into account in the negotiation of a number of bilateral or regional trade agreements. However, forthcoming negotiations on cultural and audio-visual services at bilateral, regional and global level will need to show to what extent this is a solid development. In

addition, it could be argued that only a limited number of countries are in a position to negotiate the inclusion of cultural clauses in trade agreements.

103. **The impact of the 2005 Convention has been less visible in other policy areas** such as:

- **Cultural policies in Western Europe and North America**, where national governments have generally maintained their existing policies and legislation. Changes and new developments have occurred in some cases but, even though references to the Convention are made occasionally, they appear to be influenced by a number of other factors as well.
- **Evolution of coordination mechanisms and governance models**. Even though a number of excellent examples of cross-ministerial coordination and participation by local and regional authorities and civil society actors have been identified, further progress in this field is still necessary. Again, awareness-raising and clarification of the implications of the 2005 Convention, the strengthening of cultural policy departments vis-à-vis other ministries and the empowerment of civil society actors in many countries arise as necessary pre-conditions for further developments in this field.
- **Broader exploration of the implications of the 2005 Convention in policy areas outside culture and economic development**, including education, citizen participation, gender, social inclusion, etc.

104. **The transfer of good practice models also arises as a priority**, given the existence of a wealth of good examples which could inspire other countries and the need to facilitate priority-setting within the broad range of potential measures to be adopted in the context of the Convention. Regional organizations could play an important role in fostering cross-border policy discussion and exchange, whereas UNESCO should continue its efforts in strengthening the knowledge base, providing policy advice and generating shared knowledge frameworks. UN agencies and national development agencies should also be encouraged to take part in these exchanges and in fostering common priority-setting and policy harmonisation.

105. **UNESCO's role has been particularly positive** as regards the following aspects:

- **The provision of a space for the exchange of experiences**, particularly through the meetings of the Convention's Governing Bodies and some publications.
- **The provision of occasional technical assistance**, particularly through the UNESCO-EU Expert Facility on the Governance of Culture in Developing Countries, which has had a visible impact in terms of policies and legislation for some of the countries which have benefitted from it, and other occasional tools.
- **Initial support provided to the improvement of the knowledge base for cultural policy and the cultural industries**, through the Culture for Development Indicator Suite, although further developments are to be expected in this field.

106. **The role of UNESCO has been less relevant** as regards the policies and legislation of developed countries, which can often resort to other policy-exchange spaces (e.g. the EU's Council of Ministers and working groups, as well as other regional or sub-regional bodies). On the other hand, the International Fund for Cultural Diversity has contributed to awareness-raising as well as civil society empowerment and networking, but its impact at cultural policy level is less visible. It remains to be seen to what extent recent changes introduced in its functioning will contribute to this.
107. **The inclusion of cultural aspects in international development programmes** is partly hindered by the absence of culture from the main internationally-agreed development goals, including the Millennium Development Goals. It remains to be seen to what extent the current campaign to introduce culture in the post-2015 development agenda will bear fruit, as this would contribute to strengthening the consideration of cultural aspects in future development strategies.
108. **A set of new issues introduced in the policy agenda in recent years will need to be considered from the 2005 Convention's point of view.** These include, in particular, a number of issues derived from digitisation, including changes in the value production chain of different cultural industry sectors, the digitisation of contents (and its implications both for cross-border access and trade and for international development policies) and e-commerce. UNESCO should play a key role in fostering policy discussions on these issues, as recently suggested by the Conference of Parties of the Convention.
109. **Capacity-building and awareness-raising remain key issues.** The most innovative steps have been adopted where cross-departmental and multi-level governance models have been established, thus reinforcing the importance of awareness-raising and joint agendas. Measures in the fields of capacity-building and awareness-raising should continue to be adopted, in order to clarify concepts and explore policy synergies, as well as to ensure that existing international, regional and national instruments are effectively implemented. UNESCO, alongside other international organizations and development agencies, should place particular emphasis on this area.
110. **Cultural industries remain weak in many countries,** which can ultimately limit the effectiveness of legislation and policies in this field. This should be an issue of concern for all stakeholders (including in particular national, regional and local authorities, as well as national development agencies operating in third countries), though it needs to be admitted that progress will only be slow in some cases.
111. **Likewise, the weakness of civil society** and its limited ability to take part in effective policy discussion dialogues with public authorities in many countries is also a factor that hampers the establishment of strong partnerships and the strengthening of an environment that supports the diversity of cultural expressions.

112. **Ratification of the 2005 Convention has been very high in several regions** but remains limited in others, particularly Asia and the Arab States. The continuation of existing awareness-raising efforts both by UNESCO and current Parties to the Convention and the dissemination of good practice examples, including their impacts in terms of economic development, should be fostered.
113. **Data and indicators to measure progress** as regards the implementation of policies and measures as well as to analyse broader cultural trends as a basis for identifying needs and priorities are lacking. It should be acknowledged, on the other hand, that the complexity of the issues which influence the implementation of the 2005 Convention renders the measurement of impact difficult, as does the newness of some of the approaches examined in this report.

**Recommendations:**

1. Facilitate and encourage Parties and all stakeholders of the Convention, including intergovernmental organizations and civil society organizations, to share good practices in key areas (e.g. design and implementation of cultural policies and legislation; integration of culture in sustainable development strategies; strengthening of the cultural dimension in international development policies; international agreements in the field of trade), by systematising and disseminating information available in quadrennial periodic reports and from other sources. (Intergovernmental Committee / Secretariat)
2. Continue discussions on the impact of Articles 16 (Preferential Treatment for Developing countries) and 21 (International consultation and coordination), particularly as regards the international trade agenda.<sup>85</sup> (Intergovernmental Committee)
3. Encourage Parties to consider the implications of the 2005 Convention as regards cultural governance (coordination within national governments, relationships between different tiers of government, public-private dialogue, participation of civil society, etc.) in their respective areas of influence and to foster the exchange of good practices and the provision of technical assistance focusing on this area. (Intergovernmental Committee / Secretariat)
4. Encourage Parties and all stakeholders of the Convention to reach out to sub-national governments and research bodies in Europe and North America in order to further consider the implications of the 2005 Convention in domestic cultural policies and in

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<sup>85</sup> The latest meeting of the Conference of Parties adopted a resolution which requests the Intergovernmental Committee to continue its work on the implementation of Article 21, in order to report to the next session of the Conference of Parties. Cf. Conference of Parties to the Convention on the Protection and Promotion of the Diversity of Cultural Expressions, resolution 4.CP.11, June 2013, available at [http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/pdf/Conv2005\\_4CP\\_Resolutions\\_ENG.pdf](http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/pdf/Conv2005_4CP_Resolutions_ENG.pdf) [Last viewed: 30.12.2013]. See also UNESCO, CE/13/7.IGC/12 (2013).

other public policies (e.g. education, citizen participation, gender, social inclusion, etc.) that play a role in the promotion of an enabling environment for the diversity of cultural expressions. (Intergovernmental Committee)

5. UNESCO should continue its efforts towards the explicit inclusion of culture in the international post-2015 development agenda, both as a 'driver' and as an 'enabler'. (Secretariat / Culture Sector / Bureau of Strategic Planning)
6. UNESCO should further explore the areas of convergence addressed by their respective conventions (world heritage, intangible heritage...), particularly in the perspective of sustainable development. (Secretariat / Culture Sector)
7. Continue to explore the implications of changes brought about by digitisation for the effective implementation of the Convention and invite Parties to examine, design and exchange emerging policies and practices in this context. (Intergovernmental Committee / Secretariat)
8. Encourage Parties to pay particular attention to the conditions of cultural industries and to the role of civil society actors in their countries, and consider the adoption of long-term strategies to address needs identified. (Intergovernmental Committee / Secretariat)
9. Continue current efforts to raise awareness of the Convention among countries that have not ratified it. These should include the design of specific activities (e.g. publications, videos) highlighting tangible results of the Convention in countries that have ratified it, targeting in particular the regions with a lower ratification rate. (Secretariat / Intergovernmental Committee)
10. Initiate work towards the development of an overall results framework for the Convention, including objectives, indicators and benchmarks. Some of the potential indicators are already implied in the questions included in the periodic reports by Parties, others will have to be newly identified and continuously updated over time in order to capture evolving trends and to respond to changing contexts. (Secretariat / Intergovernmental Committee)

## Annex 1: Evaluation Terms of Reference

Note: The below Terms of Reference refer to the overall evaluation of standard-setting work of the Culture Sector. The present evaluation report on the work related to the 2005 Convention represents part IV of this exercise.

### Evaluation of UNESCO's standard-setting work of the Culture Sector - with a focus on four Conventions

#### *TERMS OF REFERENCE*

*November 2012*

#### Background

Through its standard-setting work UNESCO aims to serve as a central forum for coordinating the ethical, normative and intellectual issues of our time, and to work towards universal agreements on these issues, defining benchmarks and mobilizing international opinion. The standard-setting function is key for UNESCO and sets it apart from many other UN organizations.

A large number of standard-setting instruments, including conventions, recommendations and declarations, have been adopted under the Organization's auspices. As the only UN agency with a mandate in culture, UNESCO has developed a comprehensive series of standard-setting instruments in this field, including six main culture Conventions, many recommendations and a number of declarations.<sup>86</sup> Significant time and resources are spent on standard-setting activities related to these instruments and even though the visibility of some of this work is high, no comprehensive evaluation has ever been conducted of the standard-setting work of UNESCO.

It is in this context that UNESCO decided to include an evaluation of UNESCO's standard-setting work in the work-plan for the current biennium. The evaluation is expected to provide critical insights that will help UNESCO strengthen its reform efforts and follow up on the recommendations of the 2010 Independent External Evaluation, specifically on those related to a need for more strategic focus. With the current challenging times, UNESCO is more than ever called to demonstrate its relevance, to be more effective in its work and to increase its efficiency. UNESCO thereby also responds to a request from the culture sector to review the working methods of its Conventions.

The present evaluation aims to help the UNESCO Culture Sector, Senior Management and the Governing bodies of the Conventions to strengthen, refocus and better coordinate the Organization's standard-setting activities. The evaluation will also contribute to generating a better understanding about how conventions work in practice, i.e. how they affect legislation and policies of Parties and the behaviour of key institutional actors. It thereby also intends to serve as a source of information for Member States, who have the primary responsibility for the implementation of the standard-setting instruments at national level. Last but not least, the evaluation is expected to feed into ongoing discussions about the challenges and lessons learned with regard to evaluating normative work in the UN.

#### Purpose

The purpose of the evaluation is two-fold:

- To generate findings and recommendations regarding the relevance and the effectiveness of standard-setting work of the culture sector with a **focus on its impact on legislation, policies, and strategies of Parties to the conventions**; and
- To assess the **adequacy and efficiency of the working methods** of UNESCO's standard-setting work.

The results of the analysis will inform the design, implementation and management of the standard-setting work to be carried out under the new eight-year Medium-Term Strategy (C4 document) for 2014-2021 and the new four-year Programme (C5) for 2014-2017.

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<sup>86</sup> Full list of UNESCO's standard-setting instruments in Culture : [http://portal.unesco.org/en/ev.php-URL\\_ID=13649&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=-471.html](http://portal.unesco.org/en/ev.php-URL_ID=13649&URL_DO=DO_TOPIC&URL_SECTION=-471.html)

The evaluation is furthermore expected to inform and significantly enrich ongoing discussions in the international evaluation community (UNEG and others) about the opportunities and challenges encountered when evaluating standard-setting / normative work and the approaches to be used for this type of evaluation.

## Scope

The evaluation will assess the **contribution of UNESCO's** standard-setting work, which is designed to support Member States with the:

Ratification (or accession / acceptance / approval) of the Conventions

Integration of the provisions of the Conventions into national / regional legislation, policy and strategy (policy development level)

Implementation of the legislation, policies and strategies at national level (policy implementation level).

The evaluation will focus on a purposive sample of the Culture Sector's standard-setting work. It will specifically **look at four of the six main Culture Conventions** (1970, 1972, 2003, and 2005 Conventions). UNESCO's work related to all four Conventions will be examined with regard to its relevance and effectiveness, with a focus on its impact at the legislation / policy / strategy level, (i.e. at the policy development level II (see three levels above)).

As explained above, it will be beyond the scope of this evaluation to fully examine the results of UNESCO's support to the implementation of legislation, policies and strategies by State Parties (level III.) for all four Conventions. The evaluation will, however, analyse samples of work at the implementation level in order to illustrate some of the effects of the implementation of legislation / policies / strategies on actual behaviour of institutions (and citizens). The samples chosen for **in-depth analysis will relate to the 1970 and 2003 Conventions**. UNESCO's work on these two Conventions has either been evaluated by IOS long ago (1970 Convention) or so far not been subject to evaluation at all (2003 Convention). These two Conventions also represent two different governing models and levels of maturity.

The analysis of the efficiency and effectiveness of the working methods (Management Review) will include all four Conventions.

The evaluation will cover the standard-setting work undertaken within the framework of both the regular and extrabudgetary programmes during the 34C/5 (2008-2009), 35C/5 (2010-2011) and 36C/5 (2012-2013) biennia up to the time of the evaluation. It will build on several evaluations and audits conducted by IOS over the past few years, including the 2012 evaluation of the International Fund for Cultural Diversity (under the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions), evaluations of UNESCO's Strategic Programme Objective (SPO) 11 and SPOs 9&10, the 2005 evaluation of the 1970 Convention on Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership Cultural Property, and other relevant evaluations and studies commissioned by sectors. It will also build on previous audits of the World Heritage Centre (WHC) (1972 Convention on the Protection of the World Cultural and Natural Heritage), specifically on an IOS audit exercise taking place in 2012, which takes stock of earlier audits and evaluations, follows up on recommendations, and assesses internal controls and the financial model of the WHC.

This is an annotated list of the four Conventions that will be covered by this evaluation:

**Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005):** This Convention is intended to ensure that artists, cultural professionals, practitioners and citizens worldwide can create, produce, disseminate and enjoy a broad range of cultural goods, services and activities, including their own. Recognizing that culture can no longer be just a by-product of development, but rather the mainspring for sustainable development, the Convention aims to usher in a new international framework for the governance and management of culture.

**Convention on the Safeguarding of the Intangible Cultural Heritage (2003):** Intangible cultural heritage includes traditions or living expressions inherited from our ancestors and passed on to our descendants, such as oral traditions, performing arts, social practices, rituals, festive events, knowledge and practices concerning nature and the universe or the knowledge and skills to produce traditional crafts. The purposes of this Convention are to safeguard and ensure respect for the intangible cultural heritage, to raise awareness at the local, national and international levels of the importance of the intangible cultural heritage, and to provide for international cooperation and assistance.

**Convention on the Protection of the World Cultural and Natural Heritage (1972):** This Convention seeks to encourage the identification, protection and preservation of cultural and natural heritage around the world considered to be of outstanding value to humanity. As the most visible of UNESCO's normative instruments, its mission is to encourage countries to preserve their cultural and natural heritage and to encourage international cooperation in the field of conservation.

**Convention on Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership Cultural Property (1970):** Under the provisions of this international treaty, States cooperate to protect the cultural property on their territory and fight its illicit import, export and transfer. This Convention addresses a rapidly evolving issue that is attracting a significant political, media, diplomatic, and legal attention.

### **Evaluation Questions**

The major evaluation questions are the following:

#### **How relevant is the standard-setting work of the culture sector?**

To what extent do UNESCO's standard-setting instruments occupy a niche, i.e. address a clear need among stakeholders?

What are stakeholders' (governing bodies, national governments, civil society, private sector, UNESCO Secretariat) expectations regarding the four Conventions?

To what extent do the four Conventions complement other international standard-setting instruments?

To what extent has UNESCO's standard-setting work influenced (and been influenced by) the international discourse and practice, including international codes of ethics and other tools, related to issues addressed by the four Conventions?

How has the Organization reflected its two Global Priorities (Africa and Gender) in its standard-setting work?

#### **How effective is the standard-setting work?**

What are the main results achieved at the ratification level, policy development level (all four Conventions), policy implementation level (1970 and 2003 Conventions)?

Are UNESCO's theories of change (causal chains) for the standard-setting work related to the four Conventions clearly articulated and reflected in programming and reporting? Is there a shared understanding among stakeholders (UNESCO Secretariat, governing bodies, national governments, etc.) about what the standard-setting work is expected to achieve and how?

To what extent has UNESCO been able to identify and address the key factors that enable or constrain standard-setting work of Parties to the Conventions? At what level in the causal chain from ratification to policy development to policy implementation of a Convention do they occur?

When compared to other international standard-setting instruments, what are the key factors (conditions, incentives, resources, mechanisms etc.) that need to be in place to ensure success at the policy development and implementation level?

To what extent has UNESCO been successful in establishing effective partnerships (with Governments, civil society, the private sector, UN, National Commissions, Category I and II Centres etc.) in the context of its standard-setting work?

Has UNESCO been successful in analysing and sharing the results of its work, thereby contributing to learning by Member States?

What mechanisms are in place to monitor and evaluate progress achieved in the Organization's standard-setting work? How effective are the existing reporting mechanisms on the implementation of the Conventions?

#### **How adequate and efficient are the working methods of the Conventions and how could they be improved for greater synergies, harmonization and efficiencies?**

How does UNESCO oversee and coordinate its standard-setting work at the overall organizational / sectoral level and is this mechanism effective?

Are the working methods for administration, programming and governance of each Convention clearly established, operating as intended and achieving the expected results?

Are resources (Regular Programme, State Party assessment and/or voluntary contribution) associated with each Convention programmed, budgeted and reported in a transparent and consolidated manner?

What common administrative, programmatic and governance practices are in place among the Convention secretariats and governing bodies?

Are there potential efficiencies in grouping these common practices while achieving equivalent or improved services or results?

What unique administrative, programmatic and governance practices are in place among the Convention secretariats and governing bodies?

Which of these could be seen as best practices to be considered for replication or adoption within other Conventions?

What good practices are in place among other Conventions (both within UNESCO and external to UNESCO) that could bring increased efficiency or effectiveness if replicated or adopted within the UNESCO Culture Conventions?

The evaluation will identify good practices and lessons learned for all three areas of inquiry.

The evaluation questions will be fine-tuned and finalized in the context of the inception report.

## **Methodology**

The overall methodological design will include:

- A systematic in-depth desk study (to be undertaken by external consultants in cooperation with IOS)
- Articulation of theories of change for those Conventions where they do not exist
- Multi-site data collection with purposive sampling of cases (to be undertaken by external consultants in cooperation with IOS)
- Management review (to be undertaken by IOS).

The foundation of the evaluation methodology constitutes a nested design, i.e. including purposive sampling and data collection at different levels of the causal chain from ratification to implementation. This will allow the evaluation to present credible complementary perspectives on UNESCO's achievements with regard to its standard-setting function at different levels. The three levels of this design correspond to the three levels of standard-setting work as described above: I. Ratification; II. Integration of the provisions of the Conventions into national / regional legislation, policy and strategy (policy development level); and III. Implementation of the legislation, policies and strategies at national level (policy implementation level). They also cover the first two major evaluation questions on the relevance and the effectiveness of the standard-setting work.

The methodology will include a desk study, phone/Skype interviews, surveys, in person interviews in a few selected countries. The multi-level purposive sampling strategy starts out from a sample from the broad population of all countries at the ratification level, and gradually narrows down to sampling from smaller populations of countries with certain levels of policy development and implementation (or a lack thereof).

The Management Review (to be undertaken by IOS only) will focus on the third overall evaluation question related to the adequacy and efficiency of the working methods of the Conventions and potentials for their improvement. The methodology will include a comparative analysis of the working methods used for each of the four Conventions through a desk study and interviews with UNESCO staff and members of the Governing Bodies.

## **Responsibilities, Deliverables and Schedule**

The evaluation will be conducted by a team of external consultants, under the supervision of IOS. IOS will also actively participate in the evaluation process. The precise division of labour will be agreed upon in the inception phase. The external evaluation team is expected to produce the following deliverables:

Inception Report outlining the overall proposed evaluation approach, including logical framework(s), final evaluation questions, methodology, list of key informants, workplan, timeline and division of responsibilities

Detailed Country Studies (to be submitted at the end of each country visit)

Draft Evaluation Report

Final Evaluation Report

The consultants are furthermore responsible for editing and quality control of language. The final report should be presented in a way that directly enables publication.

IOS (Evaluation Section) will participate in the data collection process, and be responsible for approving the inception and the final reports and for initiating payments upon approval. **Data collection, analysis and report writing related to the third overall evaluation question (including its various sub-questions) regarding the working methods of the Conventions (Management Review) will be entirely conducted by IOS (Audit Section).** It will constitute an integral part of the overall evaluation report.

**PROPOSALS SUBMITTED IN THE CONTEXT OF THE PRESENT RFP THEREFORE ONLY NEED TO ADDRESS MAJOR EVALUATION QUESTIONS 1 (ON THE RELEVANCE OF THE STANDARD-SETTING WORK) AND 2 (ON THE EFFECTIVENESS OF THE STANDARD-SETTING WORK).**

A reference group will accompany the evaluation process and provide feedback on the draft TOR and the draft evaluation report. The group will include members from IOS, the Culture Sector, the Bureau of Strategic Planning, and potentially one or two external experts.

Development of ToR and Consultation	September - October 2012
International tender and recruitment of consultants	November - December 2012
Start of work of external consultants	January 2013
Desk Study and Inception Report	January - February 2013
Data collection	March – May 2013
Draft Evaluation report	Early June 2013
Consultation and debriefing workshop	June 2013
Final Evaluation report	July 2013

### Evaluation Team

The evaluation will be undertaken under the supervision of UNESCO’s Internal Oversight Service, Evaluation Section and in cooperation with two external consultants. One or two evaluators from IOS’ Evaluation Section will be part of the overall team. One or two auditors from IOS’ Audit Section will also be part of the team, the latter with a focus on the working methods of the Conventions.

The following qualifications are required:

Company:

It is mandatory for Firm/Entity to have min 5 years of global/international experience in policy / programme evaluation. Firm/entity with less than 5 years of experience will be disqualified

Team leader and senior evaluation expert:

It is mandatory for the team members to have: Advanced university degree in specialized fields of culture, social science, law, public policy, international relations or related fields; and excellent oral communication and report writing skills in English or French.

It is also mandatory for each of the proposed candidates to have min 10 years of policy and programme evaluation on a global/international basis of relevance to policy making,

It is desirable for the firm to propose candidates with 3 references that demonstrate knowledge of the international conventions that are included in the present evaluation exercise (1970, 1972, 2003 and 2005 Conventions);

It is desirable that the candidates have undertaken at least 3 assignments for the UN;

It is desirable that the candidates have at least 3 references that demonstrate experience with the evaluation of international conventions and other standard-setting instruments.

Three samples of previous evaluation work, preferably relevant to the evaluation of standard-setting work, must be submitted as part of the technical proposal. Candidates are furthermore encouraged to also submit other references (research papers, articles, etc.) that demonstrate team members’ familiarity with the conventions that are included in the present evaluation exercise.

### Budget

The evaluation is budgeted with a maximum of 30 consultant person weeks. The team is expected to visit three to four countries. Additionally, team members are expected to travel to Paris three times to

participate in a kick-off meeting during the inception phase, to conduct interviews during the data collection phase, and to present the draft report to relevant stakeholders.

## Annex 2: Bibliography

### 1. Documents produced or commissioned by UNESCO

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<sup>87</sup> In addition, the quadrennial reports submitted by Parties to the Convention in 2012 and 2013 have also been examined. They are available at <http://www.unesco.org/culture/cultural-diversity/2005convention/en/programme/periodicreport/> [Last viewed: 31.12.2013]

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## Annex 2: Key Issues and Questions (extract from the Work Plan, October 2013)

In accordance with the Terms of Reference and Evaluation Matrix provided by UNESCO, the work plan developed by the consultant in October 2013 identified the following set of issues and key questions which the evaluation study would set out to address:

a. The **extent to which Parties have integrated the Convention's provisions into relevant policies and legislation**, both in the field of culture and in other policy areas (e.g. economic development, international relations, trade, education, etc.). Key questions in this area include the following:

- ▶ To what extent have the Convention's provisions been integrated in Parties' policies and legislation?
- ▶ Which provisions are the most adopted in policies or legislation? Why?

b. The **extent to which Parties have integrated the Convention's provisions into national development plans or strategies**, both in the field of culture and in other policy areas (e.g. economic development, international relations, trade, education, etc.). Key questions in this area include the following:

- ▶ To what extent have the Convention's provisions been integrated in Parties' national development plans or strategies?
- ▶ Which provisions are the most adopted in national development plans or strategies? Why?

c. The **extent to which Parties and other development actors have integrated the Convention's provisions into international development strategies**. Key questions in this area include the following:

- ▶ To what extent have the Convention's provisions been integrated in the international development strategies and plans designed both by Parties (national governments, EU) and other actors (e.g. World Bank, other UN agencies, other donors, etc.)?
- ▶ Which provisions are the most adopted in international development strategies or plans? Why?

d. Key factors that **enabled or constrained efforts to integrate provisions** in policies, legislation and development plans or strategies. Key questions in this area include the following:

- ▶ What is the main driver of 'convergence' of policies (i.e. the reason why provisions were deemed important to be integrated in development plans or strategies)?

- ▶ What are the key factors that enable or constrain Parties' efforts to integrate the Convention into policy?
- ▶ Which Convention provisions have not been integrated in Parties' policies, legislation, strategies or plans? Why not? Identify the main constraints (e.g. technical deficiencies or constraints, applicability, financial issues, etc.).

e. **Support, partnerships or other interventions that led to the successful incorporation** of the Convention's provisions into legislation, policies and plans. Key questions in this area include the following:

- ▶ Which partnerships effectively contributed to the integration of the Convention's provisions into relevant policies, legislation, development plans or strategies?
- ▶ What has been the role of UNESCO in fostering such partnerships?
- ▶ How can partnerships be improved in the context of policy development?
- ▶ How will UNESCO's Comprehensive Partnership Strategy help improve cooperation in policy development?
- ▶ What other support measures or interventions, by UNESCO or by other stakeholders, have contributed to the integration of the Convention's provisions in legislation, policy and plans?

f. **Stakeholders' involvement in policy development and their expectations.** The evaluation will take into account the procedures developed by Parties to foster legislation and policy developments, including relevant governance models. Insofar as possible, the views of national governments, local and regional authorities, NGOs and other civil society actors, the UNESCO Secretariat, other UN agencies, donors, etc. will be considered. Key questions in this area include the following:

- ▶ To what extent have stakeholders been involved in the process of developing policies, legislation or development plans? How?
- ▶ What are stakeholders' expectations regarding the integration of the Convention's provisions into relevant policies, legislation, development plans and strategies, etc.?
- ▶ What are the expectations of other external stakeholders (e.g. other UN agencies, donors, etc.), if any, regarding the integration of the Convention's provisions into relevant policies, legislation, plans, strategies, etc.?

g. **Other issues.** The following questions will be considered in the context of the evaluation study and may either be addressed directly in the final report or indirectly inform the production of conclusions and recommendations:

- ▶ To what extent were the Convention's provisions already integrated in Parties' policies, legislation and plans before ratification?
- ▶ Is there any evidence of the reasons why some countries have failed to ratify the Convention so far?

- ▶ What can be learned from other international standard-setting instruments with regard to key factors that need to be in place to ensure success in the integration of the Conventions' provisions into relevant policies, legislation or plans?