



## International Network for Cultural Diversity

*A Voice for Culture and the Arts  
in the Era of Globalization*

# NEWSLETTER

**December 2008**

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As this is a holiday period in several cultures and the end of year for those using the Gregorian calendar, we would like to extend best wishes to all. We hope that 2009 will bring you peace, good health, happiness and prosperity.

**INCD Steering Committee and Secretariat**

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### **1. INCD Newsletter Renewal**

Beginning with this issue, the INCD newsletter will become a regular bi-monthly publication, with news and information from, about and for people who are working to promote cultural diversity. Starting with the next edition, each newsletter will feature an article by one of our Steering Committee members, describing what they do and how they are working to promote cultural development and more balanced exchanges between cultures.

INCD welcomes submissions on relevant cultural diversity topics from members and supporters. Articles should be no more than 500 words. INCD reserves the right to edit submissions and to decide which ones will be published.

Send newsletter ideas and proposals to Garry Neil at [incd@neilcraigassociates.com](mailto:incd@neilcraigassociates.com).

### **2. UNESCO – Important Convention Developments**

This past year has been an important one for the UNESCO *Convention on the protection and promotion of the diversity of cultural expressions*. INCD continues to work to encourage additional ratifications and is working within UNESCO to ensure the

Convention is implemented as effectively as possible.

The total number of Convention parties has now reached 93 countries, plus the European Community. This is a significant milestone since INCD observed as early as 2003 that 75-85 ratifications were needed to have a successful Convention. The other prerequisite to an effective Convention is to have operational guidelines that provide appropriate responsibilities and goals for the parties and UNESCO. The Intergovernmental Committee, elected at the first Conference of Parties in 2007, will conclude its work on the guidelines at a meeting in Paris in March 2009, after which they will be forwarded for approval to the June 2009 Conference of Parties

In 2008, the IGC held two meetings in Paris, the first in June and the second in December. INCD had strong delegations at each meeting, including **Garry Neil**, Executive Director, **Yvon Thiec** (France), Chair of INCD*Europe*, **Rik Vanmolkot** (Belgium) and **Michel Beauchemin** (Canada). They were joined at the June meeting by **Lupwishi Mbuyamba** from the Observatory of Cultural Policies in Africa (Mozambique) and **Margaret Shiu** (Taiwan), Chair of INCD*AsiaPacific*. In addition, Steering Committee members **Ludwig Laher** was part of Austria's delegation and **Jacques Briquemont** represented the European Broadcasting Union.

### **Role of Civil Society in Convention Implementation**

During the year, one of the key discussions concerned how to give meaning to Article 11's strong statement about the "fundamental role" of civil society in protecting and promoting cultural diversity. On 23 June, parties to the Convention and NGOs active in the field, 200 delegates in all, met in Paris to exchange views on how the parties should encourage that role. INCD put forward a position paper (available on our website) which argued that, given the strong language of Article 11, the Convention should meet or exceed the best practices in the UN system, including that NGOs have the right to be consulted on the agenda of meetings, to attend and to make written and oral intervention before decisions are made, as well as the right to participate fully in the operation of the International Fund for Cultural Diversity, including applying directly to the Fund.

While the IGC did not agree with all our proposals, they went much farther than any other UNESCO instrument. NGOs will be able to be recognized, to attend meetings, to speak and to make their positions known to member states. While NGOs will be able to apply to the Fund, this will not happen in the start-up phase (as yet undefined).

### **Preferential Access**

One of the key remaining issues for the IGC is the development of operational guidelines for Article 16 on preferential treatment: this article obligates developed countries to provide preferential access to their markets for artists and cultural productions from developing countries. At the urging of INCD, the IGC has agreed that international NGOs can participate in a questionnaire process they have launched to solicit ideas for how to give effect to this key article. NGO input is being coordinated by the UNESCO NGO Liaison Committee. The report of the independent experts commissioned to study these issues, as well as the questionnaire, can be obtained from the Committee.

In the past, INCD has put forward the following suggestions and the Steering Committee will be determining INCD input by the 30 January 2009 deadline:

- Development of a Cultural Passport to facilitate movement of artists.
- Funding support, for production activities as well as for cultural exchanges.
- Development of a Fair Trade program to ensure that artists and producers are treated properly when their work is distributed in developed countries.
- Selective national treatment for developing country cultural products (for example, for purposes of content quotas).

### **Other Matters**

Also unresolved are two important matters. The first deals with the relationship between the Convention and the trade and investment agreements. Operational guidelines have not yet been developed for Articles 20 and 21, but the Conference will consider the issue in June. At the December IGC meeting, debate on Article 16 led to a vigorous exchange on whether and how this Convention relates to trade agreements. Brazil took the strongest position and even suggested it would sponsor a seminar at the WTO to ensure trade officials understand the new Convention. India insisted that the Convention was not a trade instrument. Speaking on behalf of several NGOs, INCD stated the following:

“Mr. Chairman, we understand that implementing some of these measures (to provide preferential access) may raise interesting issues, particularly with respect to Most Favoured Nation (MFN) provisions of trade and investment agreements, since some may argue that MFN would obligate states to provide equivalent measures to all other of their trading partners. We are pleased today’s discussion highlights these challenges and provides some possible avenues for addressing them (through existing WTO understandings).

We also note that the genesis of our Convention lies precisely in the issue of how to protect cultural policies against erosion by the trade and investment agreements. That’s why parties reached agreement on Articles 20 and 21, which establish a mechanism to tackle these complex issues.... (T)here may be ways within the existing trade regimes to sustain some of the preferential measures and when parties work together under Article 21 to promote the objectives of the Convention in other international fora, including in Geneva, they should be able to sustain the rest.”

The second unresolved matter is that, while the IGC has developed some guidelines for the implementation of the International Fund for Cultural Diversity, challenges remain. The leading one is that, despite the large number of parties to the Convention, few have contributed to the Fund. To date, only eight parties plus the Canadian province of Québec have made contributions and, of the slightly less than USD \$ 1 million contributed, 60% has come from Canada and Québec. INCD believes that finding significantly more resources for the Fund will be a litmus test for how seriously developed countries take the Convention. The next 18 months should provide and answer to this question.

The working papers and decisions of the meetings are available on the UNESCO website, [www.unesco.org](http://www.unesco.org). Various INCD reports and documents are available at [www.incd.net](http://www.incd.net).

### **3. INCD urges the U.S. to Join the Global Cultural Diversity Consensus**

Shortly after Barack Obama was elected in November, INCD wrote to the president-elect and the arts person on his transition team to urge the U.S. to join the international consensus favouring cultural diversity. Excerpts from the Steering Committee letter follow:

“We know that the change you will bring to America will include a new approach to its international relationships. We believe that one concrete and significant step you can take to give effect to your promise is to ratify the UNESCO Convention ...

The Convention is an important instrument not only for other countries but for the United States as well. Americans need to retain the sovereign right to make decisions about issues of media diversity and the Federal Communications Commission, access of traditionally marginalized communities, and building cultural capacity.

There is a growing awareness that cultural perspectives must be integrated into the security agenda, and that artists can be a bridge between cultures and thus a force for peace. Embracing cultural diversity principles by ratifying the UNESCO Convention would be an important signal to the world that the United States intends to reclaim a positive global leadership role.”

A copy of the INCD correspondence is available on the website.

### **4. Other News**

#### **European Commission’s Bilateral Cultural Diversity Agenda**

The EC is moving quickly to integrate the Convention objectives in its bilateral relationships.

The CARIFORM/EU Economic Partnership Agreement signed on 16 December 2007 contains a two-way commitment to liberalize market access, for entertainment and audiovisual services, and for professionals in the sector. The Agreement also contains a Protocol on Cultural Cooperation that is modeled on the UNESCO Convention. The Protocol explicitly seeks “to effectively implement the UNESCO Convention and ... to develop actions in line with its provisions, notably ... Articles 14, 15 and 16.”

In December 2008, there was an Asia-Europe Meeting in Hanoi on the topic of sharing experiences around protecting and promoting cultural diversity. INCD SC members **Yvon Thiec** and **Sultan Mohammed Razzak** were presenters at this meeting.

**Yvon Thiec**, Chair of INCDEurope, has written and spoken about the need for the EU and its member states to contribute substantially to the International Fund for Cultural Diversity as one way to fulfill its obligations to developing country parties to the Convention. A paper from Thiec on this topic is available on the INCD website. You will also find there a paper he delivered this month at the Asia-Europe meeting on the importance of the Convention.

### **International Lawyers for Cultural Diversity Launches in Québec City**

At a seminar held in September, Laval University law professors Ivan Bernier and Véronique Guèvremont announced the launch of the International Network of Lawyers for the Diversity of Cultural Expressions (RIJDEC). The purposes of the association are to:

- Serve as an independent think-tank on issues related to the implementation, monitoring and interpretation of the Convention.
- Provide legal counsel on the Convention's implementation to states that so request it.
- Meet the needs of civil society stakeholders and provide legal expertise to support their efforts regarding the implementation of the Convention.
- Build a bank of legal experts capable of responding to UNESCO's needs on all matters pertaining to the implementation of the Convention.

For more information and a list of members, you can visit:

<http://www.fd.ulaval.ca/site/cms/affichage.php?menu=316&dep=fd&fil=true&temps=1225122697>

### **Global Performer Associations Reaffirm Support for UNESCO Convention**

At its Congress held in Johannesburg in early October, over 100 delegates attending the International Federation of Musicians (FIM) meeting called on governments to ratify the UNESCO Convention and pledged that FIM would continue to take an active role in the Convention implementation process. Later that month in Marrakesh, more than 180 delegates attending the Congress of the International Federation of Actors (FIA) also confirmed support for the Convention as a “decisive moment in the ... recognition by states ... that artistic works ... cannot simply be considered as goods like any others.”

### **Apologies for our limited language capacity**

INCD deeply regrets that its ongoing financial challenges prevent the French and Spanish sites from being as current as the English-language one. INCD is committed to correcting this imbalance as soon its resources allow.

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