



## **Ensuring the Effective Implementation of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions:**

### **INCD Comments and Recommendations**

November 2007

INCD is an international non-governmental organisation bringing together more than 400 members in 76 countries. Networks of artists, cultural producers, publishers, broadcasters, academics, heritage institutions and others are working together through INCD to counter the adverse affects of economic globalisation on world cultures and to promote culture-driven development. Since its first international meeting in 2000, INCD has been in the forefront of the campaign to build support for the convention on cultural diversity.

#### **Our Vision for the Convention**

INCD is working to achieve the following vision for the Convention through effective implementation of its provisions.

1. The Convention acts as a positive tool to encourage appropriate policies in each country to promote the full diversity of local artists and cultural producers, including those working commercially and not-for-profit.
2. Culture is integrated into sustainable development strategies. Developed countries provide and facilitate the support, programs, funding, access and knowledge-transfer needed to assist developing countries to realise the potential of their artists, cultural producers and cultural industries.
3. The Convention is the primary international instrument for states on matters concerning trade in cultural goods and services. It provides both the focus and a forum for efforts to ensure that other commitments, obligations and instruments which touch directly or indirectly on these matters are fully coherent with the Convention's objectives and principles.

## **Encouraging Widespread Ratification**

INCD continues to work to encourage more countries to ratify the Convention, with the additional goal of bringing more balance to the geographical, linguistic and economic profile of the parties. INCD members in a number of countries report the ratification process is well underway and we expect the number of accessions will continue to grow in the coming months and will reach the 70-85 parties we believe are needed to ensure the effective launch of the Convention governing bodies.

INCD urges current Convention parties and UNESCO to continue to work to increase the number of ratifications. In this connection, delegates from throughout Africa attending the March 2007 ARTerial Conference on Vitalising African Cultural Assets in Dakar, Senegal embraced the Convention as a tool that can assist African countries to address the weaknesses in their cultural sector. Delegates called on networks in Africa to advocate for its widespread ratification and to work together through INCD. They urged that popular educational materials about the Convention be developed, and INCD is seeking resources to publish and distribute an accessible citizen's guide. Civil society delegates to the 5<sup>th</sup> International Congress on Culture and Development in June 2007 in Havana, Cuba, saw the Convention as part of a process in which "the voices of the excluded peoples" are no longer being ignored.

## **Conference of Parties**

The Conference of Parties, the highest governing body of the Convention met in June 2007. At its first meeting, the Conference elected the Intergovernmental Committee, adopted its rules of procedure and adopted parameters for the operation of the Fund. Unfortunately, the Conference did not provide adequate scope for civil society representatives to participate in its deliberations, despite the strong commitment of States Parties found in Article 11. INCD urges States Parties to ensure that civil society representatives are given the right to attend and make representations to the next Conference of Parties.

## **Intergovernmental Committee**

The Intergovernmental Committee, which is the operational body of the Convention, has important responsibilities to member states. Twenty-four States Parties have been elected to the IC and the first meeting of the body will be held in Ottawa, Canada in December 2007.

In approaching its work, INCD urges all members of the Intergovernmental Committee and the UNESCO secretariat:

1. **To provide a formal place for civil society representatives at each meeting of the Intergovernmental Committee.** The speedy development of the

Convention was the result of a collaborative campaign, involving governments and civil society organisations, which built understanding and support around the world. This work continues and civil society representatives should be given appropriate opportunities to participate actively in the implementation of the Convention, including the right to attend and make representations to the Intergovernmental Committee. The civil society organisations in the cultural diversity movement can bring to the IC the perspective of artists, cultural producers, publishers, academics, broadcasters, heritage institutions and others who have, in words of Article 11, “a fundamental role ... in protecting and promoting the diversity of cultural expressions.” In accordance with the authority it has under Article 23.7 to invite civil society participants, INCD anticipates that both it, and other relevant organisations, will be given an appropriate and formal role in the IC meetings and events.

Active engagement of civil society representatives is essential for the Articles dealing with education and public awareness (A10), building partnerships to promote international cooperation (A12.c), cooperating for sustainable development and poverty reduction (A14), collaborative arrangements (A15) and others. Civil society representatives should have a role in the administration of the International Fund for Cultural Diversity (A18) to ensure its effectiveness.

In addition, civil society representatives can provide information and insight to assist parties with respect to the Convention’s principles and to implement the rights and obligations of parties at the national level. This includes measures to protect cultural expressions at risk of extinction (A8 and 23.6.d), measures to promote cultural expressions (A7), and obligations to share information (A9 and 19). Civil society representatives also have an important role to play in working with Parties to achieve the consultation and coordination anticipated by Article 20.

2. **To provide in the mandate of the Intergovernmental Committee a responsibility to monitor how trade, investment and other international instruments, as well as ongoing and future negotiations, may effect the diversity of cultural expressions.** This follows from the responsibility assigned under Article 23.6.e. It is essential to ensure that parties can fulfil their commitments in Articles 20.1.b and 21 to foster mutual supportiveness, to take into account the relevant provisions of this Convention when interpreting and applying other international obligations, and most importantly, to promote the objectives and principles of this Convention in other forums.
3. **To provide in the mandate of the Intergovernmental Committee a responsibility to research, propose, encourage and monitor measures to**

**promote international cooperation and development.** A critical part of the Convention is its provisions concerning promotion of international cooperation, integration of culture in sustainable development, cooperation for development and preferential treatment for developing countries. In order to make these provisions effective, it is necessary to provide information about current best practices, models for new forms of collaboration and concepts for new initiatives. This work would logically fall to the IC, with the necessary support from the UNESCO secretariat and other relevant institutions and agencies.

4. **To assign responsibility to the Convention Secretariat to develop a framework and ongoing timetable for the collection of appropriate statistics and data.** Implementing the Convention and making informed decisions requires parties to have a common base of statistics and data. For example, the commitment of developed countries in Article 16 to facilitate cultural exchanges and provide “preferential treatment” cannot be implemented without authoritative information about the nature and extend of existing exchanges. Progress must also be tracked over time. Similarly, parties need a framework for preparing their Article 9 reports which permits them to address fully the nature of the measures they have in place pursuant to Articles 5-8, 10, 12-15, 17 and others, and ensures that these reports are comparable.
5. **To ensure that each party makes the maximum possible contribution of new resources to the International Fund for Cultural Diversity.** The coming into force of the Convention provides an opportunity and a significant responsibility on States Parties to make a concrete commitment of new financial resources to support these efforts through the new Fund. INCD observes that few Parties made meaningful commitments at the first Conference of Parties.

INCD supports the UNESCO decision to merge responsibility for the Global Alliance for Cultural Diversity into the Convention secretariat. Building cultural industries in developing countries requires more public/private partnerships to encourage private sector firms and organisations to make available resources (technology, infrastructure, sponsorship and people) to counterparts in developing countries, particularly where they may have an office or subsidiary company.

6. **To investigate, develop and implement programs which promote the objectives and substantive provisions of the Convention.** Article 23.6.a provides that the IC is responsible for promoting the objectives, as well as encouraging and monitoring the Convention’s implementation. INCD believes that States Parties should consider a number of concrete actions to give real meaning to the provisions that call for the promotion of the diversity of cultural expressions. For example, the IC could develop a Task Force to provide advice

to requesting countries on how to develop and manage public policies favouring local artists and cultural producers.

The IC could give substance and meaning to the commitment in Article 16 to provide preferential treatment for developing countries by studying and recommending the development of the following measures in collaboration with other institutions and agencies in both the public and private sectors:

**Cultural Passport.** A cultural passport, granted to artists and other cultural professionals and practitioners from developing countries, would facilitate access to developed countries and guarantee identical legal rights to local citizens when the holder is undertaking artistic work in that territory.

**Fair Trade Certification for Cultural Goods and Services.** This would, for example, ensure that music CDs and films imported into developed countries are produced under appropriate conditions, including that the artists have been properly contracted and paid, and have appropriate protection of their intellectual property rights.

- 7. To make the necessary connections to ensure that threatened languages and cultures, including those of indigenous peoples, are given special attention.** Article 23.6.d assigns responsibility to the IC to develop a framework for consideration of matters arising from Article 8, concerning the protection of forms of cultural expression under risk of extinction. Given the global nature of the challenges, the IC must establish appropriate links with aboriginal communities and first nations where cultural expressions are most vulnerable. UNESCO's intangible cultural heritage secretariat is developing a list of indigenous arts and a warning system when one is endangered. This should be integrated into the IC's work and INCD looks forward to sharing its links and collaborating with the IC in the implementation of this important provision.

## **Bilateral Relationships**

As part of their obligation under Article 21 to promote the principles and objectives of the Convention in other international forums, INCD urges States Parties to reinforce the Convention provisions in their own bilateral relationships.

INCD believes it is appropriate for each Party to urge its partners to ratify and join the Convention; to formalize a dialogue about cultural policies; to seek and make specific commitments in relation to Articles 14, 15 and 17 in development agreements; and to seek and make specific commitments in relation to Article 16 to provide preferential treatment.

Examples of the kinds of bilateral cooperation that would make the Convention come to life include the following:

- A. Public policy instruments in the developing countries can be enhanced by exchanges of expertise with developed countries. Examples could include:
  - Provide human and technical resources to enable the collection and analysis of statistics in developing countries to measure how the cultural sector contributes to national wealth.
  - Provide information on how various cultural policies in developed countries, such as regulation of the price of books, and content quotas on radio and television, stimulate the supply of national content.
- B. Develop more artists-in-residence programs in all cultural sectors, including music, cinema, publishing and visual arts, in order to increase the potential of artistic talents.
- C. Provide access to and share information technologies.
- D. Encourage co-production and co-distribution agreements.
- E. Provide support (financial and human resources) for training and professional development in the cultural sector and cultural industries of developing countries. Collect and disseminate information about best practices in these fields.