

# INCD/NGO Comments and Recommendations to the Second Ordinary Session of the Intergovernmental Committee

9 December 2008

## Cooperating to promote cultural development and more balanced exchanges between cultures

Thank you Mr. Chairman for this opportunity to contribute to your deliberations. I am Garry Neil, Executive Director of the International Network for Cultural Diversity. This statement is made in addition on behalf of the International Federation of the Coalitions for Cultural Diversity, the International Music Council, Traditions for Tomorrow, the International Federation of University Women, the International Theatre Institute and the International Federation of Musicians.

It's difficult to come into the middle of a discussion, and to understand the points we will put forward, we start with a general observation.

At a time of global economic meltdown and growing awareness of the irreversible consequences of environmental degradation, it's important to understand the nature of cultural development and the opportunity members of the Intergovernmental Committee have this week.

Developing cultural industries, defined broadly, can be a powerful tool for economic development.

This is the case because cultural industries have positive characteristics. They are:

- Labour-intensive rather than capital-intensive;

- Based on creations of the mind and body, rather than on the finite resources of the earth; and
- Generally environmentally benign.

We see economic stimulus packages being announced daily by governments around the world. If only a small portion of these resources were to be invested in culture, and only a fraction of that in the global south, the impact would be transformational. Ours is an industry of the future, not the past. We would employ hundreds of thousands of artists and other cultural workers, and would generate substantial spin-off economic activities. We recall that Franklin Delano Roosevelt's original New Deal had a major cultural component. The U.S. Treasury Secretary hired visual artists to paint murals on post offices and folk singer Woody Guthrie was hired to write songs about the river dams and infrastructure projects.

In addition to this economic benefit, there would be enormous cultural consequences. Developing cultural industries would promote social cohesion, education and physical well-being. It would also enable a new global dialogue that would bridge cultural divides and promote peace.

So, how do we achieve this promise?

Developing countries must engage with civil society in their countries to implement national cultural policies; to integrate culture into development strategies and poverty reduction strategy papers; to identify where development assistance is most needed; and to raise awareness of the importance of these issues within all government departments. Developed countries must also engage their civil society in the national process and to support their counterparts in the south. Culture ministries in developed countries must work

with other government departments to raise awareness of the beneficial nature of cultural development.

As we see it, that's what Articles 13 to 18 are about. In Article 13, you are outlining the objectives, and you will delineate concrete ways to achieve them in Articles 14-18. In retrospect then, Article 12 may be seen as a commitment on the part of developed countries to act on these understandings not only globally, but also in all of their bilateral relationships. With this approach you may have been able to develop core principles for that Article.

We have three specific comments in the article 13 operational guidelines as they are before you:

- In 6.3, previously some of us have put forward what we call the cultural continuum as creation, production, distribution, exhibition and preservation. If you cannot accept this, perhaps you should use the Convention's own definition article 4.6, which states, and I quote "creation, production, dissemination, distribution of and access to cultural activities, goods and services."
- In 8.8, change "invite" to "engage," since the latter captures the reality that many civil society organizations are already working in these areas.
- In 8.9, we underline the need to invest in compiling appropriate statistics that can also be used to monitor the impact of the convention.

Finally, we offer two new ideas that are not otherwise before you:

- Developed country parties should commit to allocating a concrete percentage of their development assistance to cultural projects in developing countries which are parties to the convention, including projects to strengthen civil society organizations.

- On this last point, I speak only on behalf of INCD, IMC, ITI and Traditions for Tomorrow. Parties should also work to integrate a cultural dimension into the impact assessment of economic development projects, as environmental impacts are currently considered.

As we see it, that's how you could give some meaning to these articles and promote further ratifications.

Thank you.

11 December 2008

### Article 16 – Preferential Treatment

**Garry Neil,  
Executive Director, INCD**

**Thank you Mr. Chairman and thank you as well to the Ambassador from St. Lucia. In this statement I speak on behalf of the International Network for Cultural Diversity, the International Theatre Institute, the International Federation of Musicians, the International Federation of University Women, the European Broadcasting Union and the International Music Council.**

**Article 16 is differentiated from most others in the Convention by its use of the mandatory language "shall facilitate," as the Assistant Director General has pointed out. This is significant because it creates a positive obligation on developed country parties to the Convention, in favour of the developing country parties. As someone who witnessed all of the negotiating sessions, I know that parties carefully selected these words. This was the key trade-off between developed and developing countries.**

**Developed countries would get what they needed in Articles 5, 6, 7, 20, 21, etc., and in other Articles dealing with international**

**cooperation, they would be under only a modest obligation to “endeavour to” do the various things. In others words, for these international cooperation Articles, developed countries just have to make best efforts.**

**In return, parties agreed to mandatory language in Article 16 which obligates developed countries to provide preferential treatment, in concrete and measurable ways.**

**The experts’ reports capture some important elements, such as the need to give preferential treatment for individuals providing cultural services, in the form of temporary visas, and we agree these measures are essential. But few would seem to share our position that the more significant concept is that developed countries are:**

- Committed to providing preferential access to their markets for goods, as well as services, from developing countries. By goods, we mean the books, films, sound recordings, paintings, etc.; and**
- They have considerable scope to implement measures and programs which do precisely that.**

**If one looks at the full range of cultural policy mechanisms used by developed countries – direct and indirect funding; structural measures like content quotas and mandatory purchase or pricing systems; rules on ownership of cultural industry firms; preferential treatment provided to national artists and cultural producers – it is possible to contemplate many practical and effective measures that would give real meaning to this commitment. Some ideas for the preferential treatment toolkit include:**

- 1. Developed countries should provide funding support. For example, to translate published works, to sub-title movies or television programs, or to mount a visual arts exhibit or live performing arts presentation. In this way, these works from developing country parties can be distributed in markets of the developed countries. We also need direct funding to support cultural production activities in the developing country parties as contemplated by Article 14.**
  
- 2. Developed countries could provide targeted National Treatment. For example, it could extend a benefit which is currently available only to residents, or provided only on a reciprocal basis. An example is audiovisual co-production treaties where a movie or television program produced collaboratively in the two countries enjoys full status as a domestic work. More robust measures are also possible if you look at how TV-5, the French-language network, already provides access for some works from developing countries, and many commercial radio stations in developed countries currently program "world music," including productions originating from developing countries. This leads to the possibility of qualifying a sound recording or audiovisual production from a developing country party as domestic for purposes of content rules, even if it is not co-produced.**
  
- 3. A key element in this equation is the importance of developing Fair Trade principles for imported works. It is essential that the rights of the artists and the producers of those works be treated fairly, including receiving compensation. Fair Trade principles are well understood and supported and the Convention parties should initiate and support their development for cultural goods and services.**

**We submit that these measures can be implemented in a manner that is not prejudicial to cultural industries in developed countries. As the “world music” phenomenon has shown, there is a commercial potential and with Fair Trade principles in place, there would be a more equitable sharing of revenues than there has been in the past.**

**Mr. Chairman, we understand that implementing some of these measures 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. 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. (Canada Periodicals Case) That’s why parties reached agreement on Articles 20 and 21, which establish a mechanism to tackle these complex issues. As the two coordinators reviewed this morning, there 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**

**We look forward to working with parties in the coming weeks to develop operational guidelines that highlight these substantive and practical measures and would give real meaning to Article 16. Perhaps we can suggest that international NGOs be given the opportunity to respond to the questionnaire that will be developed by the secretariat. Taking strong measures in favour of developing country parties to the Convention will promote additional ratifications. They will also ensure**

**that the Convention will bring about more balanced exchanges  
between cultures.**

**Thank you, Mr. Chairman**