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## 2. UNESCO Copyright Activities

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*A traditional tool for encouraging creativity, copyright nowadays, in the beginning of the 21<sup>st</sup> century, has even greater potential to encourage creativity and to assist in the establishment and flourishing of the cultural industries, which can broadly be defined to include the film, music, audiovisual and publishing industries. Committed to the promotion of the copyright protection since the wake of its existence, UNESCO is carrying out, though with a smaller reach and more modest means than in the beginning, a large palette of activities in the area of copyright, such as information and awareness-raising, training and teaching, studies and research, enforcement and management of rights.*

### ***Why does UNESCO have activities in the copyright field?***

People may sometimes wonder why UNESCO should deal with copyright, commonly considered an exclusive WIPO competence. However, a rapid look into copyright history explains why these two UN Organizations share in fact concerns on this issue of paramount importance for creators and the creative industries.

The **Berne Convention**, the very first international instrument for copyright protection, was adopted in 1886 in a Diplomatic Conference convened at the initiative of the Swiss Federal Government, attended by a small group of countries, namely Belgium, France, Germany, Haiti, Italy, Liberia, Spain, Switzerland, Tunisia and the United Kingdom with Japan and the U.S.A. as observers. The Berne Union Office, established in Berne 1887, soon merged with the Office of the Paris Convention on Industrial Property (1883) forming the BIRPI (Bureaux Internationaux Réunis pour la Protection de la Propriété Intellectuelle). BIRPI moved to Geneva in the early 60s and operated under the authority of the Swiss government till 1967. The Berne Convention was long time perceived as a European initiative since its extension to other continents could only be

achieved through the so-called “colonial clause”. Several Inter-American Conventions (Montevideo, Mexico, Rio, Buenos Aires, Caracas, Havana and Washington Treaties) were adopted between 1889 and 1946, the USA only having signed the Mexico Treaty in 1908 and the Buenos Aires one in 1911. The future of the Berne Convention seemed further compromised since the newly independent States (former European colonies in Asia and Africa) were not anymore bound by the “colonial clause”, the Soviet Union did not intend to adhere and the US national legislation was not adapted to adhere to the non—formality regime established by the Berne Convention.

Under these circumstances, the pressing need of universality of copyright was more and more strongly felt. The creation of UNESCO immediately after World War II, with the mandate of promoting free flow of information through word and image, provided an appropriate forum to address copyright protection worldwide. In 1952, a Diplomatic Conference, convened by UNESCO in Geneva, adopted the **Universal Copyright Convention (UCC)**, administered by UNESCO. Its text closed the existing gap, and established the world-known symbol © as the international copyright notice. The UCC was soon ratified by the USA, by the Soviet Union, by virtually all Berne Convention members and an important number of newly independent states. A strong cooperation UNESCO/BIRPI was maintained and UNESCO was instrumental in the creation of WIPO (successor of BIRPI) as a specialized agency of the UN system in 1967. The creation of WIPO took place in coincidence with the Stockholm revision that added a Protocol for Developing Countries both to the Berne Convention and to the UCC. The last joint revision of Berne and UCC convention took place in 1971.

Since then, UNESCO and WIPO worked in tandem and jointly elaborated - and still co-administer - a number of copyright related conventions (the Rome

Convention, the Phonograms Convention, the Satellite Convention, etc.). Both organizations also contribute to the advancement of the copyright doctrine in fields such as the protection of computer software, of folklore, etc. This cooperation was, however, gradually reduced along the eighties, a period when the United States decided to sign the Berne Convention (1989) (Notwithstanding that, the USA is still an active member of the Intergovernmental Committee of UNESCO's Universal Copyright Convention) The fact that the WTO made adherence to the Berne Convention compulsory for copyright protection under TRIPS in 1995, led a large majority of countries to join the Berne Convention. To this date, 159 State parties have ratified the Berne Convention and 99 are States parties to the UCC.

Although both organizations still cooperate and participate in each other's meetings, a repartition of tasks has been tacitly established: WIPO has been basically dealing with normative action and UNESCO's copyright programme has mainly focused on copyright teaching, information and awareness as well as promoting copyright enforcement and piracy eradication.

What does UNESCO do in the copyright field?

## **1. Information and awareness-raising**

### **1.1. Electronic Copyright Bulletin in six languages: Arabic, Chinese, English, French, Russian and Spanish versions.**

UNESCO's **Copyright Bulletin** was first published in 1948, soon after the setting up of the UNESCO. It has accompanied generations of copyright lawyers since its first edition and assisted them in studying and understanding the complex and ever-evolving copyright landscape. At first, the Copyright Bulletin started as a traditional quarterly legal revue, initially published in French and English languages. At a later stage, a Spanish version was added to the already existing French and English-language ones. The publishers of the Bulletin had the ambitious idea to increase the number of language versions and, by publishing the Bulletin in all six official languages of UNESCO, to make the Copyright Bulletin a

genuinely international legal revue in the field of copyright. The task was complex and challenging one, both in terms of financing and coordination. It took some time to prepare and launch all initially foreseen language versions. The Russian version was born in 1984, the Chinese one – ten years later, in 1994. The Arabic version was launched in 2004.

Having been published traditionally as a quarterly printed edition for more than 50 years, in the beginning of the 21st century, the Copyright Bulletin has answered the challenges of the digital environment. Since 2002 all language versions have gradually abandoned the printed format and have passed on-line. The change started with the French, English and Spanish versions and continued with the Russian and Chinese ones. The Arabic language version was launched directly as an electronic edition in December 2004 without having ever existed in paper format. All versions could be consulted through the following link: [www.unesco/culture/copyrightbulletin](http://www.unesco/culture/copyrightbulletin).

The Copyright Bulletin contains doctrine articles in the field of copyright and related rights, as well as information about legal developments, of both general and specialised interest. This makes the Copyright Bulletin a precious tool for students, teachers, professors, collecting societies, researchers, practising lawyers – i.e. for all those, who are interested by the theoretical or practical issues relating to copyright protection. Furthermore, the Copyright Bulletin is quite unique in its genre, not only because it's published in six language versions and has thus a wide international readership. It is international not only because of the language versions, but mainly because of its content and the diversity of its information, sources and authors who include scholars, academics and practitioners from all regions of the world, both industrialised and developing countries.

### **1.2. Publications in the field of copyright and neighbouring rights**

The time will not be enough to speak about all UNESCO publications in the field of copyright which have been published and distributed since the start of UNESCO's activities in this field. The complete list

of publications can be found on our web page:  
[www.unesco.org/culture/copyright](http://www.unesco.org/culture/copyright)

It maybe worth, however, to give more me details on one of our publication and throw some light to other two publications when presenting the activities to which they are closely related.

The *ABC of Copyright* is intended to provide to all who are concerned with the creation, circulation and dissemination of knowledge - authors, educators, researchers, librarians, journalists, broadcasters, producers of phonograms, producers and distributors of films, publishers, as well as readers among the public at large -replies to certain questions they may have on the subject of copyright.

This booklet attempts to respond to the need of a very large audience to know more about copyright and has no other objective than to clarify this complicated subject by translating sophisticated legal language and terminology into a language that can be easily understood by everyone. Of course, hundreds of academic works have been written on the subject. But in the beginning of the 1980's a need has been felt for a copyright background reading material that would provide an overall view and sum up the essentials of copyright. This explains the approach taken in writing of the book. It is not a legal or scientific study on copyright but an attempt to provide practical answers to questions that are daily asked in this area.

The book is currently being updated with view to take into account the technological changes that have taken place in the world in the last two decades and accordingly, the changes introduced in the legal regulation of copyright at an international level.

### **1.3. On-line tools for copyright experts and the general public.**

UNESCO's Collection of National Copyright Laws allows free access to national legislations on author's rights and related rights. The texts of the laws and their official translations are communicated to UNESCO by the official copyright authorities of its Member States. The collection is constantly being supplemented and updated.  
<http://www.unesco.org/culture/copyrightlaws>

## **2. Training and teaching**

### **2.1. Support for teaching of copyright by setting up UNESCO Copyright Chairs in universities throughout the world.**

The great (and sometimes total) lack of qualified personnel in the developing countries to work in all infrastructures concerned with copyright (governmental bodies, magistrates and courts, cultural enterprises, etc) is the main reason why UNESCO has taken this activity at heart and started to develop its teaching programmes and establishing Copyright Chairs in universities in different regions in the world, mainly in developing countries. The objective is to develop teaching of copyright in order that a certain number of educated specialists come to work in the national economy on a regular basis, which will assist for a copyright law enforcement and would thus benefit the creators and other copyright owners

Up to date, 21 UNESCO Chairs on Copyright were created at the universities in various regions. A first network of 10 Chairs (RAMLEDA) was created in Latin America. Chairs currently exist in China, Russia, Jordan, Egypt, Morocco etc. The Copyright Chair in Cameroon has just recently been approved by the respective UNESCO authorities, a chair is prepared also in Moldova and Nigeria.

An international *Network of UNESCO Chairs* to promote cooperation and the transfer of knowledge in a fair and equitable context has been planned and will be set up as soon as all chairs have been established and their performance reinforced in the various regions of the world, in particular in the developing countries, French- and English-speaking Africa, Asia and the Arab region.

### **2.2. Development of study programmes and instructional and teaching materials.**

As mentioned above, from 1988 onwards, the Organization's efforts have been concentrated in particular on the promotion of the teaching of this subject in the university context. Indeed, experience has shown that in the contemporary life of societies, the adoption of legislation in defence of copyright and neighbouring rights is not sufficient in itself.

Accompanying measures are called for, which will ensure appropriate knowledge of this specific legislation in the cultural life, and more especially, the legal environment of the nation. Respect for the rights vested in authors and other holders of rights and their soundly based application means that lawyers, judges, magistrates and other legal authorities responsible for the application of the law must be familiar with every aspect of this discipline. It is through wide-ranging knowledge of the rules governing copyright and neighbouring rights that nations can most effectively provide a secure basis for the relationships between the different parties involved in cultural life and mobilize their efforts to create and produce works which will enrich the cultural heritage.

UNESCO started to develop this activity in 1988 following the recommendations formulated by the participants of the World Congress on Teaching of Copyright held by UNESCO in September 1987.

In view of the above, UNESCO elaborated a **special teaching programme**, discussed it with committees of law professors in all regions of the world to adapt it to the realities prevailing in the regions and circulated the adapted programmes to the Ministries of Higher Education of the States and universities in those regions. This teaching programme is currently being updated.

In relation to this, UNESCO commissioned the first international manual "Copyright and Neighbouring rights" (according to the structure of the programme) and published it initially in Spanish (1993) and then translated and published in French (1997) English (1999) and Chinese. The Russian version of **UNESCO's Manual on Copyright and Neighbouring Rights** was published in 2002. The Manual now has been translated in Chinese and Arabic languages as well.

The Manual is not just another monograph on copyright and neighbouring rights. It represents a fundamental contribution to study of this discipline made the eminent specialist on the subject, Professor Delia Lipszyc.

Set out as a university manual, it presents, with its

clear and comprehensive approach, the many and varied aspects of this important legal discipline as reflected in the different laws throughout the world, the relevant international conventions and current international thinking on the subject, in the light of technological progress in the methods of creation, production and dissemination of works of the mind. It offers appropriate clarification of legal concepts and makes them more readily understood. This work is, in short, a precious resource with which students and specialists in copyright and neighbouring rights can be provided, and an invaluable tool in aiding the various parties involved in cultural activity to organize their professional relationships on a sound and equitable basis.

Judging by the opinions of law teachers in various regions, the manual is highly appreciated because, on one hand, is written in a detailed manner, it is very extensive (over 900 pages) and therefore greatly helpful in view of the lack of legal literature and lack of funds for purchase and, on the other hand, it allows self specialisation in the matter of law teachers from the neighbouring disciplines which is very important given the great lack of law teachers specialised in copyright and neighbouring rights.

### **3. Studies and research**

#### **3.1. Activities in conjunction with the administration of the Universal Copyright Convention and the 1961 Rome Convention.**

UNESCO provides for the Secretariat of the Intergovernmental Committee of the Universal Copyright Convention (adopted under the aegis of UNESCO) and, jointly with ILO and WIPO, of the Rome Convention (for the protection of performers, producers of phonograms and broadcasting organisations).

At the 12<sup>th</sup> ordinary session of the **Intergovernmental Committee of the Universal Copyright Convention** (adopted under the aegis of UNESCO in 1952 and revised in 1971), 18-22 June 2001 at UNESCO Headquarters, the Committee studied the following legal issues on the protection of copyright in the digital environment:

- The role of service and access providers in digital transmission and their responsibility regarding copyright
- The international experience in regard to procedures for settling conflicts relating to copyright in the digital environment
- Practical aspects of the exercise of the “droit de suite”, including in the digital environment, and its effects on developments in the international art market and on the improvement of the protection of visual artists

UNESCO is also in charge of the administration of the **Rome Convention** for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (1961) jointly with ILO and WIPO. At its 18 session (27-28 June 2001), the **Intergovernmental Committee of the Rome Convention** had extensive discussions on the analysis of a “comparative study of various international instruments concerning neighbouring rights”. Currently UNESCO is preparing the 13<sup>th</sup> ordinary session of the **Intergovernmental Committee of the Universal Copyright Convention**, for which studies on the following topics are being prepared by eminent specialists in the field of copyright and neighbouring rights:

- Certain legal problems related to the making available of literary and artistic works and other protected subject matter through digital networks: P2P file-sharing
- Applicable law in cross-border cases of copyright infringement in the digital environment
- Report on piracy: current trends and rates and consequences for creativity and sustainable development

### **3.2. Studies and analyses/ Contribution to the international debate on evolution of copyright in the digital environment**

In the light of the ever more evolving digital environment and the challenges it poses to copyright, UNESCO has undertaken recently a study on the exceptions and limitations to copyright protection in the digital era, particularly in the field of scientific

research, education and culture. Based on regional studies on the subject and on the replies to a questionnaire sent out to right owners, users of protected works and national authorities, the study has been finalised in 2003.

## **4. Enforcement and management of rights**

### **4.1. Legal and technical assistance to Member states**

UNESCO provides legal and technical assistance concerning the elaboration (revision) or application of national laws on copyright and neighbouring rights, when requested by the respective Member States. Just as an example, it has in the recent years provided assistance to the Governments of Burkina Faso, Georgia, Burundi etc.

### **4.2. Prevention and fight against piracy through training of copyright enforcement officials in the framework of UNESCO Global Alliance for Cultural Diversity.**

**ANTI-Piracy Training for Trainers** is a concept for a series of regional or sub-regional seminars for copyright enforcement officials. *Development objective* is to contribute to reduction of intellectual piracy rates. *Immediate objective*: to provide knowledge and expertise in the field of copyright law and intellectual piracy, at a first stage, to the participants in the session, and, at a second stage - to a much larger circle of national authorities which have to be involved in the anti-piracy activities – law-makers, government, police, customs, magistrates etc.

The first advanced seminar for copyright enforcement officials was organised by UNESCO Copyright Programme for the countries of South Eastern Europe, it took place in Sofia, Bulgaria. Developed in the light of UNESCO’s strategy in the field of copyright and related rights in conjunction with governments, private sector and civil society, the project was funded by the Government of Norway and positioned within the framework of the UNESCO Global Alliance for Cultural Diversity.

Partners in the implementation of the project were the Bulgarian Copyright Directorate at the Ministry of Culture, the International Federation of the Phonographic Industry (IFPI), the Motion Picture Association (MPA), the IPR Group of the World Customs Organisation (WCO), BULLACT (Bulgarian video anti-piracy association), BAMP (Bulgarian association of Music Producers), BSA-Bulgaria (Bulgarian Studies Association), ARSIS Consulting (law office specialising in IPR), and the Bulgarian National Commission for UNESCO.

The participants comprised about 20 representatives of national authorities responsible for the enforcement of copyright protection, notably second-instance court judges specialising in intellectual property, high level prosecutors and police officers. The countries addressed were Albania, Bosnia & Herzegovina, Bulgaria, Croatia, the Former Yugoslav Republic of Macedonia, Serbia and Montenegro and Romania. South Eastern Europe had been chosen as target area with a view, on the one hand, to the very high rates of intellectual piracy in this region and, on the other hand, to the ongoing efforts of legal restructuring in these countries.

The objective of the course was to draw the attention of national authorities and enforcement officials to the importance of enforcement of copyright laws and the detrimental consequences of intellectual piracy by providing theoretical knowledge and practical training to selected representatives of the national authorities of each of the beneficiary countries.

The 3,5-days training course focused, at an advanced level, on intellectual property protection and piracy, the different forms of piracy, mechanisms for detecting and measuring piracy, investigation of piracy and mechanisms for prevention and reducing the rates of piracy. The lessons provided the participants with comprehensive knowledge about the topic, structured in such a way as to serve as a model course for further training, adapted appropriately to each particular national regulatory and judicial framework. Along with the theoretical part, the course addressed practical aspects and included a visit to a lawful CD manufacturing site, as well as the presentation of illegal products and methods in order to distinguish these from the original ones, by professionals with hands-on experience. A case study

exercise at the end of the session, allowed testing the acquired knowledge in close-to-real-life situations.

Conceived as a “Training for Trainers” course, the seminar aimed at a multiplying effect. As a follow-up, the participants are expected to act as trainers themselves by organising national seminars in order to bring the knowledge and expertise acquired to a much larger circle of national authorities involved in anti-piracy activities – law-makers, government, police, customs, magistrates etc. UNESCO contributes to those national events with methodological, technical and financial assistance.

The evaluation of the programme shows its important effect in the beneficiary countries. This is illustrated by the statistics, according to which for every three trained national experts in the APTT regional seminar, there are around 50 trained national copyright law professionals in each country.

Further to this pilot project, UNESCO intends to continue its anti-piracy ‘training for trainers’ activities in other regions of the world.

### **4.3. Assistance to the States in collective administration of authors’ rights**

UNESCO has regularly encouraged the Member States, notably the developing countries, to organize and develop the collective administration of rights by authors and other rights holders as an essential element in the construction of a modern national system of protection of copyright which would effectively promote a dynamic cultural development. UNESCO assistance has borne particularly on the creation of structures adapted to the administration of rights, the training of professional personnel and the provision of expertise leading to a competent organization of the various technical activities related to the administration of rights. The training of specialists was a regular activity undertaken in cooperation with the International Confederation of Societies of Authors and Composers (CISAC) whose vocation is to promote the secure and efficient administration of authors’ rights.

The collective administration of authors’ rights is generally intended to facilitate the effective exercise

of these rights by the authors themselves and to assist the lawful exploitation of works and cultural productions. It is seen in modern society as one of the most appropriate means of assuring respect for exploited works and a fair remuneration for creative effort of cultural wealth, while permitting rapid access by the public to a constantly enriched living culture.

The industrialized countries have used it widely, particularly in the field of music, and the developing countries, and those in transition to a market economy, are attaching more and more importance to its establishment and promotion.

The “*Guide to the Collective Administration of Authors’ Rights*” was published by UNESCO in 2001. Written by Ms Paula Schepens from the Belgian collecting society SABAM and developed by UNESCO in collaboration with CISAC (the International Confederation of Societies of Authors and Composers), the Guide is a useful and practical tool for copyright professionals.

The purpose of the Guide is to provide assistance on a continuous basis. It aims at contributing to the improvement of the technical administration of rights while throwing light on the relations between the different public services and other social partners in the domain of cultural development. It provides useful information for members of statutory organs and professional administrators of young authors’ societies on the conditions which favour the statutory creation of authors’ societies, according to the type of rights to be administered and the realities of local cultural activity. It explains to the technicians the mechanisms for organizing different types of activities for the collection, documentation, distribution, administrative and accounting management of the technical means of achieving them. The Guide also resumes the political, cultural, economic and social functions of collective administration and its role in cultural development. In this regard, it opportunely provides inspiration with regard to public administration policies on the legal framework of this activity and the setting of rules for the supervision and control of the different functioning mechanisms of the administration of rights.

The Guide provides information on the conditions for communicating protected works to the public. The producers and disseminators of cultural goods and services are informed on the conditions for the lawful exploitation of protected works. Close cooperation with the services of collective administration would appear to be a useful and effective means to reinforce the security of their investment against piracy in addition to the effective protection of their own rights when they become the legitimate owners of the administered rights.

It is hoped that with a wide distribution, this Guide will help, in particular the developing countries and the countries in transition towards a market economy, to organize their system of collective administration of copyright with the required performance.

Guide to the collective Administration of authors rights, Paula Schepens  
Printed by UNESCO, 2000, CLT-200/WS/4  
<http://unesdoc.unesco.org/images/0012/001206/120677e.pdf>

## UNESCO and Cultural Diversity

(Reference Material of “UNESCO Copyright Activities”)

The 31st session of the General Conference unanimously adopted the *UNESCO Universal Declaration of Cultural Diversity*, in a most unusual context. It came in the wake of the events of 11 September 2001. It was an opportunity for States to reaffirm their conviction that intercultural dialogue is the best guarantee of peace and to reject outright the theory of the inevitable clash of cultures and civilizations.

For the first time, cultural diversity was acknowledged as “the common heritage of humanity”, the defence of which was deemed to be an ethical and practical imperative, inseparable from respect for human dignity. The concept of “diversity” reaffirms that plurality is the reservoir needed for freedoms, that cultural pluralism therefore constitutes the political response to the actual fact of cultural diversity and that such pluralism is inseparable from a democratic framework. Thus, freedom of expression, media pluralism, multilingualism, equality of access for all cultures to artistic expressions, scientific and technological knowledge, and the possibility for them to be present in the means of expression and dissemination constitute essential guarantees of cultural diversity. Finally, cultural policies, which are the true driving force in cultural diversity, should foster the production and dissemination of diversified cultural goods and services.

The Medium Term Strategy for 2002-2007 reaffirms UNESCO’s specific institutional mandate within the United Nations system, “...with a view to preserving and promoting the fruitful diversity of cultures” (UNESCO Constitution), according to Strategic Objective 8: “Safeguarding cultural diversity and encouraging dialogue among cultures and civilizations”. The extension of the process of globalization, though representing a challenge for cultural diversity, creates the conditions for renewed dialogue among cultures and civilizations, respecting their equal dignity, based on human rights and fundamental freedoms. On the basis of *Our Creative Diversity*, the report of the World Commission on Culture and Development (1996); the Action Plan adopted by the Intergovernmental Conference on Cultural Policies for Development Stockholm, 1998); and the UNESCO Universal

Declaration on Cultural Diversity (2001), UNESCO will pursue its efforts to advocate the crucial role of culture in national and international development strategies. The three documents recommend in particular the elaboration of cultural policies aimed at the promotion of cultural diversity for pluralism, sustainable development and peace. The idea is to channel diversity towards constructive pluralism through the creation of state and societal mechanisms to promote harmonious interaction between cultures. To achieve this goal, both the State and the civil society have an important role to play by promoting equality and inclusiveness, not uniformity, by recognizing the sense of belonging and fostering empowerment, allowing individuals to enjoy the security of individual and plural identities within an accepted social and democratic framework... The protection of cultural diversity is closely linked to the larger framework of the dialogue among civilizations and cultures and its ability to achieve genuine mutual understanding, solidarity and cooperation...”

Since the adoption of the UNESCO Universal Declaration on Cultural Diversity, there have been many international initiatives to encourage reflection on the desirability of reinforcing standard-setting action in relation to cultural diversity. Examples include: the Round Table “Cultural diversity and biodiversity for sustainable development” in the framework of the World Summit on Sustainable Development (Johannesburg, 3 September 2002), the Summit on the *Francophonie* (Beirut, October 2002), the annual Meetings of the International Network on Cultural Policy (Cape Town, South Africa, October 2002, Opatija, Croatia, October 2003 and Shanghai, China, October 2004) and the adoption of resolution A/RES/57/249 by the General Assembly of the United Nations proclaiming 21 May as “World Day for Cultural Diversity for Dialogue and Development” (20 December 2002).

The question of a normative framework for cultural diversity was debated by various intergovernmental and governmental organizations as well as by international associations of cultural professionals and national academic circles. At the 166th session of the Executive Board in spring 2003, the Member States deemed it advisable to elaborate a binding normative instrument on cultural diversity. Four options were proposed: (a) a



new comprehensive instrument on cultural rights (b) an instrument on the status of the artist, (c) a new Protocol to the Florence Agreement, (d) a new instrument on the protection of the diversity of cultural contents and artistic expressions. This last option was adopted upon recommendation of the Executive Board.

At its 32nd session (October 2003), the General Conference requested the Director-General to submit at its following session (in 2005), a preliminary report and a draft project of an international convention on the protection of the diversity of cultural contents and artistic expressions. In accordance with UNESCO procedures, a first preliminary draft project of the convention was elaborated between December 2003 and June 2004 by a group of independent experts from diverse fields (anthropology, international law, economics of culture, philosophy etc.)

Their work, inspired by the principles of the Universal Declaration (notably, the links between cultural diversity and fundamental rights, democracy, dialogue and development) was undertaken with the objective of recognizing the equal importance of the cultural and economic aspects of development and the specific nature of cultural contents and artistic expressions; in other words, the dual cultural and economic nature of the goods and services to be covered by the convention. Consequently, they suggested revising the wording of the title without modifying the scope of the convention itself. The proposed title became: “International Convention on the Protection of the Diversity of Cultural Contents and Artistic Expressions”.

The preliminary draft convention was divided into seven chapters: “Preamble”, “Objectives and Guiding Principles”, “Scope of Application and Definitions”, “Rights and Obligations of States Parties”, “Relationship to Other Instruments”, “Follow-up Bodies and Mechanisms” and “Final Clauses”.

The ultimate goal as stated in this first version is to give all countries the means to protect and promote the diversity of cultural expressions within and outside their borders. This is necessary to enable all countries, and in particular developing countries, to participate in a more balanced form of globalization and to benefit from the diversity of their cultural expressions in order to ensure long-term development. Cultural diversity is actually a

mainspring of sustainable development that States must activate by adopting appropriate measures.

The word “promote” alongside “protect” demonstrates the States’ wish to avoid the tendency to seek refuge in roots or becoming narrow-minded. Instead, they consider that the diversity of cultural expressions implies freedom of expression—guarantor of free creation and diffusion enabling all peoples to benefit from the richness of the world’s cultures—.....

In elaborating this text, UNESCO listened very carefully to observations made by professionals in the field of culture and by several international, intergovernmental and non-governmental organizations. In the preparation of this preliminary draft, the General Conference entrusted UNESCO with a mandate to undertake consultations with the World Trade Organization (WTO), the United Nations Conference on Trade and Development (UNCTAD) and the World Intellectual Property Organization (WIPO) to ensure that the Convention be complementary to, rather than in competition with, pre-existing international legal instruments.

The preliminary project elaborated by the experts was sent to the Member States in July 2004 along with a report to be examined at a first meeting of intergovernmental experts from 20 to 25 September 2004.

Following this meeting, the Member States were requested to send their comments and amendment proposals in writing to the Secretariat. A second intergovernmental meeting took place in February 2005. It will probably be followed by a third meeting to ensure that the draft convention and the final report will be ready for the 33rd session of the General Conference in October 2005 with a view for its adoption by this UNESCO’s governing body. The phase of consultation with government experts is crucial since the various stacks—political, philosophical, economic, legal—will be explored in the course of the debates by the representatives of the Member States, governmental and non-governmental organizations, and cultural professionals.



## The Global Alliance for Cultural Diversity

Creativity is most important in social and economic terms when it is expressed through cultural industries. Through cultural industries, whether they be publishing, music, film, design, crafts, audiovisual or multimedia production, culture is being disseminated at a pace previously unseen. By reproducing creative products using modern technologies for mass public markets under copyright, these industries have become the most significant vehicles for cultural exchange and economic growth.

### **Fast Facts:**

- ◆ Launched in **2002**
- ◆ **400 member** base
- ◆ **50 pilot partnership** projects under way or successfully completed
- ◆ Extra-budgetary **funding** secured
- ◆ Web-based **database** and online **Newsletter**
- ◆ *The Global Alliance Tools* made to orient new members

UNESCO's **Division of Arts and Cultural Enterprise** encourages cultural industries by supporting local creative enterprises and domestic production, encouraging free exchange of cultural products worldwide and by implementing strategies to increase appreciation and demand for these products.

In 2002, UNESCO launched the **Global Alliance for Cultural Diversity** in order to create new synergies amongst public, private and not-for-profit sectors that desire to join UNESCO in its commitment to safeguard and promote human creativity in its varied forms around the world.

### ***Testing new ways to sustain diversity***

The Global Alliance is a unique initiative built upon the notion of **strategic partnership, collaboration and action**. As a platform for communication, exchange and active engagement, it seeks to bring various parties together toward a common goal:

### **Membership:**

Global Alliance membership currently ranges from governments, micro- and small enterprises, corporations, researchers and professional associations, to NGOs, and non-for-profit organizations.

Some examples are associations such as AGATA (Lithuania) ABTOE, CISAC, and SPL (Algeria); corporations such as Invis Multimedia (India), and Pictoon srl. (Senegal); and other enterprises including New Mexico Museum Foundation, Pambery Trust (Zimbabwe), the Peruvian Government, and the University of

*To strengthen cultural industries and enterprises in developing countries, to enforce copyright, and contribute to sustaining diversity.*

Because its members are themselves diverse and evolving, the Alliance is open to innovation and flexible in design. The UNESCO-based team facilitates and works with partners, which legitimately have different interests and modes of operation, to formulate the most effective approach for each partnership project.

Project-oriented, and results-based, the Alliance launches partnership initiatives to put into practice UNESCO's commitment to preserving cultural diversity through the promotion of cultural industry.

### ***Making globalisation work for culture***

Cultural industries, perhaps more than others ought to be beneficiaries of globalisation. Cheaper and faster production and distribution systems make it possible to reach larger audiences. But in practice there are huge gaps in countries' abilities to participate in global markets. Many countries in development and in transition lack of the necessary infrastructure in terms of training, access to capital, knowledge of markets and effective government policy, which thereby prevents them from reaping the potential

benefits of a freer movement of goods, services and capital. Moreover, inadequate systems of copyright definition and enforcement often contribute to the proliferation of piracy, which has been facilitated by the new techniques of reproduction and distribution.

Statistics...

- ◆ **World trade** in cultural goods multiplied by four between 1980 and 1998 reaching \$388 bn
- ◆ **Creativity-based** and copyright protected cultural industries represented 6% of the combined GDP of Chile and *Mercosur* countries in 98. 3,3% of Australian GDP in 2000. 5.24% of US's GDP and 5% of UK's GDP in 2001.
- ◆ 4.71 million workers or 3.5% of the total US labor force in 2001, 7.2 million workers in the EU in 99 and 4% of total employment in *Mercosur* countries and Chile.
- ◆ **Estimates:** World trade of musical recordings \$48bn, video game market \$29bn, Cinema box

### ***Achieving sustainable cultural and economic development***

The Global Alliance's interest in strong cultural industries stems from a concern to promote cultural diversity hand-in-hand with economic development.

Research on cultural industries indicates that they are powerful generators of income and employment, even more so than traditional sectors of the economy, which holds true for developing nations as well as for industrialized ones.

### ***Our approach...***

#### **Pilot partnership project types:**

- ◆ ***small***, People-to-people; coaching and mentoring schemes
- ◆ ***medium***, Institution-to-institution
- ◆ ***large*** Policymaking review and/or update.

Projects development

Global Alliance members work through the initiative to address the many problems that are preventing the cultural industries of the developing world from prospering and taking full advantage of the benefits globalisation.

Partnership projects tackle the whole range of needs throughout the creative industry chain, from the initial creative act through production to distribution.

Thus, while some projects provide technological expertise, training in business skills, and better networking between enterprises and industries in the developed and those in the developing world, other collaborations focus on offering assistance in market research and access, and creating new distribution channels in markets, both regional and international.

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