



**THIRD MEETING OF EXPERTS (CATEGORY VI)
ON THE PRELIMINARY DRAFT OF THE CONVENTION ON THE PROTECTION
OF THE DIVERSITY OF CULTURAL CONTENTS AND ARTISTIC EXPRESSIONS**

UNESCO HEADQUARTERS, 28 – 31 MAY 2004

Report

I. STATUS

This report provides the results of the third and final meeting of experts (Category VI), which was held as part of the preliminary discussions aimed at drawing up a preliminary draft convention on the protection of the diversity of cultural contents and artistic expressions, in conformity with Resolution 34 of the 32nd session of the General Conference.

This small group of fifteen experts, sitting in their personal capacity and representing a wide range of disciplinary and cultural approaches, previously met, on the initiative of the Director-General of UNESCO, from 17 to 20 December 2003, and then from 30 March to 3 April 2004.

The results of the two previous meetings are set out in reports CLT/CPD/2003/-608/01 and CLT/CPD/2004/602/6, which were distributed to all the Member States on 20 February 2004 and 27 April 2004 respectively.

At the end of the third meeting, a text was drawn up by the experts for all the chapters of the convention: "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".

In line with existing rules and regulations, the Director-General is now in the position to send to the Member States a preliminary report, along with a preliminary draft of a convention, by mid-July 2004. Member States will be invited to submit their comments and observations on the two documents before mid-November 2004. The first intergovernmental expert meeting will take place from 20 to 25 September 2004.

II. GENERAL ORGANIZATION

The third meeting of experts was held at UNESCO Headquarters in Paris, from 28 to 31 May 2004. The Director-General, Mr Koïchiro Matsuura, opened the meeting. The Assistant Director-General for Culture, Mr Mounir Bouchenaki, and the Executive Director of the Office of the Director-General, Ms Françoise Rivière, subsequently moderated the debates. The Director of the Division of Cultural Policies and Intercultural Dialogue, Ms Katérina Stenou, provided the Secretariat.

In his address to the experts, Mr Matsuura thanked them for the proposed texts of articles communicated to the Secretariat between the meetings of experts. He said that UNESCO wished neither to exceed nor fall short of its terms of reference for drawing up the preliminary draft convention. He intended, given that what was involved was the framing of an international standard-setting instrument, to hold consultations as soon as possible with the World Trade Organization (WTO), the United Nations Conference on Trade and Development (UNCTAD) and the World Intellectual Property Organization (WIPO).

III. SUMMARY OF THE DEBATES

The third meeting of experts focused on the five chapters and preamble forming the basic framework of the convention. Two chapters that had not been discussed in depth at the second meeting were given priority consideration: “International Cooperation Mechanisms” and “Follow-up Mechanisms”. Practically all of the first two days of the meeting were devoted to those topics. The experts then examined chapters already discussed during the second meeting, namely “Rights and Obligations of States Parties”, the “Preamble”, “Objectives and Guiding Principles”, and “Definitions and Scope of Application of the Convention”. The beginning of each morning’s meeting was devoted to a summary of the previous day’s discussions, reconsideration of proposed texts and revision of the outline of the preliminary draft. The meeting ended with a general synopsis of the proceedings and a final revision of the entire preliminary draft.

Between the second and third meetings, the preliminary draft, the expert’ contributions, the reports of the previous meetings and the experts’ comments were carefully reviewed, and this made it possible to identify certain “key ideas” mentioned by the group which had not received sufficient attention in the preliminary draft convention. Those ideas, brought together in short list, provided substance for the continuation of work. The experts thus discussed five themes: the rights of individuals/individual freedoms, copyright and related rights, the role of public service institutions, media pluralism, linguistic diversity, and the new information and communication technologies (NICTs). The experts decided to devote a working meeting to these themes, even though some experts considered that some of those points were already directly or indirectly reflected in the preamble, objectives and principles of the convention. Some of the convention’s provisions were thus revised to include those ideas or to give them more prominence in the relevant articles.

The experts were concerned with ensuring consistency between the various parts of the convention and the preamble. The experts highlighted the intrinsic and extrinsic diversity of cultural expressions, noting that supporting diversity requires taking into account of the balance between the various forms of cultural expression within societies.

Preamble

In reviewing the preamble, the experts wished to express with greater emphasis the values underlying the drafting of the convention. They recalled that the preamble should set out the reasons why the Parties wished to have a convention, explain why it was necessary to adopt such a convention, and place the convention in its proper context. The experts considered various ways of grouping together elements identified at the previous meetings for inclusion in the preamble, and they endeavoured to highlight the main pillars of the convention. Other amendments consisted in rewording certain statements.

In addition, new text was included in the preamble in order to ensure a reference to cultural diversity as a shared value and key concern of humanity, which underlay the need to legislate on the subject. The group also highlighted the parallel between biodiversity and cultural diversity, the former being just as necessary to the living world as the latter was to the preservation of the human race. Other additions concerned, in particular, recognition of the dual economic and cultural nature of cultural goods and services, and recognition of the principles of the freedom of expression and information, in particular media pluralism, as being vital to cultural diversity. New wording on the protection of creativity and the role of intellectual property rights in creative work and production was also inserted into the text. In regard to the latter point, some members wished that intellectual property rights might be extended to tradition cultural expressions. Lastly, several experts argued in favour of the inclusion of text statement stressing the fact that there was to date no binding multilateral instrument to protect the diversity of cultural expressions.

Chapter I – Objectives and guiding principles

Objectives

The review of the objectives of the convention led mainly to the adoption of minor amendments of form. As to substance, a reference to striking a better balance in exchanges among cultures was inserted. Article 1 of the convention now comprises seven objectives: the protection and promotion of cultural expressions, recognition of the distinctive nature of cultural goods and services, the preservation of the right of the States Parties to draw up and adopt cultural policies and appropriate measures for the protection and promotion of cultural expressions, and the strengthening of international cooperation and solidarity to build societies' capacities to promote and enrich the diversity of cultural expressions in all the countries of the world.

Principles

The experts reworked the principles of the preliminary draft convention, bearing in mind that the interpretation of the provisions of the future convention would depend on those principles. They therefore tightened up the provisional list of principles, improved the wording, and restructured the entire section into a coherent list containing prescriptive texts. Care was thus taken to ensure that the principles were expressed in general terms, albeit with a clear and precise legal content.

Two categories of principles were defined: fundamental principles and operational principles.

As to the fundamental principles, the principle of the complementarity of the economic and cultural aspects of development was added to the provisional list produced at previous meetings. This principle, recalls that culture is the mainspring of development and places the cultural aspects of development on an equal footing with its economic aspects while affirming the fundamental right of all to benefit from them both.

The other fundamental principles included in the revised preliminary draft were the principles of fundamental freedoms, freedom of access and participation, the equal dignity of all cultures, international solidarity and cooperation, and sustainability. Lastly, although the experts felt that it was not desirable to give rise in this convention to new obligations relating to respect for human rights, they agreed that it was important to retain in the list of principles wording to the effect that no one might invoke the provisions of the convention to infringe human rights guaranteed by international law or to limit the scope thereof.

In regard to the operational principles, the principles of balance, openness and proportionality and the principle of transparency were discussed thoroughly. The notion of “balance”, aimed at ensuring that States, when protecting their own forms of cultural expression, do not become closed to other cultures, enriched the debates. Some members of the group expressed a preference for a mere reference to a duty to ensure “openness” on the part of States Parties. The majority of the experts nevertheless considered that there should be some text on the balance to be struck between the promotion of the State’s own culture and openness to others.

Chapter II – Scope of application and definitions

Scope of the convention

Only one minor amendment was made to the article concerning the scope of the convention, as the experts were satisfied with the previously agreed wording.

Definitions

The experts did not wish to make substantial amendments to the definitions agreed at the previous meetings in respect of cultural diversity, cultural expressions, cultural goods and services, cultural industries, cultural capital and cultural policies. They nevertheless recalled the underlying logic in that part of the convention and the connections between each of the concepts covered by the definitions. They unanimously reaffirmed their conviction that the term “cultural expressions” was the most appropriate one as far as it covers both the notions of “cultural contents” and “artistic expressions”. The text of the draft convention was, from the outset, drafted following this approach. In this regard, a change of the title of the draft convention was discussed and proposed by the experts.

It was also pointed out that the non-exhaustive list attached to the provision concerning the definition of cultural goods and services covers items which would fall into the scope of other Conventions such as the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1970), the Convention for the Protection of the World Cultural and Natural Heritage (1972) and the Convention for Safeguarding of Intangible Cultural Heritage (2003). The relationship between the scope of the draft convention and that of other UNESCO Conventions required further clarification, which in

general terms was provided for in Chapter IV (Relationship to other instruments) while leaving to the Follow-up Bodies (in Chapter V) the responsibility to formulate specific criteria.

Chapter III – Rights and obligations of States Parties

The experts reorganized Chapter III, which has been merged with a previously separate chapter of the convention, namely Chapter I “International cooperation and solidarity mechanisms”. This was done because it was felt that the convention should contain a list of national and international obligations of equal force, whether those obligations were general in nature or whether they concerned the commitments of States Parties to developing countries through cooperation mechanisms specially geared to that purpose. In order to ensure that those mechanisms would not be scattered throughout the chapter on the rights and obligations of States, however, the experts grouped the relevant provisions together in a section of Chapter III devoted specifically to international cooperation. Accordingly, the chapter on the rights and obligations of States Parties now contains an introductory provision setting out general rules on rights and obligations, a section on rights and obligations at the national level and a further section on the rights and obligations concerning international cooperation. The title of the second section indicates clearly that States will have a “right” to benefit from cooperation, while others will be under an “obligation” to participate in and contribute to such cooperation.

Introductory provision

In revising the articles contained in this chapter, the experts stressed the importance of maintaining a balance between the sovereign right of States to adopt measures to protect and promote the diversity of cultural expressions within their territory and their obligation to protect and promote diversity within their territory and at the international level. That notion of balance is reflected in the provision concerning general rules on rights and obligations.

Rights and obligations at the national level

The rights identified at the previous meeting of the experts were largely confirmed by the experts, and the rights of States at the national level were further specified to include in the draft article the right to take measures that encourage and support public service institutions. As to obligations at the national level, the group engaged in an important debate on the notion of the vulnerability of cultural expressions and of threats entailing a risk of extinction or serious weakening of diversity. The article on the obligation to protect vulnerable forms of cultural expressions was re-examined in depth, and the experts reached a consensus on a new wording. The review of the article on the promotion of the diversity of cultural expressions also afforded the experts further opportunity to discuss the desirability of referring not only to the rights of social groups, but also to those of individuals, in particular those of minorities and indigenous peoples. It also allowed the experts to improve the wording of the other provisions in the first section of the chapter, and to include an article on information and transparency. Lastly, the obligations of ensuring public awareness and education and responsibility and participation of civil society were refined.

Rights and obligations concerning international cooperation

Concerning international cooperation mechanisms, given that the experts had not had an opportunity to analyse the relevant provisions in depth at the previous meetings, several working

meetings were devoted to this theme. The experts examined the wording proposed for the articles at the previous meeting, in addition to new provisions and amendments proposed by some members of the group between the second and third meetings. In the light of the discussions, the experts adopted seven articles concerning, in particular, the objectives of international cooperation, the establishment of a cultural diversity observatory, the means of international cooperation, and the establishment of partnerships. Those articles were arranged in two sections, one section containing articles on the general objectives of international cooperation, and another section on provisions relating specifically to cooperation for development.

Regarding the common objectives of international cooperation, the experts adopted a provision under which the States Parties would undertake, within the framework of their development cooperation agreements, to foster, as a matter of priority, aspects relating to the protection and promotion of the diversity of cultural expressions. The States Parties would also undertake, in a spirit of sharing and solidarity, to ensure closer cooperation in order to reinforce cultural production capacities; promote the emergence of viable local markets; facilitate access to the global market and international distribution networks for the cultural goods and services of all countries, and the free movement of creative artists; develop public sector strategic and management capacities in the field of the cultural industries; promote the transfer of technology and know-how; and, lastly, develop a system of positive exhortation in support of national policies for cultural exchanges.

Given that the experts also wished that States might agree to develop the exchange of information and expertise concerning data and statistics on the diversity of cultural expressions, and best practices for the promotion of cultural expressions, provisions were made for the Intergovernmental Committee (composed of States Parties in accordance with Chapter V of the convention) to possibly establish a cultural diversity observatory within UNESCO. The observatory could collect, analyse and disseminate all information on the diversity of cultural expressions. The data thus gathered would be submitted in the form of an annual or biennial report. The observatory would also maintain a data bank on all partners (governmental, private and tertiary) wishing to engage in cooperation.

With regard to cooperation for development, the experts specified the ways and means of strengthening such cooperation. Accordingly, they drew up a list of the various possible forms of cooperation, including, in particular, the exchange of information and experience, training, support for creative work and cultural production, the strengthening of cultural production and distribution capacities, financial and technical assistance (for example, the establishment of an international fund for cultural development) and co-production and distribution agreements. The article thus contains the main means of action in the field of cooperation for development.

The experts agreed that cooperation should take the form of innovative programmes and partnerships, bringing together a variety of actors (such as international organizations, governments, industrial stakeholders and non-profit organizations). The purpose of such partnerships would be to establish contact between requesting countries and all potential donors. Several experts stressed the importance of ensuring great flexibility with regard to ways and means of conducting partnerships, funding sources, and possible initiatives.

Concerning funding for programmes, the experts referred in particular to such possible measures as debt conversion projects and the collection of a general external tax that would be dedicated to the development of the cultural industries sector. They wished that the discussion

on that question would be brought to the attention of Member States. Regarding the provisions on partnerships in the current preliminary draft, the group envisaged a different support procedure, under which States Parties wishing to obtain aid should first submit a request together with an inventory of their infrastructure, policies and specific activities relating to cultural production and distribution. That request would be evaluated and partners would be identified in the light of the needs expressed by the requesting countries. The procedure would enable them to become actively involved in cooperation, and help to avert a passive attitude on the part of States deemed to be in need, opening the door to a well-structured partnership geared to the true situation of the countries concerned. It was suggested that the Advisory Group to be established under the convention (see Chapter V - Follow-up bodies and mechanisms) should establish criteria and rules governing the establishment of such partnerships. The experts also agreed that particular attention should be paid to the possibility of providing a regional response to the needs identified.

The last provision concerns preferential treatment for developing countries, requiring the developed countries to facilitate cultural exchanges with them. To that end, the experts wished that creators, professionals, artists and cultural goods and services from developing countries might be accorded the best possible treatment.

Chapter IV – Relationship to other instruments

The experts wished to retain two options: either the convention does not affect the rights and obligations of the States Parties under other international instruments, or it may affect them if the exercise of those rights and observance of those obligations would cause serious damage or threat to the diversity of cultural expressions, except in the case of international legal instruments relating to intellectual property rights.

Chapter V – Follow-up bodies and mechanisms

Bodies

This theme was introduced by the Director of the Office of International Standards and Legal Affairs, Mr Abdulqawi Yusuf, who spoke about the various institutional structures that might be envisaged. After a brief review of the mechanisms contained in conventions concluded under UNESCO's auspices, Mr Yusuf underlined the importance of envisaging an institutional structure that was geared to the objectives pursued by means of the follow-up mechanisms. Indicating that there was no standard model, he outlined several options, ranging from simple mechanisms to much more elaborate ones. In any event, he stressed that the follow-up mechanisms must not unduly encumber the functioning of the convention; nor could they ensure its implementation, which was guaranteed only by the convention being rooted in the conscience of States Parties.

A majority of the experts considered that it was impossible to conceive of the convention without a follow-up mechanism. The group therefore discussed the various options contained in the preliminary outline that it had produced at its first two meetings, and new alternatives were proposed. Four types of bodies were discussed, namely a general assembly of the States Parties, an Intergovernmental Committee, an Advisory Group composed of independent experts and a joint committee (comprising both governmental representatives and independent experts).

In the opinion of several members of the group, the choice of the follow-up mechanisms should be based primarily on the criteria of effectiveness and necessity. Furthermore, the experts wished that States be allowed some flexibility regarding the implementation of the follow-up mechanisms, in view of the constantly changing practices. Such adaptation should take place under the control of the signatory States. In that connection, some experts raised the question of States' responsibility for the operation of agreements, and stressed the need to avoid isolating States. The States should not be cut off from the follow-up to the convention once they had adopted it, but should maintain control of its implementation.

In the end, the experts chose an institutional structure based on three bodies: a general assembly of States Parties, an Intergovernmental Committee, and an Advisory Group of independent experts. The group considered that a general assembly of States Parties would be indispensable to ensure the involvement, on a regular basis, of all States Parties engaged in the promotion of cultural diversity. The general assembly would be the sovereign body of the convention. In addition to that body, which would enable each State to be represented, the experts recommended the establishment of an Intergovernmental Committee, and a separate technical body that would be responsible for formulating proposals. An Advisory Group of experts should thus be linked to a political body. Some experts also stressed that the Intergovernmental Committee should be answerable to the general assembly and that the relationship between the bodies should be clarified. Lastly, the idea of a joint committee was rejected, primarily on the grounds that such a body would not allow experts to express themselves in a completely independent manner.

With regard to the functions assigned to those bodies, the experts recalled the objectives of the convention, which included not only the promotion of the diversity of cultural expressions but also other aspects such as building awareness and public education. Some experts hoped that the bodies, specifically the Advisory Group, would be able to advise governments via the Intergovernmental Committee, in particular regarding the interpretation of certain provisions of the convention, for example those relating to the "vulnerability" of cultural expressions and the threat to the diversity of cultural expressions. Moreover, operational guidelines should be adopted by the Intergovernmental Committee and approved by the general assembly in order to give direction to the mandate of the Advisory Group. It was proposed that the Advisory Group should be composed of twelve members appointed by the Director-General, with a view to guaranteeing its independence and competence. Lastly, the experts underlined the importance of involving civil society and NGOs in the follow-up to the convention. In that regard, it was specified that it would be possible in particular to encourage States to grant civil society and NGOs a place in the negotiations and discussions.

The experts discussed at length the definition of the functions of the Advisory Group, which it regarded as one of the most important innovations established under the convention; hence the need to endow it with the full strength required for it to act effectively. They therefore opted for a list of functions enabling the Advisory Group to be both proactive and reactive. These functions will give it sufficient latitude to take initiatives and to respond appropriately to requests from the Intergovernmental Committee or the Director-General of UNESCO. Nevertheless, some members wished to avoid any wording which might suggest that the Advisory Group had its own powers, which would thus exceed the functions of a strictly advisory body. Other experts wished that the Advisory Group might be able to propose major lines of action for international cooperation and comment on programmes adopted as part of such cooperation. They therefore wished that the Advisory Group would be free to establish

links with representatives of civil society and all external organizations, whether governmental or non-governmental. Lastly, some experts stressed the need to preserve the independent character of the Advisory Group by clearly distinguishing the function of implementation of the convention (assigned to the other bodies of the convention) from the function of reflection entrusted to the Advisory Group.

In regard to funding for the establishment and operation of those bodies, the experts concluded that it was not appropriate at the current stage for the group to base its decisions on economic criteria. They nevertheless wished to draw the Director-General's attention to the matter, and considered that the governments themselves should discuss that aspect when they began negotiations on the convention.

Settlement of disputes

The experts re-examined the proposed dispute settlement mechanism drawn up at the previous meetings and based on a step-by-step approach: negotiation; good offices and mediation; arbitration or resort to the International Court of Justices (ICJ) (should negotiation, good offices or mediation fail), and; conciliation. Annexes defining the arbitration and conciliation procedures supplemented this proposal.

The experts underlined the need to clarify two aspects related to this matter: first, the need (or not) to provide for a mechanism for the settlement of disputes; and second, the nature of that mechanism. Most experts wished the convention to have such a mechanism so that disputes might be settled from a strictly cultural point of view. The mechanism should also make it possible to overcome certain difficulties relating to the application of the convention, for although States might protect and promote their own cultures, a dividing line must be drawn between the promotion of cultures at the national level and the place to be granted to other cultures. Regarding the nature of the mechanism, several experts wished that some alternative should be open to them so that, if they so desired, they might have recourse to the International Court of Justice. Some emphasized that such action would be an additional and voluntary option to which States might turn. Such recourse would place the convention in the context of the international legal order of which the United Nations was a key component. Another advantage of bringing disputes before the International Court of Justice was the cost of the proceedings: an appeal to the International Court of Justice was less expensive than arbitration or conciliation, and that was a factor to be taken into account in view of the limited resources of some developing countries. It was remained however that recourse would remain optional, in other words, dependent on the will of the States Parties involved in the dispute, in view of the fact that the Court had no compulsory jurisdiction.

Generally speaking, the experts felt that a mechanism for the settlement of disputes was the key to the effectiveness of the instrument. Failing that, the convention might prove ineffective. They nevertheless made it clear that this was a useful precautionary measure, to which States might turn if necessary, given that no sanctions were foreseen in the text of the convention. The mechanism would therefore come into play only in the event of a disputed interpretation or application of the convention.

With regard to its binding nature, the experts considered two options. The first option was a voluntary mechanism for the settlement of disputes, activated at the joint request of the States Parties, which could call upon the Arbitration Tribunal or the International Court of Justice. Under the second option, arbitral proceedings might be initiated at the sole request of

one of the parties to the dispute. A majority of experts spoke in favour of the first option (settlement at the joint request of the State Parties). The arbitration award would be final and binding although in the absence of sanctions, enforcement of the award would necessarily rely on the parties' good faith.

The two options open to parties at the third stage of the procedure would be exclusive: the choice of recourse (Arbitration Tribunal or the International Court of Justice) would exclude the possibility of subsequently turning to the other solution.

On the assumption that arbitration would not be obligatory (in so far as it would be triggered only by joint recourse of the parties to the mechanism), consideration was given to one further mechanism to enable parties to find a solution to their dispute. Some experts emphasized the dangers of non-binding arbitration. They pointed out that if one of the two parties refused to submit to arbitration or to appeal to the International Court of Justice, the dispute would not be settled. Such a situation carried the risk that the dispute might then be brought before international bodies with jurisdiction in fields other than culture. Drawing on the procedure for the settlement of disputes provided for in the Convention on Biological Diversity, the experts examined one last alternative, available only if the parties had recourse neither to arbitration nor to the International Court of Justice: a conciliation procedure that would give rise to a report, which the Parties would be free to accept or reject, but which they should at least take to be in good faith.

Chapter VI – Final Clauses

A new chapter was adopted by the experts, containing ten articles dealing with ratification, acceptance or approval, accession, competent authorities, entry into force, federal or non-unitary constitutional systems, denunciation, depositary functions, amendments, authoritative texts and registration. The articles in that chapter did not give rise to a debate.

Conclusion

At the end of the third meeting, the experts produced a text of the preliminary draft convention reflecting a broad consensus and limiting to the maximum the options.

The experts stressed the need for constant conceptual and legal accuracy throughout the text. They considered that the overall balance between the substantive provisions (Chapter I "Objectives and guiding principles" and Chapter II "Scope of application and definitions") and the legal provisions (Chapter III "Rights and obligations of States Parties", Chapter IV "Relationship to other instruments", Chapter V "Follow-up bodies and mechanisms" and Chapter VI "Final clauses") was now respected.

The principles of the convention have been clarified and divided into fundamental principles and operational principles on the basis of balance, openness, proportionality and transparency. Their statutory force has been increased.

The basic notions contained in the preamble and the definitions have been expanded and reworked, particularly those relating to "cultural expressions", which have been defined in such

a way as to encompass the “cultural contents” and “artistic expressions” used for the title of the convention.

A major conclusion reached by the meeting in respect of international cooperation concerns the rights and obligations of States Parties to protect and promote the diversity of all cultural expressions. The mechanisms for such cooperation, together with the therefore tools (a cultural diversity observatory and dynamic partnerships), have been specified so that countries which do not have strong cultural industries, in particular the developing countries, might benefit as much as possible.

At the national level, the experts have established an obligation for States Parties to protect vulnerable forms of cultural expressions. This concept of vulnerability and the defining criteria thereof are to be part of the priority tasks of the Advisory Group.

The Advisory Group, defined as a key mechanism to ensure that the objectives of the convention are attained, constitutes an innovative proposal with regard to follow-up mechanisms, which also include a general assembly of States Parties and an intergovernmental committee. The Advisory Group is an independent body with the task of responding to requests from the Director-General and the intergovernmental committee, but it may also take the initiative in advising and alerting them with regard to appropriate cultural policy.

The establishment of the cultural diversity observatory, which would collect, analyse and disseminate data in that field, and compile a databank to promote dynamic partnerships among all potential partners, would be indicative of a determination to achieve the objectives of the convention in practice.

The mechanisms for the settlement of disputes, on which States were invited to agree in good faith, have been refined (the notion of sanctions being definitively excluded)

Overall funding for all the mechanisms was envisaged but not determined, as the convention indicates that that task should be the responsibility of the category II Intergovernmental meeting of experts.

Lastly there were two options regarding the relationship of the convention to other legal instruments: either the Convention would not affect the rights and obligations of the States Parties under other international instruments, or it might affect them in the event of a threat or serious damage to the diversity of cultural expressions.

It was agreed that this first version of the preliminary draft will be transmitted to the WTO, WIPO and UNCTAD secretariats for consultation (see 32 C/Resolution 34), with an indication that it is the text proposed by the experts, without prejudice to the final draft to be proposed by the Director-General.

In accordance with the statutory deadlines, a preliminary report, together with the preliminary draft convention, will be submitted by the Director-General to Member States in mid-July 2004, with a view to gathering their observations and comments, which will serve as a basis for discussion at the first intergovernmental meeting (Category II), scheduled to be held from 20 to 25 September 2004.