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Organización  
de las Naciones Unidas  
para la Educación,  
la Ciencia y la Cultura

Организация  
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منظمة الأمم المتحدة  
للتربية والعلم والثقافة

联合国教育、  
科学及文化组织

## Diversity of Cultural Expressions

2 EXT.IGC

CE/09/2.EXT.IGC/208/3  
PARIS, 30 January 2009  
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### INTERGOVERNMENTAL COMMITTEE FOR THE PROTECTION AND PROMOTION OF THE DIVERSITY OF CULTURAL EXPRESSIONS

Second extraordinary session  
Paris, UNESCO Headquarters

23-25 March 2009

**Item 3 of the provisional agenda:** Adoption of the detailed Draft Summary  
Records of the second ordinary session of the Committee

**Decision required:** paragraph 2.

1. This document contains the detailed draft summary records of the second ordinary session of the Intergovernmental Committee for the Protection and Promotion of the Diversity of Cultural Expression (Paris, UNESCO Headquarters, 8-12 December 2008). Committee members may submit, before March 18, comments by email to [convention2005@unesco.org](mailto:convention2005@unesco.org) and/or in hard copy to the Secretariat of the Diversity of Cultural Expressions, no later than 10 March 2009.
2. The Committee may wish to adopt the following decision:

**DRAFT DECISION 2.EXT.IGC 3**

*The Committee,*

1. *Having examined document CE/09/2.EXT.IGC/208/3,*
2. *Adopts the detailed draft Summary Records of the second ordinary session of the Committee included in this document.*

## Item 1 – Opening of the session

1. The second ordinary session of the Intergovernmental Committee for the Protection and Promotion of the Diversity of Cultural Expressions (hereinafter “the Committee”) was held at UNESCO Headquarters in Paris from 8 to 12 December 2008.
2. It brought together 367 participants, including 125 participants from 24 States Members of the Committee; 107 participants from 41 Parties to the Convention (40 States Parties and the European Community); 66 participants from 25 States not Parties to the Convention, and two permanent observer missions to UNESCO; 12 participants from five intergovernmental organizations (IGO) and 32 participants from 12 non-governmental organizations (NGOs) with observer status.
3. **Ms Rivière, Assistant Director-General for Culture**, delivered the opening address on behalf of **Mr Koïchiro Matsuura, Director-General of UNESCO**. In his address, the Director-General thanked the representatives of the Parties to the Convention and the observers for attending. He paid tribute to the Chairperson of the Committee, Ambassador G. Laurin, who was chairing the Committee for the last time, and highlighted his important role in facilitating consensus. After referring to the pace of ratification and the more balanced geographical distribution that had been achieved, the Director-General briefly introduced the working documents and underlined the strategic importance of the agenda items. He stressed the importance of the International Fund for Cultural Diversity and called for contributions to the Fund. He wished the Committee success in completing the work on the agenda, and gave assurances that the Secretariat was fully mobilized to assist the Committee in its work throughout the week, and as it would be if it proves necessary to hold an extraordinary session in March 2009. In this context, he announced the appointment, as of 1 September 2008, of Ms Galia Saouma-Forero as the new Director of the Division of Cultural Expressions and Creative Industries; she would also perform the duties of Secretary of the 2005 Convention, and he stressed that “she will work hard to provide effective support to the organs of the Convention”. Mr Matsuura concluded his address by wishing the Committee fruitful discussions, and said that he would be informed very regularly of the progress of the Committee’s work.

## Item 2 – Adoption of the agenda

### Document CE/08/2.IGC/2

4. The **Chairperson** first thanked all the groups, in particular the French-speaking Group of UNESCO for its excellent preparatory work in negotiation and coordination. Debate under agenda item 8 on “preferential treatment” would be organized into two parts: the morning meeting, in the presence of the two coordinators, would consist of an information session followed by questions; the Committee’s debate would take place during the afternoon meeting.
5. The **Chairperson** invited the **Convention Secretary, Ms Galia Saouma-Forero**, to introduce the agenda and list the working documents drawn up by the Secretariat on each agenda item.
6. The agenda was adopted (Decision 2.IGC 2) without amendment.
7. Before proceeding to item 3 of the agenda, the Chairperson of the Committee granted accreditation to six intergovernmental organizations and 12 non-governmental organizations.

### **Item 3 – Adoption of the summary records of the first extraordinary session of the Committee**

#### **Document CE/1.EXT.IGC/9**

8. In presenting the summary records of the first extraordinary session of the Intergovernmental Committee, **Ms Rivière, Assistant Director-General for Culture**, stressed that the document had been placed online within the statutory period – three months after the session – and that copies had been sent to Committee Members, but that the Secretariat had not received any comments. The summary records of the first extraordinary session of the Intergovernmental Committee was then adopted without amendment (Decision 2.IGC 3).

### **Item 4 – Draft operational guidelines on the promotion of international cooperation (Article 12 of the Convention)**

#### **Document CE/08/2.IGC/4**

9. Proposed amendments from eight States (**Albania, Burkina Faso, Canada, Mali, Mauritius, Saint Lucia, Senegal and Tunisia**), Committee Members and members of the French-speaking Group of UNESCO were set out in the working document prepared by the Secretariat. The amendments concerned, *inter alia*, the deletion of all the principles contained in the introductory chapter on international cooperation that preceded the preliminary draft operational guidelines relating to Article 12 of the Convention. The delegation of **India**, supported by **Saint Lucia**, asked those States that had proposed the deletion to explain their position. The **Chairperson** invited one of the States in question to provide an explanation.

10. The delegation of **Canada** commended the important work of the Secretariat and the quality of the preliminary draft operational guidelines, and welcomed the speed with which the documents had been made available on UNESCO's website, thus enabling Committee members to engage in extensive consultation, dialogue and exchange prior to the session. The delegation further explained that the amendments proposed by the French-speaking Group were intended to complement the Secretariat's text by reinforcing the generic nature of its content, and deletions had been proposed where no added value could be found. Also the Group's view was that several of the principles would be included in the preliminary draft operational guidelines for other articles. The Group had also suggested that international cooperation linked to development should be dealt with in a broader context; finally that aspect would be addressed during the discussion on Article 14 of the Convention.

11. Following the explanation of the amendments, the delegation of **India**, supported by **South Africa, Brazil, China and Saint Lucia**, said that, in the context of the global financial crisis, it would be appropriate to retain some essential principles on international cooperation, such as those relating to the needs of developing countries and to ensuring the participation of all members of society. The delegation of **South Africa** said that the principle relating to the affirmation of the cultural dimension of development should be retained. As to the delegation of **Brazil** said that the principle relating to the emergence of a dynamic cultural sector seemed to be the most important one, and it those paragraphs; however, the principle concerning the needs of developing countries also featured in the first paragraph of Article 14 of the Convention.

12. The delegation of **France** expressed its gratitude to the Secretariat for its excellent work and to the delegations that had contributed to improving the document. Speaking on behalf of the European Union Member States members of the Committee, the delegation expressed support for the amendment proposed by the French-speaking Group to delete the principles in question, and for Canada's proposal to move their content to the preliminary draft operational guidelines on Article 14. The delegation of **Luxembourg** supported that position and stressed that the chapter duplicated the principles of the Convention with less clarity; and mentioned that the objective of the operational guidelines were not intended to be redundant or reductive to the Convention, and it

was worth bearing in mind the words of the Director-General's representative: "this Convention is so good that it often suffices by itself, it is totally precise".

13. In response to the concerns expressed by the delegation of India, **Germany**, supported by **Luxembourg**, explained the distinction between cooperation and cooperation for development. The delegation underlined that development was a crucial aspect of international cooperation, but other forms did exist, and those envisaged by the Convention were far broader in scope, particularly those in Article 12. For the delegation, the provision relating to cooperation should address the needs of all Parties to the Convention by defining cooperation in general terms and then making more explicit reference to other types of cooperation, particularly cooperation for development.

14. The delegation of **China** thanked the Secretariat and said that Articles 8 and 17 of the Convention should be returned to in order to address specific situations where cultural expressions were threatened, in accordance with Article 12 of the Convention.

15. The **Chairperson**, supported by **Luxembourg**, proposed postponing the debate over whether to retain or delete the principles in the preliminary draft operational guidelines on Article 12 until the discussion of Article 14.

16. The delegation of **Brazil**, supported by **India**, said that, prior to deleting or moving the principles, the UNESCO Secretariat should explain why the principles had been proposed for insertion at that particular point in the text. The **Assistant Director-General for Culture** said that the principles constituted a general introductory chapter that preceded the draft operational guidelines on Article 12, and were intended to highlight the links between all the articles of the Convention that referred to all forms of international cooperation, cooperation for development and cooperation *stricto sensu*. She mentioned the importance of the culture and development principle, and the need to emphasize sustainable development rather than the development of developing countries, because for UNESCO culture it is one of the essential pillars of development.

17. The delegation of **France**, supported by **Luxembourg**, thanked the Secretariat for those clarifications and explained that the principles had no place in the draft operational guidelines because the principles of the Convention sufficed. It also recalled the principles set out in the preliminary draft operational guidelines were occasionally at odds with those of the Convention, and there seemed to be little point in reviewing the principles that had already been adopted as part of the Convention. The delegation of **Luxembourg** proposed inserting a single phrase describing the link between the various articles of the Convention, rather than drafting additional text setting out general principles already contained in the Convention.

18. The delegation of **India**, supported by **Brazil**, suggested that those principles deemed to be important for developing countries could be placed in square brackets. The **Chairperson** proposed returning to those principles at a later stage. The delegation of **Brazil** said that the draft operational guidelines on Article 12 would be severely undermined if they did not refer to those principles, and that it was very important for countries such as China, India and Brazil to strengthen the ideas underpinning them; underline the economic impact of culture; strengthen the cultural industries of developing countries and combat poverty.

19. The delegation of **France** said that the principles were already included in the Convention, which did not need to be rewritten. It added that the purpose of the operational guidelines was not to legislate.

20. The principles were placed in square brackets and the **Chairperson** asked any members who had a different view to meet in order to find a solution.

21. Proposed amendments relating to the preliminary draft operational guidelines on Article 12 as such were then introduced by the delegation of **Canada** on behalf of Committee members and

members of the French-speaking Group of UNESCO. The delegation of **Canada** added that consultations had been held with States other than those in the French-speaking Group when drafting the amendments and their comments had been taken into account in order to broaden consensus.

22. There was a discussion about the various forms international cooperation could take, and which was most appropriate to the first paragraph of the preliminary draft operational guidelines on Article 12. Some Committee Members expressed a preference for North-South international cooperation, while others supported all forms of cooperation without preference for one or the other. Once several statements had been made, the delegation of **Luxembourg**, supported by **South Africa, Germany, Burkina Faso, Canada, China, Finland, France, Greece, Saint Lucia** and **Slovenia**, proposed refraining from listing the various forms of international cooperation and simply to mention “bilateral, regional and multilateral”.

23. The delegation of **China**, supported by **Brazil**, proposed the inclusion of a reference to special situations in which cultural expressions were at risk of extinction or serious threat, or required urgent protection. The delegation of **Brazil** said that there was also a need to refer to the promotion of international cooperation. Following China's proposal, the delegation of **Canada**, supported by **France** and **South Africa**, said that the draft operational guidelines relating to Article 17 of the Convention already contained a reference to special situations with regard to international cooperation.

24. The delegation of **Brazil** said that it was important to remain true to the spirit of the Convention by placing particular emphasis on North-South, South-South and North-South-South cooperation. Observing that there was currently no such emphasis, **Brazil**, supported by **Greece, India** and **Luxembourg**, proposed deleting the paragraph and moving directly to the specific modalities of cooperation. The delegation of **Luxembourg** then recalled that the Convention included a specific article on cooperation for development (Article 14).

25. The delegation of **Senegal**, supported by **South Africa** and **Burkina Faso**, did not support the deletion of the paragraph. While it recognized the need for international cooperation between countries of the North, it agreed with India that it would not be appropriate to emphasize North-North cooperation; it sought confirmation that countries of the North would not be eligible for the resources of the International Fund for Cultural Diversity. The **Assistant Director-General for Culture** said that, in the light of previous debates in the Committee, the proposals formulated by the Secretariat ensured that the Fund was reserved for developing countries. The delegation of **Saint Lucia** recalled that consensus had already been achieved regarding access to the Fund being restricted to the developing and least developed countries, and that the status of Article 18, which related to the Fund, was distinct from Article 12, which dealt with international cooperation in general.

26. The delegation of **France** stressed the importance of respecting to the text of Article 12, which encouraged the Parties to strengthen all forms of cooperation and not only the cooperation for development. Therefore it is inappropriate specifying precisely what form of cooperation should be encouraged. The delegation of **Saint Lucia** proposed the inclusion of North-North cooperation, but with emphasis on the other forms of cooperation. The delegation of **France** reiterated that no form of cooperation should be singled out, nor was it appropriate to place particular emphasis on one type of cooperation, as had been suggested by Brazil, as that would create an obligation that was not present in Article 12.

27. The **Chairperson**, echoing the comments made by the delegation of France, stressed that Article 12 did not contain any restriction regarding forms of cooperation, and it was important to reflect that in the operational guidelines. He thus suggested to highlight the needs of developing countries in operational guidelines relating to other articles on international cooperation. The delegation of **Luxembourg**, expressing support for the Chairperson's comments, proposed that such needs could be mentioned in the draft operational guidelines on Articles 14 and 18. The

delegation of **India** reiterated its wish to include North-North cooperation while maintaining particular emphasis on South-South, North-South and North-South-South cooperation in the first paragraph of the preliminary draft operational guidelines on Article 12; it then made a proposal, supported by **Germany**, to place the paragraph in square brackets if no compromise could be found. The delegation of **Germany** said that if discussions were faltering on the first paragraph, it was perhaps due to the lack of principles in the preliminary draft operational guidelines. The **Chairperson** then suggested placing in square brackets the first paragraph of the preliminary draft operational guidelines on Article 12.

28. At the beginning of the debate regarding the second paragraph of the draft preliminary operational guidelines for Article 12, the delegation of **Brazil**, supported by **India**, said that it was important to specify the main objective of the Convention, namely that cooperation for development should contribute to strengthening cultural industries in developing countries.

29. The **Chairperson** then asked Committee members to think about the meaning of Article 12 of the Convention: did it mean cooperation in the broad sense, or specific forms of cooperation such as North-South, South-South, and North-South-South?

30. The delegation of **Canada** said that Article 12 was general in nature, while Article 14 was more specific as it envisaged measures for development. It also mentioned that one of the proposed amendments to the preliminary draft operational guidelines on Article 14 was to introduce a paragraph on strengthening cultural industries in developing countries. Also; the delegation of **Saint Lucia** said that Brazil's preference was already covered by paragraph 3 of the preliminary draft operational guidelines for Article 12.

31. The delegation of **Brazil**, speaking for the ministries of culture of Caribbean and South American countries, insisted that the strengthening of cultural industries in developing countries should also be included in paragraph 2. The delegation of **India** proposed the insertion in paragraph 3 of the phrase "strengthen cultural industries in developing countries". The delegation of **Brazil** accepted the proposal and paragraph 2 was adopted provisionally. The delegation of **Germany** said that the insertion of the phrase in paragraph 3 was not a good solution.

32. The Committee members then discussed paragraph 3 of the preliminary draft operational guidelines. The delegation of **Brazil** expressed its disappointment that the proposals relating to developing countries had been rejected and postponed in every paragraph. It failed to see why the strengthening of cultural industries in developing countries should be included in some chapters and not in others, particularly since the Convention contained cross-cutting elements. The delegation stressed that some countries had a narrow view of the aims of the Convention.

33. The delegation of **Germany** recalled that the last point of paragraph 3 covered all the concerns of developing countries and the provisions relating to international cooperation, but if some Committee members so wished, it was possible to list their needs; it reiterated that the Committee's work was affected by the fact that the principles had not been finalized.

34. The delegation of **Luxembourg** echoed Brazil's disappointment regarding the direction the debate was taking. It recalled that the principles and the first paragraph had been set aside, and it was difficult to take a decision about Brazil's proposal because it related to the principles. It was not because Brazil and other States thought that the preliminary draft operational guidelines on Article 12 lacked content that the Committee should fill it with content that was more appropriate to Article 14; however, Luxembourg was committed to achieving consensus.

35. In an attempt to move beyond the impasse, the delegation of **Brazil**, supported by **South Africa, Burkina Faso, Canada, China, Finland, France, Greece, India, Mali, Saint Lucia** and **Senegal**, proposed that there be no operational guidelines for Article 12, only the text of the Convention, and further proposed drafting more detailed operational guidelines for the other articles in order to avoid weakening the operational guidelines. The delegation of **India** said that

the absence of operational guidelines for Article 12 was not a sign of weakness, and it was convinced that the Convention should be made operational; for the other articles it would not accept a watering down of the operational guidelines. The delegation of **South Africa** asked for the principles to be covered under Article 14 on cooperation for development.

36. The Committee, in adopting Decision 2.IGC 4, decided to propose to the Conference of the Parties that it should not adopt operational guidelines on the promotion of international cooperation (Article 12 of the Convention), as Article 12 was self-sufficient.

37. On the final day of the session, the delegation of **India** recalled that, during the debate on Article 12, the Committee had placed the paragraph relating to the principles in square brackets and had decided that the matter would remain unresolved because there should be general principles applicable to all the operational guidelines. It asked whether that would be included in the decisions and cited in a report.

38. The **Chairperson** said that he had no objection to resuming discussion of the principles at the request of a Member of the Committee; he had taken it as read that the draft guidelines adopted by the Committee dealt with matters that formed part of the principles. The delegation of **India** said that, when the Committee took such a decision, the Secretariat had a duty to remind it when finalizing its work that certain matters remained unresolved and decisions still needed to be taken. On the question of principles, **India** said that a final decision should be taken: either the principles should be deleted completely as suggested by the French-speaking Group, or some of them should be retained, in line with the preference of Brazil, South Africa and India. The delegation stressed that it was in a very awkward position, as it did not wish to force consensus or end on a negative note, but it considered that the procedure was not appropriate and asked that its view be included in the report.

39. The **Chairperson** again said that he had understood that the draft preliminary guidelines adopted during the session included ideas that were originally part of the principles. He then invited Committee members to draft a specific proposal, and said that neither he nor the Secretariat had intended not to return to the matter.

40. The delegation of **Brazil** recalled that, throughout the negotiation process for the draft preliminary guidelines, it had tried to insert the principles, but to no avail. On behalf of South Africa and India and on its behalf, the delegation then proposed that the Committee decide to adopt the general principles as general guidelines for all the articles discussed during the session (Articles 12, 13, 14 and 18). The delegation of **France** said that it could not accept such a proposal because the thrust of the principles had already been included in the draft operational guidelines, and the Committee was guided by the principles of the Convention. The delegation of **Germany** explained that the objective of the principles in the preliminary draft presented by the Secretariat had been to clarify the work of the Committee in drafting the operational guidelines on Article 12; there was no reason to introduce additional principles.

41. The delegation of **India** recalled that it was neither Brazil nor India that had proposed that the principles should be discussed at a later stage as general principles for the operational guidelines – rather, the proposal had come from developed countries. **India** proposed two alternatives: the re-insertion of the principles in a chapter entitled “international cooperation”; or the adoption of a draft decision stipulating that the principles would be reviewed as part of a general chapter for all the operational guidelines, and that they would be finalized once adopted. The delegation said that the latter option had been selected for the Convention for the Safeguarding of the Intangible Cultural Heritage, and it would not accept the withdrawal of the principles until a discussion had taken place. The **Rapporteur**, supported by **Brazil, France, India** and the **Chairperson**, proposed to state in its report that the Committee had decided to postpone the discussion and re-examine the principles once all the operational guidelines had been adopted. He said that it was not imperative to take a formal decision at the current session.

42. The delegation of **France** said that it agreed to postpone the discussion of the principles but that they were nevertheless part of the Convention, and the operational guidelines were not supposed to be principles but rather operational rules for the implementation of the Convention.

### **Item 5 – Draft operational guidelines on the integration of culture in sustainable development (Article 13 of the Convention)**

#### **Document CE/08/2.IGC/5**

43. The **Assistant Director-General for Culture** introduced the working document drafted by the Secretariat on the basis of written contributions transmitted by the Parties (29) and the study commissioned from Professor D. Throsby entitled “Culture in sustainable development: insights for the future implementation of Article 13”.

44. The delegation of **Senegal** explained the amendments proposed by the French-speaking Group, whose primary concerns were to use the word “sustainable” appropriately; to link culture, development and sustainable development; and in particular to integrate culture in development policies in a general manner.

45. Most of the section relating to the general considerations of the draft operational guidelines was adopted without major change by the Members of the Committee in a spirit of cooperation and consensus. Only paragraph 6, relating to the integration of culture into development policies at all levels, was amended.

46. In the sub-paragraph underlining the full potential and contribution of cultural industries to sustainable development, the delegation of **Brazil** proposed including the economic aspect of these industries, such as their potential for creating jobs and reinforcing economic activity, thus highlighting the symbolic and economic aspects of culture. Several Committee Members (**South Africa, Canada, Guatemala, India, Lithuania and Senegal**) proposed similar amendments.

47. The delegation of **Brazil** recalled that the paragraph relating to the integration of culture in all aspects of development was only relevant to culture, and that in order to integrate it properly in other sectors, there was a need to add additional paragraphs relating to security, health, youth and education.

48. The delegation of **Luxembourg**, supported by **France, Lithuania and Senegal**, recalled that the elements of the paragraph were intended as an introduction and declaration, and that the internationally accepted definition of sustainable development included social, economic and environmental development; it wondered whether it was necessary to be more specific and add new paragraphs on that subject.

49. The delegation of **Brazil** explained that paragraph 6 was not simply an introductory paragraph, and that in order to establish relations between the various ministries – particularly those linked to the economy – and demonstrate the importance of culture, it was crucial to be specific as to how culture could contribute to development in a broader sense, not only in terms of economic activities, but also in the context of cultural activities. The delegation suggested therefore a list of sectors where the integration of cultural into sustainable development was particularly desirable.

50. The delegation of **Luxembourg**, reminded the Committee Members that their duty was to prepare an operational guideline for Article 13 and not necessarily a list of everything that was important to culture in general, cast doubt on the pertinence of the list for this operational guideline.

51. The delegation of **Canada** said that the sectors listed by Brazil were not necessarily included in the articles of the Convention, and indeed the list seemed to go far beyond the content of the Convention. The delegation suggested a few modifications and the amendments proposed by Brazil were adopted.

52. The section relating to the orientations of the draft operational guidelines on Article 13, as amended by the French-speaking Group, was adopted in the main without significant amendment. However, the paragraph concerning the fundamental role of education for sustainable development was the subject of debate.

53. The delegation of **Saint Lucia** proposed integrating culture in the various aspects of education and not only in syllabus. As to the delegation of **Brazil**, meanwhile, wished to see culture incorporated in education systems as a way of modernizing them. The delegation of **Canada** stressed that, since education was a provincial responsibility rather than a State one, it could not support the Brazilian proposal. The delegation of **Greece** was of the view that it was not relevant to raise the issue of education at that point, because the scope of application of the Convention did not provide for that; adding that the definition of cultural diversity contained in the Convention did not refer to education.

54. The **Chairperson**, summing up the discussion, said that two fundamentally contrasting views had been expressed. For some, culture should be used to improve the education system, while for others, the education system should be used as a tool for disseminating cultural expressions. He stressed that if the Committee decided to reflect both views, two paragraphs would be required in the draft operational guidelines.

55. The delegation of **South Africa** said that it shared the Chairperson's position, and wondered, with reference to all forms of education and at all levels, whether programmes should include culture or whether that overlapped with Article 10 of the Convention, which concerned public awareness. The delegation of **Germany** said that it was necessary to be true to Article 13 without making reference to Article 10. The delegation of **France**, supported by **Mali** and **Canada**, suggested reverting to the initial text proposed by the Secretariat, which was clear and emphasized the role of education in sustainable development and the importance of integrating culture in educational programmes. The delegation of **Canada** said that a more appropriate discussion of education could take place when drafting the operational guidelines on Article 10, which related to education and public awareness. Given that the proposal by **Saint Lucia** to integrate culture in the various aspects of education and not only in programmes had been accepted, the Committee adopted the paragraph on the role of education for sustainable development.

56. Following its adoption, the Committee considered the final section of the preliminary draft operational guidelines for Article 13 on "Measures related to the integration of the diversity of cultural expressions in sustainable development".

57. In the first paragraph relating to the conditions and needs of artists, culture professionals and cultural organizations, as amended by the French-speaking Group, the delegation of **Brazil** proposed paying close attention to the needs of groups and individuals in less developed areas. The delegation of **Luxembourg** supported that proposal and suggested finding a more appropriate term than "less developed" to refer to rural areas. The delegation of **Canada** proposed using the term "disadvantaged geographical areas". The delegation of **India**, having underlined that the same point had already been mentioned in an earlier paragraph, wondered whether it was necessary to repeat it here. The delegation of **France**, supported by **Brazil**, proposed introducing a reference to the particular needs of women.

58. The discussion then turned to the question of determining which cultural actors were concerned by the Convention, and how they should be referred to in the draft operational guidelines. The delegation of **India** proposed replacing "creators" with "artist creators". The delegation of **South Africa**, supported by **Brazil**, suggested inserting "practitioners" to refer to people without formal artistic training. The delegation of **Brazil** also wished to mention traditional practitioners of folk arts. The delegation of **Saint Lucia** preferred to retain "creators", which was not synonymous with "practitioners". The delegation of **Luxembourg** proposed a more generic term, "actors in the cultural sector". The delegation of **Canada** suggested using the phrase "artists, others involved in the creative process, cultural communities and organizations", which was

contained in Article 7 of the Convention. The delegation of **India** did not share that view on the grounds that not all artists were creators, and suggested a phrase that took account of both contemporary and traditional artists, namely “all stakeholders in the cultural sector”. The delegation of **Brazil**, supported by **Slovenia**, wanted the phrase “stakeholders” to be deleted while retaining the list, because emphasis should be placed on artists and creators. The delegation of **Austria**, supported by **Croatia, India, France, Lithuania** and **Slovenia**, proposed using the term “artists” and including a footnote referring to the definition contained in the Recommendation concerning the Status of the Artist (UNESCO 1980). The delegation of **Brazil**, which had a different understanding of the definition, preferred to retain the list without the footnote. The delegation of **India** then suggested the phrase “all concerned artists, cultural professionals and practitioners in the cultural sector”. The first paragraph was then adopted, following an editing amendment proposed by the delegation of **Mali** to avoid repetition of the word “cultural”. The other paragraphs, to which only minor amendments had been made, were also adopted.

### [Observers]

59. The delegation of **Jamaica** emphasized that culture should be integrated into sustainable development in the best way possible, and that too much emphasis had been placed on culture and not enough on the important role of other ministries, in particular the ministries of economy and finance and of education. It stressed that culture was the single, most important way for humanity to overcome the challenges facing it and strengthen global solidarity.

60. **Mr Gary Neil**, Director of the International Network for Cultural Diversity, speaking on behalf of other NGOs (International Federation of Coalitions for Cultural Diversity; International Music Council; Traditions for Tomorrow; International Federation of University Women; International Theatre Institute; and International Federation of Musicians) said that it was important to understand the nature of cultural development, and that cultural industries played a crucial role in economic development that promoted social cohesion. Developing countries should forge links with civil society in order to introduce national cultural policies aimed at integrating culture into strategies for development and poverty reduction. He emphasized the importance of raising the awareness of all the ministries involved in the issue. Developed countries that were Parties to the Convention should make a commitment to allocating a certain percentage of their development aid to cultural projects in developing countries Parties to the Convention.

61. The Committee, in adopting Decision 2.IGC 5, decided to submit to the Conference of Parties for approval the draft operational guidelines on the integration of culture into sustainable development (Article 13 of the Convention), as amended and annexed to the decision.

## Item 6 – Draft operational guidelines on cooperation for development (Article 14 of the Convention)

### Document CE/08/2.IGC/6

62. The **Assistant Director-General for Culture**, introducing the working document, said that it had been drafted on the basis of debates that had taken place at the meeting of experts held in Madrid in July 2007 and the contribution of one Party, Brazil, which had submitted a written contribution relating to Articles 13 and 14. She said that the preliminary draft operational guidelines clarified the link between Article 14 and Articles 16 and 18 of the Convention, and that it included examples of measures that could be taken to implement the four major areas of Article 14, namely strengthening cultural industries in developing countries, capacity-building, technology transfer and financial support.

63. The delegation of **Canada** introduced the amendments on behalf of the members of the French-speaking Group and said that other Committee members had also been consulted. The proposed changes were intended to complement the Secretariat’s proposal and make a number of

clarifications in order to ensure that the operational guidelines served as a guide for States that would support them in their efforts in the field of cooperation for development.

64. The first section of the preliminary draft operational guidelines, “Cooperation for development: scope and objectives”, was adopted as amended by the French-speaking Group.

65. In the section “Orientations and measures”, the paragraphs relating to the non-exhaustive list of measures that could be taken for the purpose of cooperation for development were the main subject of debate.

66. With regard to the first sub-paragraph of measures on the strengthening of cultural industries in developing countries, the delegation of **India** proposed the deletion of the word “dissemination”, leaving only “distribution”. The proposal was not supported by the delegation of **Saint Lucia**, which said that the Convention referred to both “dissemination” and “distribution”. The delegation of **India** accepted the argument put forward by Saint Lucia. In the interests of consistency, the delegation of **Austria** wished to insert a reference to the “national” level in the same paragraph.

67. The delegation of **Brazil** proposed the insertion of a reference to “legal and financial” measures. The delegation of **France**, supported by **India**, wished to avoid a list of measures in the paragraph and proposed the phrase “appropriate incentives for...” by way of a very general and inclusive statement. The delegation of **Brazil** explained that the generic approach, while inclusive, was not enough, and there was a need to draw attention to specific measures. The **Chairperson**, supported by **Burkina Faso**, **India**, **Saint Lucia** and **Senegal**, proposed the insertion of “including” before the list of measures, and the sub-paragraph was adopted.

68. In the second paragraph devoted to measures aimed at strengthening cultural industries in developing countries, the delegation of **Brazil**, supported by **Mali**, said that it was necessary to mention artists in export-oriented strategies and proposed the insertion of the phrase “while strengthening local enterprises and maximizing benefits for the artists, professionals and cultural practitioners”.

69. The delegation of **India** proposed an amendment on the issue of increasing exchanges between developed countries and developing countries, which was often dictated by the visa regulations of developed countries. The delegation of **Austria** noted that the question of mobility was covered in a subsequent paragraph and proposed that India’s amendment be inserted there.

70. In the paragraph on fostering viable local and regional markets for cultural activities, goods and services, the delegation of **India**, supported by **Brazil** and **Canada**, wished to reinstate a deletion proposed by the French-speaking Group, namely regulatory action, which was a very important means for developing countries. The delegation of **Brazil** also wished to add the phrase “as well as through social inclusion and poverty reduction policies that take into consideration the cultural dimension”. The delegation of **France** said that that remark was not relevant in the paragraph. The delegation of **Brazil**, supported by **India**, explained that the vast majority of the Brazilian population did not consume cultural goods and services, and that if the aim was to foster local and regional markets it was necessary to mention poverty reduction and social inclusion. The delegation of **France** expressed support for that explanation and the paragraph was adopted with the Brazilian amendment.

71. With regard to the paragraph on the mobility of artists from developing countries, the delegation of **India**, supported by **Albania**, **Austria**, **Brazil**, **Canada**, **France**, and **Saint Lucia** slightly modified the previous amendment in order to facilitate temporary mobility in the territory of both developed and developing countries. The delegation of **Mali**, supported by **Burkina Faso**, **Senegal** and **Tunisia**, wished to delete the word “temporary” to show that mobility was permanent and that it was the length of stay that was temporary. The delegation of **Greece** proposed the insertion of the words “to the extent possible” in reference to Article 14(a)(v) of the Convention. The delegation of **India**, supported by **Brazil**, **Burkina Faso**, **Senegal** and **South Africa** did not

support that proposal. The delegation of **Greece** then said that the Schengen Agreement limited the action of certain European Union States. The delegation of **India** explained that the European Union had a system of short-term visas in the business category and all that was needed was a new category for artists. Indeed, that was true not only of the European Union, but of all countries, including **India**, which did not offer such a category of visas. The delegation of **France**, supported by **Austria**, recalled that the European Union promoted and encouraged the mobility of artists, particularly with the Schengen Agreement. The delegation of **Tunisia** said that mobility was continuous by its very nature and there was no need to qualify it. That remark was supported by the delegation of **Canada**, which proposed simply “facilitating the mobility”. The **Chairperson** suggested that the amendments proposed by Canada and India be inserted and the paragraph was adopted.

72. The delegation of **Austria** proposed inserting in one of the paragraphs of the section on capacity-building through exchange and information a reference to an exchange on the rights of artists. The delegation of **Brazil**, supported by **China**, emphasized that it was necessary to list other rights of artists and did not support the proposal; the paragraph was adopted as it stood.

73. In the section relating to technology transfer in cultural industries, the delegation of **China** proposed two amendments. The first aimed to insert a reference to supplying “fair and favourable conditions for technology transfer to developing countries”, which was mentioned in the first paragraph of the section at the suggestion of the delegation of **Senegal**. The second proposed to introduce the phrase “appropriate measures to facilitate joint development of technology for the benefit of developing countries” and was inserted as a new paragraph.

74. Minor modifications were made to the amendments already proposed by the French-speaking Group on the paragraphs of the section relating to financial support. Thus, following a request by the delegation of **Mali**, supported by **Burkina Faso**, to find a stronger verb than “consider”, the first paragraph was adopted with the verb “integrate”, supported by **South Africa** and **Senegal**. The following paragraph was adopted with two changes: one proposed by the delegation of **Greece**, supported by **India**, which also proposed referring to micro-enterprises; and another by the delegation of **Brazil** to insert a reference to “tax benefits”. Before being adopted by the Committee, minor amendments were made to the final paragraph of the section, in particular one by the delegation of **Brazil**, which suggested including “fiscal incentives” and another by the delegation of **Senegal**, which wanted to include a reference to the “culture sector”.

#### [Observers]

75. The delegation of **Jamaica** was of the view that Article 14 was essential and suggested the establishment of a method for assessing the developments occurring as a result of the Convention, particularly in regard to the current article. With reference to the type of visa system in place between the European Union and the Caribbean Community (CARICOM), it highlighted co-production agreements between Caribbean countries and the European Union and the highly creative way in which the latter had established such agreements. Finally, the delegation emphasized that the operational guidelines should facilitate the implementation of the articles of the Convention, and not merely echo its vaguer points.

76. **Ms Silja Fisher**, Executive Officer of the International Music Council, speaking also on behalf of other NGOs (International Federation of Musicians, International Network for Cultural Diversity, Traditions for Tomorrow, International Federation of University Women, International Theatre Institute, International Federation of Coalitions for Cultural Diversity and International Council of Organizations for Folklore Festivals and Folk Art), said that developing countries should work with civil society organizations within their countries, and that it was important to be aware of the need to strengthen the capacity of local organizations. She further emphasized that developing countries needed support in order to formulate strategies, and that the main priority with regard to the mobility of artists was the introduction of flexible procedures for requests for visas and work permits for artists.

77. The Committee, in adopting Decision 2.IGC 6, decided to submit for approval to the Conference of Parties the draft operational guidelines on cooperation for development (Article 14 of the Convention), as amended and annexed to the decision.

### **Item 7 – Draft guidelines on the use of the resources of the International Fund for Cultural Diversity (Article 18 of the Convention)**

#### **Document CE/08/2.IGC/7**

78. The **Assistant Director-General for Culture**, introducing the agenda item, recalled that the Conference of Parties had, at its first session, approved the Financial Regulations of the Fund, which stated that, given its multi-donor nature, it would be managed as a Special Account, and requested the Committee to submit to it for approval, at its second ordinary session, draft guidelines on the use of the resources of the Fund. She summarized the work of the Committee to date and said that the preliminary draft presented by the Secretariat was a reflection of the Committee's debates; areas of disagreement had been presented as a series of options.

79. The delegation of **Saint Lucia**, on behalf of the eight States members of the Committee and members of the French-speaking Group of UNESCO, commended the quality of the document and said that the proposed amendments reflected mainly the choices they had made from among the options available.

80. In response to a question by the delegation of **India** regarding UNESCO's financial rules applicable to Special Accounts, **Mr John Haig**, representing the **Comptroller**, said that it was preferable to retain the word "multi-donor" in paragraph 2, as the word was accepted in the Organization's terminology.

81. The delegation of **France**, speaking on behalf of the European Union Member States, proposed amending paragraph 3 of the draft guidelines to read: "The resources of the Fund will be used in favour of developing and least-developed countries, and the activities of the Fund shall be eligible for contributions from public development aid". It underlined the consistency with paragraph 6.4.1 of the draft operational guidelines on Article 14 and Article 14(d)(ii) of the Convention, which contained a reference thereto. It indicated that the proposed amendment did not change the modalities or purpose of the Fund, but rather enabled contributing countries with budget provision for public development aid to mobilize it in contributing to the Fund, without being directive.

82. The delegation of **India** said that the second part of the amendment introduced an idea of tied aid that ran counter to the spirit of multilateralism, and it sought the opinion of the Legal Adviser as to whether that wording would fundamentally change the way the Special Account was used.

83. The **Legal Adviser** recalled that the multi-donor nature of the Special Account did not pose any problem regarding the origin of contributions. With regard to the wording on the eligibility of funds from "public development aid", he noted that the Development Assistance Committee of the Organisation for Economic Co-operation and Development (OECD) referred to donations and preferential loans that formed part of the budget and were transferred from developed to developing countries, which could result in a project in which the donor State wished to specify the beneficiary State. He wondered whether the Committee was not anticipating the debate on Article 16 on the notion of "preferential treatment" since, in such a case, the decision to allocate funds to a developing country or to least-developed countries was a significant political decision. In that regard, he recalled that the Committee had discretionary powers to decide on the use of the resources of the Fund and, consequently, its activities. Those powers should be unconditionally compatible with the objectives of the Convention within the meaning of its Article 18. He was of the opinion that the use of funds for field activities did not fall outside the Committee's discretionary powers, but it was up to the Committee to decide on its own attributions.

84. The delegation of **Luxembourg**, having emphasized the pragmatic aspects of the amendment, could see no contradiction, since it was not a question of tied aid, and public development aid was intended for developing countries. The delegation of **Mali** raised the issue of the notion of eligibility for public development aid and any legal obstacles relating to a fund linked to a UNESCO international convention.

85. The **Legal Adviser** said that he did not have the authority to draw an *a priori* conclusion regarding the incompatibility of the terms, but each contribution tied to a specific project should be evaluated by the Committee on a case-by-case basis.

86. The delegation of **India** proposed the following wording: “Public development aid which is not always tied may be used to finance the activities of the Fund for action designated by the Committee in accordance with the provisions governing UNESCO Special Accounts”, thus ensuring that the untied portion of public development aid would be acceptable. The delegation of **France** agreed to the proposal, the form of which had been substantially amended by the delegations of **Mali**, **Senegal**, **South Africa**, **India** and **Brazil**.

87. Following the reserves expressed by the delegation of **Brazil** with regard to the distinction between developing countries and least-developed countries, the delegation of **France**, supported by the delegation of **Austria**, said that the least-developed countries would deserve a special mention. The delegation of **Brazil** agreed and said that the proposed wording reflected European Union rules on development aid.

88. In agreement with the **Chairperson**, who pointed out that the conjunction “and” meant that no distinction was being made, the Committee adopted the following wording: “The resources of the Fund will be used in favour of developing and least-developed countries. Public development aid which is not tied may be used to finance the activities of the Fund for projects and programmes decided by the Committee in accordance with the provisions governing UNESCO Special Accounts”. The Committee reworded paragraph 4 in French to take account of the proposal by the delegation of **Mali** to use the indicative, deemed to be more prescriptive than the subjunctive.

89. The delegations of **India** and **Tunisia** wondered whether the Committee was in a position to guarantee the structural impacts of the use of the Fund’s resources. Following statements by the delegations of **Canada**, **Senegal**, **South Africa** and **France**, the **Chairperson** explained that the responsibility for guaranteeing such impacts was indeed incumbent on the Committee. The delegation of **Saint Lucia** proposed the following wording: “contributes to achieving concrete and sustainable results as well as structural impacts, where appropriate, in the cultural field”, which was adopted.

90. In paragraph 4.6, the delegation of **Canada** proposed replacing the word “responsibility” with “financial accountability” and the delegation of **India** proposed the qualifying phrase “as understood within the United Nations system”.

91. The **Assistant Director-General for Culture**, responding to a question by the delegation of **India** on the possibility of retaining the reference to proportionality between management and human-resources costs (paragraph 4.7), and following several suggestions for wording by the delegations of **South Africa**, **Saint Lucia** and **India**, recalled that the term “overhead costs” was part of UNESCO terminology, and stood at 10%. The delegation of **India** favoured retaining the term, and the Committee adopted the paragraph as amended.

92. The Committee decided that the duration of the pilot phase would be 36 months (paragraph 5).

93. Regarding fields of activity (paragraph 6), the delegation of **Mexico** proposed the addition of the creation of new cultural industries. The delegation of **Brazil** proposed to introduce, in the fields of activity, references to the protection of cultural expressions threatened with extinction, and the

promotion of the cultural rights of women and diverse social groups, including members of minorities and indigenous peoples, in order to ensure that projects involving those groups not covered by the definition of cultural industries could be submitted to the Fund. The delegation of **Saint Lucia** recommended the use of the terminology “special situations and risk of serious threat” used in the Convention. The delegation of **Canada** recalled that special situations were covered by a different paragraph and that it was important to establish priority fields of activity in order to avoid scattering and ensure that the Fund had an impact in targeted areas and was able to achieve concrete results with structural impacts. At the invitation of the Chairperson, and following statements by the delegation of **Luxembourg**, supported by the delegation of **Austria**, and the delegation of **France**, supporting the comments made by the delegation of **Saint Lucia**, the delegation of **Brazil** withdrew its amendment on threatened cultural expressions. However, it considered that the cultural rights of women, social groups, persons belonging to minorities and indigenous peoples constituted a field of activity in the protection of cultural expressions in a similar way to the development of cultural industries for which the Fund’s resources could be used.

94. The delegations of **Luxembourg**, **Austria**, **France**, **Saint Lucia** and **Canada** said that a reference to such groups was too specific and was inappropriate at that place; moreover, it might have consequences in terms of tying financing. Citing the provisions of Article 7 of the Convention, the delegation of **France**, supported by the delegations of **India** and **Slovenia**, said that it was opposed in principle to women being considered on a par with other social groups. The delegation of **Saint Lucia**, supported by **Canada** and **Senegal**, recalled that the Committee members had agreed to limit the priorities to cultural policies, capacity-building, and strengthening cultural industries, and said that the Fund’s resources were not intended to promote the cultural rights of various social groups.

95. Responding to the invitation of the **Chairperson**, the delegation of **Brazil** withdrew the reference to cultural rights and expressed support for the proposal of the delegations of **Senegal** and **India** to use more general wording that reflected a multilateral compromise in accordance with Article 7 of the Convention. It also requested that paragraph 6.1.1 should specifically state that the Fund could be used for introducing cultural policies, where appropriate.

96. The delegation of **France**, supported by the delegation of **Luxembourg**, pointed to the risk of confusion between the rights and obligations of Parties and the use of the Fund.

97. At the invitation of the Chairperson, the Committee members expressed their views regarding the deletion or retention of the amendment. The delegations of **Tunisia**, **Slovenia**, **Luxembourg**, **India**, **Senegal**, **Austria**, **Croatia**, **Albania**, **Canada**, **Greece**, **Burkina Faso** and **South Africa** were in favour of deleting it. **Mexico** was in favour of retaining it and the delegation of **Brazil** agreed to withdraw the amendment; the Summary Record should, however, reflect Brazil’s insistence that it be included in the operational guidelines.

98. Following statements by the delegations of **India**, **South Africa**, **Saint Lucia** and **Brazil**, the Committee decided to replace the phrase “least-developed countries” with “developing countries” in paragraph 6.4.1.

99. Paragraph 9 was the subject of a lengthy debate, during which the delegation of **South Africa** remarked that the list of beneficiaries did not include individuals or vulnerable indigenous groups and other non-formal social groups covered by the Convention. The debate showed that it was appropriate to distinguish between the beneficiaries and the applicants in terms of their diversity, the type of request (programmes and projects, or participation), and the range of categories of participation available. It reaffirmed the need to submit requests through official channels at the national level. It further highlighted the practical difficulties of the consideration and representativeness of informal groups that did not correspond to the definition of civil society as set out in the operational guidelines on the role and participation of civil society. Following the proposal by the delegation of **Saint Lucia**, the **Chairperson** recalled that paragraph 9 should be interpreted

in the light of paragraph 6, and requested a group to reword it, taking account of the debate. The delegation of **Tunisia** recommended keeping the original breakdown.

100. At the request of the delegation of **India**, the **Assistant Director-General for Culture** explained that, in the absence of consensus within the Committee, the Secretariat had presented, in paragraph 11, several options for the procedure for the submission of funding requests. States Parties would submit their requests through the National Commissions or other official channels. Civil society and the private sector would submit their requests either through the National Commission or other designated official channels, or directly to the Secretariat.

101. The delegation of **Saint Lucia**, speaking on behalf of the French-speaking Group, said that its view was that the national organizations of civil society should present their requests through the National Commission in a similar way to the procedures applicable under the Participation Programme. NGOs and international civil society organizations could present their requests directly to the Secretariat with the support of beneficiary countries, in the knowledge that the projects were implemented in developing countries.

102. The delegation of **Canada**, introducing the new version of paragraphs 9 and 11, said that the new wording did not change the substance of the text, but distinguished the beneficiaries (paragraph 9) of the procedures from the applicants (paragraph 11). Requests from States Parties, civil society organizations at the national level, in the case of special situations, and for representatives of vulnerable groups would be submitted through the National Commissions or designated official channels. Requests from civil society at the international level and from the private sector, supported in writing by the States Parties concerned, could be submitted directly to the Secretariat.

103. The delegation of **Brazil**, supported by the delegations of **Canada** and **China**, said that the private sector should submit its requests through the National Commissions, which was accepted.

104. The delegation of **Mexico** suggested that, for the purposes of evaluation, the expected results including the social and cultural impact should be included in the project outline. Paragraph 12, relating to requests for funding, was amended several times with a view to making it more practical and operational.

105. The delegation of **South Africa**, supported by the delegations of **India**, **Senegal**, **Guatemala**, **Brazil** and **Burkina Faso**, proposed that the requirement that 10% of the budget be borne by the applicant should be deleted. The delegation of **Canada**, supported by **Luxembourg**, **France**, **Germany** and **Albania**, favoured retaining the requirement, as it was a useful indicator of the degree of commitment of beneficiaries. Following the debate, all the delegations that had spoken supported the proposal of the delegation of **India** to replace the phrase with wording that encouraged partial self-financing.

106. The delegation of **India** stressed that the Committee should appoint the expert panel in accordance with the criterion of equitable geographical distribution.

107. The Committee, in adopting Decision 2.IGC 7, decided to submit to the Conference of Parties for approval the draft guidelines on the use of the resources of the International Fund for Cultural Diversity, as amended and annexed to the decision.

#### **[Observers]**

108. The delegation of **Jamaica** reiterated the need to introduce a fundraising strategy given the voluntary nature of contributions to the Fund. It recommended promoting the Convention, establishing links between the Convention and the private sector, and, to that end, obtaining the support of well-known artists for such initiatives.

109. The delegation of **Belgium** said that Belgium had not yet ratified the Convention, although the internal processes had been completed in regional and community parliaments; that was due to questions of a purely internal nature, since the federal and Flemish parliaments had not yet given their consent. The Communities of Belgium attached great importance to the Convention and to cultural diversity in general. Furthermore, in the context of the Flemish funds-in-trust, the Flemish Community was seeking projects focused on cultural diversity. The French Community and the Walloon Region wished to make a substantial contribution to the Fund and had officially announced the forthcoming payment of the 2008 contribution in the amount of €50,000, which would probably be repeated in 2009. With regard to the Fund, the delegation stressed the important role of civil society and hoped that the operational guidelines would place greater emphasis on creation, training, the dissemination of works and the improved mobility of artists in the use of the Funds.

110. **Mr Paulo Slachevsky**, Vice President of the International Federation of Coalitions for Cultural Diversity, speaking on behalf of the International Federation of Musicians, the International Music Council, the International Network for Cultural Diversity, and the International Theatre Institute, said that all countries should contribute to the Fund on an annual basis. He welcomed the introduction of the paragraph relating to the minimum contribution of 1% of Member States' contributions to the UNESCO budget, and said that he hoped that that provision would be seen as a benchmark that applied only to developing countries, and that developed countries would make contributions over and above that minimum threshold. He hoped that the reference to public development aid would make it possible to increase the contributions of States Parties by ensuring that they committed resources from their development cooperation funds. He emphasized the importance of ensuring that such amounts were genuinely new funds that were contributed in order to develop culture. He considered that the evaluation of projects by a committee of experts was the most effective arrangement, as culture professionals could make a useful contribution to the evaluation process. Finally, he drew attention to the rapid entry into force of the Fund following the Conference of Parties in order to enable countries to benefit, to ensure that projects were announced, and to ensure that new States started the process of ratifying and implementing the Convention.

111. Responding to concerns expressed by the delegation of **Jamaica** relating to the financing of the Fund, the delegation of **Brazil** said that it wished to discuss the matter during the debate on the agenda for the next session. It recalled that the Committee had raised the possibility of holding a meeting on alternative sources of financing for the Fund, or hiring an expert to draft a document on fundraising methods. The delegation of **Brazil** informed the Committee that it would make a financial contribution to the organization of such a meeting.

#### **Item 8 – Reports of the experts on preferential treatment (Article 16 of the Convention)**

112. The **Chairperson** welcomed the two Coordinators, **Mr Pierre Defraigne** and **Ms Vera Helena Thorstensen**, thanked them for their contribution to the elaboration of the six reports on preferential treatment and gave the floor to the Secretariat. After **Ms Galia Saouma-Forero**, Secretary of the Convention, explained the structure and presentation of working document CE/08/2.IGC/8, **Ms Françoise Rivière** identified some starting points for the debate on Article 16. She noted that preferential treatment is the tool for facilitating cultural exchanges between developed and developing countries, which is the ultimate objective of Article 16, and that it needs to be discussed in the light of the other articles of the Convention and of its main objectives, particularly the emergence of a dynamic cultural sector in the developing countries. The **Chairperson**, before giving the floor to the Coordinators, explained that the Committee's morning session would be devoted to the presentation of the experts' reports by the Coordinators followed by a discussion which would facilitate deeper understanding of Article 16 and allow members to question the Coordinators. In the afternoon, Committee members would debate the matter in order to provide guidance to the Secretariat when drafting the operational guidelines for Article 16.

113. **Ms Thorstensen** presented the six reports on the basis of PowerPoint presentations prepared by the experts who had adhered to a common format. The presentations clarified each expert's understanding of Article 16, provided a summary of the analysis made in their reports and outlined their recommendations. On the basis of a document entitled "Overview", **Ms Thorstensen** further highlighted the points of convergence between the reports, such as the need to explore both trade and non-trade options for the implementation of Article 16, the need for coherence between preferential treatment and other development cooperation instruments so that cultural exchanges might have lasting impact, the importance of regional cooperation.

114. In his presentation, **Mr Defraigne** stated for his part that Article 16 aims to expand and balance exchanges between developed and developing countries. He noted that preferential treatment for culture must draw upon both trade and cultural cooperation: the former would target demand for cultural goods and services from developing countries while the latter would strengthen the development of cultural offer by supporting national cultural policies. **Mr Defraigne** discussed eligibility, graduation, reciprocity, rules of origin and conditionality as the criteria of a targeting mechanism for preferential treatment in the field of culture, and stressed that cultural preferences must be specific, ad hoc, deep and long-standing. He stated that trade preferences are indispensable but cautioned that market access opportunities can only produce meaningful results if developing countries actively develop their supply of cultural goods and services. **Mr Defraigne** called for synergy between commercial preferences, cultural cooperation and political dialogue, and proposed a three-dimensional matrix for the provision of preferential treatment based on the identification of: (a) beneficiaries, (b) tools and (c) cultural domains to be covered. He advised Parties to make the most of Article 16 as swiftly as possible by developing proactive policies, establishing pilot cooperation schemes and measuring their impact.

115. Questions were then raised by the Committee members. The delegation of **Saint Lucia** asked the Coordinators to explain how intellectual property issues relate to Article 16 and to comment on the relevance of yoga, one of the case-studies included in the Indian expert's report. **Ms Thorstensen** replied that cultural expressions, including yoga, need protection against misappropriation, even more so when they are exported.

116. The delegation of **Canada** commented on Mr Defraigne's view that national policies, in addition to trade and cooperation, would serve to amplify cultural offer, observed that cultural supply might be more readily brought about when there is a demand for it. **Mr Defraigne** took the position that for preferences to be effective, trade measures aiming at increasing demand must be combined with cultural cooperation, designed to foster supply, and political commitment from the developed and developing countries involved in the process.

117. The delegation of **Mali** wondered whether preferential treatment in the field of culture could raise complex legal issues. **Ms Thorstensen** explained that while it is up to the Parties to decide the implementing means of Article 16, there is also room for manoeuvre if existing WTO rules were to be used. **Mr Defraigne** pointed to three available options: (a) negotiating a new legal instrument, (b) requesting a waiver in WTO, and (c) resorting to dispute settlement. **Ms Thorstensen** advised Parties to negotiate operational guidelines on Article 16 and then inform other institutions, if necessary. The delegation of **Burkina Faso** cautioned that negotiations with the WTO for a waiver on culture could lead to a stalemate and delay the implementation of the Convention. **Ms Thorstensen** stated that the UNESCO Convention is not subordinate to any other treaty. Parties could make use of existing means and instruments, at the same time promoting dialogue between UNESCO and WTO.

118. The delegation of **Saint Lucia** asked for clarifications in relation to the experts' diverging points, and expressed concern about the direction of the Committee's discussion. **Ms Thorstensen** replied that international agreements cannot exist in isolation. She drew attention to the integration of environmental protection concerns in WTO's work and stressed that Parties should consider the creation of bridges with WTO. **Mr Defraigne** emphasised that Article 16 reduces the risk of a waiver or a dispute.

119. The delegation of **Brazil** agreed that Article 16 can be implemented through both cultural cooperation and trade instruments, and asked the Coordinators to clarify the steps to take under the different avenues available. **Ms Thorstensen** mentioned that the Convention, which is a powerful new legal instrument, should be brought to the attention of other international organizations. **Mr Defraigne** advised Parties to refrain from contacting other organizations before they had reached a clear understanding of how to proceed. The delegation of **Mali** referred to a seminar, organized in July, 2008 on cultural commerce, stating that such initiatives could be explored further. **Ms Thorstensen** suggested preparing a so-called “laundry” list with existing implementing instruments and reflect whether additional mechanisms are in need. Eligibility, graduation, reciprocity, rules of origin and conditionality should also be dealt with. The Coordinators informed participants of their views on these aspects. The delegation of **Saint Lucia** then drew attention to the fact that most experts proposed the establishment of appropriate institutions to manage and monitor preferential treatment schemes. **Ms Thorstensen** suggested that a specific group could be established within the Committee.

120. The delegation of **Senegal** raised the issue of limited national cultural production in developing countries and asked the Coordinators whether Article 16 could serve to promote the production and distribution of developing countries’ cultural goods and services on an equal basis. **Ms Thorstensen** gave the example of the audiovisual sector and noted the importance of co-production and co-distribution activities. **Mr Defraigne** emphasised the significance of national cultural policies in this respect. Pursuant to Article 16, developed countries are under an obligation to provide preferential treatment to developing countries but it is up to developing countries to devise strategies to promote their cultural offer.

121. The delegation of **Brazil** stated that UNESCO could organize a joint WTO/UNESCO seminar with the participation of trade and cultural experts in order to promote Article 16 and to gather more information on the instruments that could be used for the implementation of Article 16. Brazil offered to finance its organization. While **Ms Thorstensen** welcomed the idea, drawing a parallel with the progressive accommodation of environmental concerns in WTO, **Mr Defraigne** emphasised that trade preferences are not sufficient in themselves. Synergies with WTO could be explored to be sure, but attention should be focused on the development of domestic cultural policies, because preferential treatment in the trade sphere will help those who have a commercial offer.

122. The delegation of **Tunisia** pointed to the complexity of issues concerning graduation and rules of origin for cultural goods and services. **Ms Thorstensen** took the position that developing countries should be treated as a whole, and stated that Parties could discuss rules of origin, once significant experience in the implementation of Article 16 was gained. **Mr Defraigne** observed that the withdrawal of preferences should be examined from the perspective of the interests of developing countries, taking into account the level of exports achieved by the beneficiary. He agreed that rules of origin could be dealt with at a later stage.

123. The delegation of **Saint Lucia** welcomed the idea of a seminar with trade experts but found it premature. She suggested that Parties should rather seek to establish contacts with trade experts at the national level. The delegation of **Brazil** suggested combining the organization of a seminar with the promotion of contacts with experts at the national level.

124. After the **Chairperson’s** clarification that questions may be asked by observers as well, the delegation of **Jamaica** made a remark that all six experts should have been invited to present their reports to the Committee. He drew attention to the European Union/Cariforum agreement and stressed that the European Union expert should have provided succinct information about implementation, in particular as regards aspects of mobility, double taxation and intellectual property protection. **Mr Defraigne** replied that the European Union will need to ensure the effectiveness of the commitments undertaken.

125. The **Chairperson** thanked the Coordinators for shedding light on such a complicated subject as preferential treatment for culture. The morning session concluded with **Mr Defraigne** expressing his gratitude to all experts, to Ms Rivère and to the Secretariat of the Convention. He also thanked Ms Evangelia Psychogiopoulou, Assistant-Coordinator.

126. The **Chairperson** invited the Committee members to present their views on Article 16, so as to guide the Secretariat for the preparation of operational guidelines for Article 16 for the next Committee meeting. To foster debate, **Ms Rivière** highlighted some of the main points discussed in the morning session. Among them were the common understanding that granting preferential treatment is an obligation for developed countries who are Parties to the Convention and that preferential treatment could not be limited to trade aspects only. She also highlighted certain issues concerning the relevance to Article 16 of the preferential treatment criteria in the trade sphere and the prevailing view that it would be premature to discuss their applicability at this early stage.

127. The delegation of **Saint Lucia** asked the Chair whether delegations should take a position on all the issues raised in the morning's debate or conversely, wait for a possible questionnaire to be sent out by the Secretariat. The **Chairperson** replied that participants should react to the issues treated by the Coordinators. In response to a question of the delegation of **India**, the **Chairperson** informed the Committee of the Bureau meeting held the same morning which discussed how to proceed with the elaboration of draft guidelines on Article 16. He explained that the option retained was the preparation of a questionnaire to be drafted by the Secretariat, and sent to Parties. The latter would be requested to provide answers before 31 January 2009. The delegation of **India** stated that the questionnaire should be short and sent by the Secretariat to delegations before the end of the year. The delegations of **Saint Lucia** and **Brazil** welcomed such a process. Brazil pointed out that Parties could make more substantive contributions, if they so wished, when replying to the questionnaire.

128. Turning to issues of substance, the delegation of **Brazil** stated that Article 16 has essentially two sides, that of cooperation and that of commerce. While Member States could be expected to act faster on the side of cooperation, more information on innovative instruments should become available. Regarding commerce, he reiterated the importance of a seminar with WTO experts and internal consultations with trade experts, adding that issues of reciprocity, eligibility and rules of origin could be discussed at a later stage. Recalling the reservations of the United States of America about the Convention and the arguments advanced about it being a method of circumventing the existing United Nations trade system, the delegation of **India** stressed that the Convention is a tool for sustainable development and advised Parties to refrain from moving towards a different direction. The implementation of Article 16 could focus on issues pertaining to visas and taxation, the sharing of experience and expertise, and intellectual property protection and enforcement.

129. The delegation of **France**, speaking on behalf of the Presidency of the European Union, thanked the Coordinators, the experts and the Secretariat on behalf of the European Union Member States Parties to the Convention and members of the Committee. Since Article 16 covers the competences of the European Union and its Member States in relation to cooperation for development, as well as the exclusive competences of the European Union for aspects of common trade policy, the European Union Presidency called upon Article 20.1 of the Provisional Rules of Procedure and asked the Chairperson to give the floor to the representative of the European Commission. Permission was granted.

130. **Mr Xavier Troussard**, the representative of the European Commission, stressed that Article 16 cannot be understood in isolation from other provisions of the Convention and that preferential treatment in the field of culture should be perceived as an additional tool to increase and balance cultural exchanges between developed and developing countries. He agreed that the dimension of Article 16 goes well beyond the purely commercial view of the concept of preferential treatment, and noted that effective preferences can only be built on national policies and be consistent and

long-standing partnerships, provided that a differential approach is followed. He noted that Parties should not overestimate the importance of commercial tools and observed that bilateral action might prove more efficient than action in a multilateral framework. Finally, he cautioned that the drafting of the operational guidelines for Article 16 should not touch issues concerning the implementation of Articles 20 and 21 of the Convention and drew attention to the relevance of Articles 9 and 19 for the monitoring of the implementation of Article 16.

131. The delegation of **Canada** thanked the Secretariat, the experts and the Coordinators for their excellent work. He stated that the operational guidelines for Article 16 should provide examples of possible frameworks for the implementation of preferential treatment, use the vocabulary of the Convention as much as possible, highlight the relevance of cultural criteria for the granting of preferential treatment, and insist on the structuring effect that preferential treatment should entail for cultural exchanges. In his view, the draft operational guidelines could refer to Article 20 of the Convention, so that Parties are reminded that consistency must be ensured between the implementing measures they adopt and the commitments undertaken under other treaties.

132. The delegation of **Croatia** highlighted the importance of not jeopardizing the consensus that was achieved during the negotiation of the Convention through a reinterpretation of what was agreed in relation to Article 16. The operational guidelines of Article 16 should illustrate some implementing measures without limiting States' ability to negotiate preferences on a case-by-case basis. For the delegation of **Brazil**, opening a line of communication with WTO would ensure that the Convention is properly taken into consideration, if need be.

133. The delegation of **Saint Lucia** noted that the European Union/Cariforum agreement could serve as a model for the Committee, stressed the importance of capacity-building, and mentioned that developing countries having the capacity to do so should be encouraged to grant preferential treatment to other developing countries. The delegation of **South Africa** agreed that Parties need to have clearer views about the implementation of Article 16, yet urged them to mainstream culture and preferential treatment in other fora, underlining that the Convention enjoys equal status with other international treaties. The delegation of **Mali** took the view that the operational guidelines to be drafted should contain both commercial and non-commercial elements and that preferential treatment should be granted on a case-by-case basis. Consultations with other international actors should be encouraged, once the guidelines had established a proper framework for the implementation of Article 16.

134. Noting that various Convention articles seek to foster and rebalance cultural development, the delegation of **Senegal** took the position that Article 16 should not be overestimated. The delegation stated that the focus of the operational guidelines should be on cultural infrastructure rather than on trade. The delegation of **Burkina Faso** agreed that emphasis should be on cultural development but noted that trade aspects should not be neglected either. Recalling the manner in which Articles 20 and 21 had been negotiated, the delegation of **India** underlined that the negotiation of operational guidelines for Article 16 should be done in good faith, respecting the paradigms of the Convention and those of other existing legal systems. The delegation of **Brazil** stressed that the intention is not to do anything different from what was done in 2005 and that during the negotiation process delegations were conscious of the fact that the Convention would also be related to trade.

#### **[Observers]**

135. The delegation of **Jamaica** took the position that Article 16 is about creating a mechanism to facilitate attaining the objectives pursued by other articles of the Convention, especially Article 14. He advised Parties to draw inspiration from the European Union/Cariforum innovative partnership agreement.

136. Reacting to the position taken by the Brazilian delegate, the delegate of the **United States of America** presented her understanding of the way in which the negotiation of the Convention had

taken place, in particular as regards Article 20. She then passed the floor to her colleague who stated that an expansion of the interpretation of Article 16 to include most forms of capacity-building would provide a more robust and probably more effective set of implementation options than a narrower focus on preferential market access. The delegation of the **United States of America** stressed that preferential treatment can facilitate cultural exchanges and foster development. He urged Parties when drafting the operational guidelines and when preparing answers to the questionnaire, to bear in mind that for the United States, the Convention must remain complementary and fully compatible with current as well as future trade obligations, shared by countries from the North and South. He asked his statement to be included in the records of the meeting.

137. **Mr Gary Neil**, Executive Director of INCD, mentioned on behalf of the International Network on Cultural Diversity (INCD), the International Theatre Institute, the International Federation of Musicians, the International Federation of University Women, the European Broadcasting Union and the International Music Council, that Article 16 creates a positive obligation on developed countries in favour of developing countries. Pointing to a variety of practical and effective measures that could give real meaning to Article 16, he stressed that Parties should give particular attention to (a) funding for translation, subtitling, and cultural production in developing countries, (b) the provision of targeted national treatment to artists, cultural professionals and practitioners, as well as cultural goods and services from developing countries, and (c) the development of fair trade principles for imported works, with emphasis on intellectual property. He expressed his willingness to work together with Parties for the preparation of operational guidelines. To that end, he suggested that international NGOs be given the opportunity to respond to the Secretariat's questionnaire. The **Chairperson** replied that after the debate the Committee would indicate its position.

138. On behalf of the European Broadcasters' Union, the International Music Council and the International Federation of Coalitions for Cultural Diversity, **Mr Rasmane Ouedraogo**, pointed to the difficulties encountered by artists and other cultural professionals in obtaining visas and work permits, and underlined that preferential treatment can only be effective when steps are taken to develop and strengthen the cultural industries of developing countries, for instance by supporting co-productions. He referred to the Protocol on cultural cooperation negotiated between the European Union and Cariforum, and stressed that co-production agreements can deliver meaningful results, provided they enable partners to benefit from public funds. He added that Parties need to systematically refuse any liberalisation commitments in the field of culture when negotiating trade agreements and to refrain from using culture as an excuse for trade concessions in other sectors. He concluded by highlighting the importance of adopting operational guidelines for Articles 20 and 21 in due course, so that Parties can call upon the provisions of the Convention in other international fora.

139. The delegation of **Saint Lucia** asked the Legal Adviser to intervene in relation to the legal implications of the proposals put forward by the Coordinators in the field of trade. The **Legal Adviser** explained that it is the Parties to the Convention which need to comply with the Convention's provisions, including Article 16, but non-Parties to the Convention have no such obligation if Article 16 is brought to the WTO bodies. The Legal Adviser referred then to a recent WTO jurisprudence concerning the United Nations Convention on Biological Diversity (*European Communities – Measures Affecting the Approval and Marketing of Biotech Products, Special Group Report, WT/DS/DS291/R, 29 September 2006*), which states, in relation to the dispute in question, that if a rule of international law is not applicable to one of the WTO Members which are parties to the dispute, the rule is not applicable in the relations between all WTO Members. He further stated that Article 20 of the Convention mandates Parties to intervene before WTO, yet clarified that the preparation of operational guidelines for Article 16 is a different process. The operational guidelines should focus on the identification of a pilot model for the implementation of Article 16 and the modalities to negotiate agreements in good faith when difficulties exist.

140. The delegation of **Brazil** stated that the question raised by Saint Lucia was not pertinent as this issue needed an in-depth debate involving WTO and trade specialists. He requested therefore that the Legal Adviser's reply should not form part of the transcript of the session. Further to the question of **Saint Lucia**, the delegation of **India** asked the Legal Adviser whether Parties should take into consideration issues pertaining to other international treaties when drafting the operational guidelines of Article 16, in particular in view of 21(b) of the Convention. The **Legal Adviser** clarified that according to Article 21(b) of the Convention, Parties must take into account the provisions of the Convention when they apply and interpret other treaties to which they are Parties or when they enter into other international obligations. The operational guidelines for Article 16 should specify how preferential treatment in the meaning of the Convention should be construed as well as the modalities to translate it into practice. Recalling the wording of Article 16, namely the reference made to "appropriate institutional and legal frameworks", the **Legal Adviser** pointed to the multiplicity of existing frameworks for the granting of preferential treatment, including those of WTO, and noted that it was up to the Committee and the Conference of Parties to evaluate them in order to agree how the preferential treatment and the eligibility for it could be implemented in a compatible manner approved by the parties concerned, it being understood that the Director-General could not bring that subject to the bodies of WTO, without being mandated on the basis of the operational Directives.

141. The delegation of **Saint Lucia** expressed surprise at Brazil's reaction to the question she had addressed to the Legal Adviser. Bearing in mind that Brazil did not express its objection as a point of order, the **Chairperson** suggested that the response of the Legal Adviser be included in the records, as well as Brazil's intervention. The Committee agreed. The **representative of the European Commission** wondered why the discussion had moved from the implementing tools of Article 16 to the interpretation of Articles 20 and 21. Noting that the Secretariat should be given clear indications as to the nature of the questions that could be included in the questionnaire, he stated that the questionnaire should obviously focus on Article 16 and the measures Parties should be encouraged to adopt in order to implement it in conformity with their international obligations. Concerning the question of Saint Lucia to the Legal Adviser, the delegation of **Brazil** reiterated that questions of such seriousness should be posed to in the presence of experts in WTO matters.

142. Given the need for an early operationalization of the Convention and the complexity of the issues discussed, the delegation of **India** asked the **Secretariat** to clarify UNESCO's standard practice regarding the addressees of possible questionnaires, namely whether these include only Committee members or all State Parties as well as civil society entities. **Ms Rivière** explained that in the framework of the 2003 Convention for the Safeguarding of Intangible Cultural Heritage, questionnaires were sent to all States Parties to the Convention. She also highlighted, on the basis of the debate held, the main points which could guide the drafting of the questionnaire. The delegation of **India** suggested to keep the questionnaire short and include a question regarding the role of civil society at the national, regional and international levels. The delegations of **Canada** and **Germany** insisted that it was important that civil society, in addition to States Parties, have access to the questionnaire and prepare contributions, without increasing the Secretariat's workload. **Ms Rivière** then suggested that civil society be consulted via UNESCO's Liaison Committee of NGOs.

143. The delegations of the **United States of America** and **Belgium** expressed their willingness to provide answers to the questionnaire as well. The **Chairperson** informed participants that the Committee had agreed to send the questionnaire to States Parties to the Convention, including members of the Committee, as well as to the Liaison Committee of NGOs, and asked Committee members to state their views on the request of the United States. The delegation of **Saint Lucia** objected and the delegation of **India** encouraged the United States to ratify the Convention, so that it could play an active part in the process. The delegation of the **United States of America** mentioned that it would not challenge the Parties' stance, yet noted that the work of the Secretariat is supported by the core budget of UNESCO, to which all UNESCO members contribute. The **Chairperson** stated that in the absence of agreement, the request of the United States could not be satisfied.

144. The **Chairperson** started the morning session by explaining that Decision 2.IGC.8 was redrafted in order to take note of the Committee's debate on the issue of preferential treatment concerning the steps to be taken before the next extraordinary session of the Committee in March 2009. Following amendments proposed by the delegations of **Senegal** and **Mali**, the Committee adopted Decision 2.IGC.8, which requested the Secretariat to send to Parties to the Convention a questionnaire concerning the elaboration of the operational guidelines on Article 16; and to consult civil society having interest and activities in the fields covered by the Convention by sending the questionnaire to the NGO-UNESCO Liaison Committee. In the light of the replies to the questionnaire received by the Secretariat before 31 January 2009, it is requested to present to the Committee at its next session preliminary draft operational guidelines on Article 16.

#### **Item 9 – Date(s) of the next session(s) of the Committee**

145. In the light of the discussions on Article 16, the Committee agreed to meet in extraordinary session in order to be able to submit to the second Conference of Parties in June 2009 draft operational guidelines on preferential treatment for developing countries. The Chairperson asked the Secretariat to add a paragraph to the draft decision specifying the dates as 23 to 25 March 2009 and the agenda for the session.

146. The delegation of **Brazil** wished to see the inclusion on the agenda of an item on possible alternatives for fundraising for the Fund, placing emphasis on innovative mechanisms in that field, because it had suggested holding a meeting that could be complemented by a study aimed at informing States Parties of a range of measures that might contribute to financing the Fund.

147. Following the inclusion in the draft decision on the agenda of the item relating to the examination of all documents to be presented to the Conference of Parties, the delegation of **India** suggested adding a fourth item on measures to increase the visibility of the Convention. Following a comment by the Chairperson on the workload that such an agenda would entail, there was a discussion of the Committee's agenda.

148. The delegations of **Canada** and **Germany** expressed a preference for an agenda that concentrated on the most important items: Article 16 and the documents required for submission to the Conference of Parties; they stressed that absolute priority should be given to the debate on Article 16. Without calling into question either of those points, the delegations of **Saint Lucia**, **India** and **Luxembourg** favoured a broader agenda and an order of priorities. The delegation of **India** then proposed envisaging night sessions like those of other committees. The delegation of **Saint Lucia** presented a proposed agenda in order of priority, namely: examination of the draft operational guidelines on Article 16; examination of documents to be submitted to the Conference of Parties; examination of fundraising options for the Fund, and examination of measures relating to the visibility of the Convention. On the last point, the delegation of **Lithuania** suggested also examining measures aimed at promoting the Convention. The proposal was accepted by the Committee.

149. The **Assistant Director-General for Culture** then responded to requests for information that had been made during the debate. Regarding the proposal of the delegation of **Brazil** to extend the extraordinary session by two days, she explained that the meeting rooms were not available because the Meeting of States Parties to the 2001 Convention on the Protection of the Underwater Cultural Heritage was due to take place on 25 and 26 March 2009. With regard to the Fund's resources, she informed the Committee that the amount was USD 950,000, and that, of the 17 Parties that had announced a contribution at the first session of the Conference of Parties, only eight States and Quebec had paid. Ms Rivière then recalled the decision taken by the Committee at its first extraordinary session requesting the Secretariat to organize a meeting funded with extrabudgetary resources in order to reflect on fundraising for the Fund, and she informed the Committee of the preliminary steps taken by the Secretariat in that regard. She further recalled that she had sent a letter to all the Parties informing them that extrabudgetary funds would be welcome. She paid tribute to the generosity of Brazil, which had offered to finance the meeting. She stressed

the importance of organizing an exchange meeting before the extraordinary session of the Committee in March, so that the Secretariat would be in a position to prepare a working document. Finally, following a statement by Jamaica on the question of the visibility and promotion of the Convention, and its proposal to associate prominent artists who would act as spokespersons with the notion of diversity of cultural expressions, she suggested that the proposal could take the form of a network called “the friends of diversity”.

150. The delegation of **Canada** called into question the discussion on the visibility and promotion of the Convention. For the delegation, the issue was redundant in the light of Article 21 of the Convention. The delegation of **India** was firmly opposed to that view, and the delegation of **Saint Lucia** said that the debate was not about Articles 20 or 21 of the Convention – on which a decision by the Conference of Parties was needed in order to debate the matter – but rather it concerned visibility measures that had already been debated for other conventions. **Saint Lucia** recalled that India had even suggested using the same documents as for the Convention on the Safeguarding of the Intangible Cultural Heritage.

151. The Committee, in adopting Decision 2.IGC 9, decided to convene a second extraordinary session at UNESCO Headquarters in Paris from 23 to 25 March 2009. It further decided that the agenda of the session would be, in order of priority: examination of draft operational guidelines on Article 16; examination of all documents to be presented to the Conference of Parties; examination of possible alternatives for fundraising for the Fund, including innovative financial mechanisms, and examination of measures to increase the visibility and promotion of the Convention, including possible draft operational guidelines.

152. The Committee also adopted Decision 2.IGC 12, convening its third ordinary session at UNESCO Headquarters in Paris in December 2009.

153. In addition, the delegation of **Tunisia** supported by the delegation of **Oman**, regretted that the second ordinary session of the Intergovernmental Committee has been scheduled the day of a major religious holiday for the Muslim countries, thus the absence of several representatives, experts and observers from the Arab countries at this session. Tunisia would like that for future occasions, the dates of the sessions of the Committee take into account the calendar of those holidays. The delegation of **Oman** said that this religious celebration concerned also some Asian countries. The Chairperson mentioned that the calendar of the various religious groups would be taking into account for the next meetings.

154. Furthermore, the delegation of Slovenia pointed out that during the week of the Committee, many events were held for the 60 years anniversary of the United Nations and it was concerned that the Committee suffers from it. The delegation requested that future dates of activities of the calendars be taken into account.

#### **Item 10 – Report of the Committee on its activities and decisions to the Conference of Parties**

155. With regard to the Report of the Committee on its activities and decisions to the Conference of Parties, the **Chairperson** informed the Committee that there were two options: the provisional adoption of the Report at the current session, to be completed at the second extraordinary session; or the adoption of the entire Report in March 2009. The Committee decided to adopt the Report at the second extraordinary session.

#### **Item 11 – Election of the members of the Bureau**

156. The **Chairperson** began by recalling the rules applicable to the election of the members of the Bureau (Rule 12.1 of the Provisional Rules of Procedure of the Committee). He then said that **China's** term of office on the Committee will to expire in June 2009, and that **India**, as an existing Member of the Bureau, could not be re-elected. It was therefore necessary to find a solution that

would enable one of the two members of Group IV to be represented in the Bureau. The **Rapporteur, Mr Antonio Ricarte**, supported the proposal of the **Legal Adviser** to suspend the application of Rule 12.1 which stipulated that members of the Bureau were not immediately re-eligible, and said that the suspension was of an exceptional nature.

157. The **Chairperson** asked the different electoral groups to submit their candidates for the various posts of the Bureau. He recalled that the Chairperson and Rapporteur were elected in their personal capacity.

158. The representative of **Brazil**, speaking on behalf of the Latin America and Caribbean Group (GRULAC), nominated the representative of **Saint Lucia**, Ms Vera Lacoueilhe, to the office of Chairperson of the Committee. The representative of **Brazil** stressed her excellent leadership and negotiation qualities, and her universally recognized contribution to the Convention and its implementation. He took the opportunity to thank the outgoing Chairperson, and emphasized his ability to find areas of agreement on the subjects debated.

159. The representatives of **Lithuania, China, Tunisia** and **Canada** then made statements to nominate **Croatia, India, Oman** and **Luxembourg** as the representatives of Groups II, IV, Vb and I respectively. **South Africa**, for its part, said that the Group Va wished to nominate Mr Muhamed Konaté to the post of Rapporteur.

160. All the members congratulated the outgoing Chairperson and the incoming Chairperson of the Committee. The delegation of **Saint Lucia** thanked all Committee members, in particular GRULAC' one.

161. The Committee, in adopting Decision 2.IGC 11, elected the members of the Bureau of the third ordinary session of the Committee: Vera Lacoueilhe (Saint Lucia), Chairperson; Muhamed Konaté (Senegal), Rapporteur, and Croatia, India, Luxembourg and Oman, Vice-Chairpersons.

#### **Item 12 – Any other business**

162. The delegation of **Saint Lucia** made two comments. Firstly, it congratulated the Secretariat of the Convention that was the entire team and Ms Saouma-Forero. Having learned that the Director-General was to open two posts for recruitment at the P-3 and P-5 levels with a view to strengthening the Secretariat of the Convention, the delegation underlined the importance of recruiting candidates with a profile and experience as specialists in cultural policies, specifying that the Section already has too many generalists and jurists. It was to be hoped that the Director-General would take account of that comment, because the Committee would examine closely the curriculum vitae of the persons appointed. The delegation of **Saint Lucia** recalled that the amount available in the Fund was modest, and that there were only nine contributors, while the number of Parties was 94. The delegation had raised the possibility during the Conference of Parties of ensuring that those Parties that had not contributed to the Fund on a regular basis could not be elected to the Committee.

#### **Item 13 – Closing of the second ordinary session of the Intergovernmental Committee**

##### **Item 13A – Oral report presented by the Rapporteur of the second ordinary session of the Intergovernmental Committee**

163. The **Chairperson** invited the **Rapporteur** to present the oral report on the deliberations and decisions of the second ordinary session.

164. Following the presentation of the oral report, which was warmly welcomed by all present, the **Chairperson** thanked Mr Antonio Ricarte for his work as Rapporteur and underlined the quality of his accurate and full report, which reflected the content and atmosphere of the Committee's debates.

### **Item 13B – Closure by the Chairperson**

165. The **Chairperson** began by thanking, on behalf of the Committee, all those who had made the session possible, in particular, the interpreters, translators, technical teams, and the persons behind the screens. He also expressed his gratitude to the Secretariat, and in particular to Ms Rivière and Ms Saouma-Forero and her team, without which the Committee would not have been able to adopt operational guidelines or make progress with the work of the Convention. The Chairperson then thanked the Committee and the States Parties to the Convention for giving him the great honour and privilege of chairing the meetings, and being able to be part of something so fundamental, important and innovative as the Convention, especially within a Committee whose members were working towards the same objective, thus making the Chairperson's task a pleasant one. The Committee warmly applauded Ambassador Gilbert Laurin who had been Chairperson for the last three sessions. In closing, the Chairperson wished every success to those who would continue working on the Convention, in the firm belief that the Committee would do brilliant work and that, in the future, the Convention would be seen to have had a significant impact in many sectors.

166. After **Ms Rivière**, on behalf of the Director-General, the Secretariat, and herself, had paid tribute to the Chairperson, underlining his elegance, sense of diplomacy and leadership qualities, not to mention his endless patience, intelligence and humour, the **Chairperson** declared the second ordinary session of the Intergovernmental Committee for the Protection and Promotion of the Diversity of Cultural Expressions closed.