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Subsidiary Committee of the Meeting of States Parties to the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (UNESCO, Paris, 1970)

**Fourth session
Paris, UNESCO Headquarters, Room II
26-28 September 2016**

Item 11 of the provisional agenda:

Follow-up to the Recommendations of the External Auditor's "Report on the governance of UNESCO and dependent funds, programmes and entities"

This Document is presented pursuant to 38 C/Resolution 101, by which the General Conference of UNESCO invited all intergovernmental programmes, committees and organs of the Convention to inscribe, in 2016 if feasible, an item on their agenda concerning the follow-up to the recommendations of the External Auditor's "*Report on the governance of UNESCO and dependant funds, programmes and entities*" contained in Document 38 C/23.

Decision Required: paragraph 12

I. BACKGROUND

1. The 37th session of the General Conference (2013), by its 37 C/Resolution 96, requested the External Auditor to conduct an audit of the governance of UNESCO as a follow-up to the United Nations Joint Inspection Unit's recommendations concerning the methods of work of UNESCO's intergovernmental bodies. In this Resolution, the General Conference invited all governing bodies, intergovernmental programmes, committees and organs established by conventions "to perform a self-assessment covering the overall relevance of their work in relation to their specific terms of reference as well as the efficiency and effectiveness of their meetings, including the impact and utility of experts' time; the outcome of these self-assessments should be reported by January 2015".
2. As requested by 37 C/Resolution 96, a self-assessment questionnaire was circulated to the Chairpersons of the governing entities of the 1970 Convention, who held this position in 2013-2014, to coordinate the comments by Committee members and States Parties.
3. The results of the questionnaire were included in the external Auditor's Report which was discussed by the 197th session of the Executive Board (197 EX/28.REV and 197 EX/28.INF). The Executive Board recommended to the 38th session of the General Conference to establish an open-ended working group to further discuss the recommendations of the audit report.

II. WORKING GROUP ON GOVERNANCE, PROCEDURES AND WORKING METHODS OF THE GOVERNING BODIES OF UNESCO

4. At its 38th session, in 2015, the General Conference, after having examined document 38 C/23, reaffirmed the need for a holistic and comprehensive reform of UNESCO, particularly of its governing bodies, in order to ensure greater effectiveness and efficiency in governance and to improve strategic decision making in the Organization, and indicated that this reform shall be Member State-driven. By its 38 C/Resolution 101, the General Conference decided to establish an open-ended working group on governance, procedures and working methods of the governing bodies of UNESCO, building on the recommendations of the Executive Board.
5. Pursuant to 38 C/Resolution 101, the mandate of the Working Group is to examine the governance, procedures and working methods of the governing bodies of UNESCO on the basis of the views and proposals received from Member States, the External Auditor's *Report on the Governance of UNESCO and dependent Funds, Programmes and entities*, relevant evaluations and audits by the Internal Oversight Service, as well as previous decisions and resolutions related to governance. The Working Group aims at providing a set of recommendations, along with their likely impact and financial implications, to be examined by the General Conference at its 39th session in 2017.
6. The Working group held two meetings respectively on 17 February and 1 April 2016. Some more meetings have been scheduled before the Working Group's recommendations are submitted to the 202nd session of the Executive Board (2017) which will transmit them – with its own comments - to the 39th session of the General Conference. The Informal Summary of Contributions from Member States emanating from the meetings of the open-ended Working Group that have already been held is included in Annex I of the present document.

7. Furthermore, by 38 C/Resolution 101, the General Conference invited all intergovernmental programmes, committees and organs of the Conventions to inscribe, in 2016 if feasible, an item on their agenda concerning the follow-up to the recommendations of the External Auditor's report contained in document 38 C/23, to improve their governance by concrete measures, and to report on their proposals to the Chairperson of the open-ended Working Group.

III. RECOMMENDATIONS OF THE EXTERNAL AUDITOR'S "REPORT ON THE GOVERNANCE OF UNESCO AND DEPENDENT FUNDS, PROGRAMMES AND ENTITIES"

8. An Executive Summary of the Auditor's Report on the Governance of UNESCO and dependent funds, programmes and entities can be found in Annex I of Document 38 C/23 attached as Annex II to the present Document.

9. It should be noted that question of governance, and notably of the working methods of the governing bodies of the 1970 Convention (Subsidiary Committee and Meeting of States Parties), has been the subject of several evaluation/audits in the past years (e.g. Audit of the Working Methods of Cultural Conventions and Evaluation of UNESCO's Standard-Setting work of the Culture Sector). Therefore, some of the recommendations of the External Auditor contained in Document 38 C/23 – which are of direct relevance for the 1970 Convention governing bodies - have already been examined by the Meeting of States Parties and/or its Subsidiary Committee. This is notably the case for some of the actions suggested by the Auditor under **Recommendation 3 (part ii)**, as listed below:

➤ ***“accelerate the shortening of sessions” and “make annual meetings biennial, and biennial meetings quadrennial”***. Given the recent establishment of the new governing framework of the 1970 Convention, no action has yet been taken in this regard. However, the Subsidiary Committee may wish to consider to rationalize the agenda of future sessions and change the periodicity of the meetings. The latter, however, would imply a change in the rules of procedure of both the Meeting of States Parties and of the Subsidiary Committee.

➤ ***“simplify and improve the dissemination of results”***. The dissemination of results (i.e; Decisions of the Meeting of the State Parties to the 1970 Convention and of the Subsidiary Committee) has been already simplified in the recent years. Decisions are sent electronically to States Parties as well as uploaded on relevant webpages.

10. It should also be pointed out that some of the recommendations of the External Auditor have a general scope and are of relevance to all Governing bodies of the Culture Conventions. This concerns **several of the actions suggested by the Auditor under Recommendation 3 (part ii), as well as Recommendations n°5, 7, and 8**. These suggested actions and recommendations as well as their potential impact on the Governing bodies are listed below together with comments that the Subsidiary Committee may wish to take into consideration:

➤ ***“group meetings together”***. The possibility of organizing the Subsidiary Committee and the Intergovernmental Committee for Promoting the Return of Cultural Property to its Country of Origin or its Restitution in

Case of Illicit Appropriation (hereinafter called ICPRCP) back to back has been addressed on several occasions. Consequently, efforts have been undertaken by the Secretariat in this regard and both the 4th session of the Subsidiary Committee and the 20th session of the ICPRCP take place during the same week (26-30 September 2016, UNESCO HQ). Furthermore, at the second Informal Reflection Group Meeting of the Subsidiary Committee, the Group decided to propose to the Subsidiary Committee organizing the next sessions of the Meeting of States Parties and the Subsidiary Committee back to back. One of the objectives of this proposal is having the elections of the Bureau right after renewal of half of the Members of the Subsidiary Committee by the Meeting of States Parties (please refer to the document C70/16/4.SC/9). This scheme would avoid having a vacuum between two bureaus.

- **“make more use of teleconferences”**. It should be noted that while the use of teleconferences for small meetings can be envisaged, and is already frequently used, it would be difficult to implement it for larger statutory meetings for practical reasons (i.e.: time difference between States Parties, organization of debates, of voting processes and procedures, etc...).
- **“convene essential meetings only and finance them through the regular budget”**. By essence, statutory meetings are mandatory, hence, essential. They are, in principle, financed through the UNESCO Regular Budget. States Parties however, provide sometimes additional support, crucial in view of the current financial constraints faced by UNESCO.

11. Finally, concerning suggested actions under Recommendations 3 such as **“reducing the number of meeting participants”, “shortening agendas by prioritizing and delegating minor decisions” “increase the delegation of authority to the bureau”**, it should be noted that such decisions lie with States Parties and Committee members who may wish to: consider reducing the number of their representatives to statutory meetings; consider further rationalizing agendas of future sessions; consider delegating minor decisions as well as modifying the level of delegation within the respective Governing Bodies. In this regard, it should be underlined that such decisions may imply a revision of the Rules of Procedure of the each of the concerned Governing Body.

- **Recommendation No. 5. On a provisional trial basis, the External Auditor recommends that the General Conference: (i) decide to elect, from 2016, the same States Parties to the governing bodies of the heritage-related conventions and that the governing bodies thus constituted shall hold their respective sessions in a single joint session, under appropriate legal arrangements.**

Implementation of Part (i) of this Recommendation entails that all Member States are parties to the same Conventions. However, it should be noted that it is not the case, and that ratification of Conventions is dealt by each country at the national level. (In this regard, for example 127 States are Parties to the 1954 Convention, 131 States to the 1970 Convention, 191 States to the 1972 Convention, 55 to the 2001 Convention and 168 to the 2003 Convention).

Moreover, a single joint session of all the culture Conventions will undoubtedly imply a change of the texts governing the corrections (Rules of Procedure, Operational Guidelines, Operational Directives, etc..) of each of the Conventions and an entire revision of the internal calendar of the cycle of statutory meetings and deadlines, which

may have significant consequences on the decision-making process, as well as administrative and financial impacts.

Finally, a single joint session may imply an extended Agenda as well as extended representation by countries to cover all relevant fields of competence that would be addressed.

- ***Recommendation No. 7. The External Auditor recommends: (i) drawing up a draft governance code in 2016, under the supervision of the Bureau of the Executive Board, that harmonizes and systematizes the Rules of procedure, texts and practices of the governing bodies of all UNESCO universe entities.***

Part (i) of this Recommendation concerns the systematisation of the Rules of Procedures of “the governing bodies of all UNESCO universe entities” and hence would entail a revision of the texts of the Rules of Procedures of each of the Governing Bodies. In this regard, it is to be noted that such a revision lies with the Governing Body concerned which is responsible for amending and adopting its own Rules of Procedure. Therefore, the harmonization and systematization of the Rules of Procedure, texts and practices of the governing bodies of all “UNESCO universe entities” would have, if such a proposal is approved, to be undertaken in two steps: firstly, at the level of the Body concerned and secondly on a common basis at the level of all Governing Bodies.

- ***Recommendation No. 8. The External Auditor recommends: (i) examining means of introducing a screening system for individual candidates for the offices of chair and vice-chair of governing bodies, based on robust and transparent criteria of competence; (ii) adopting a resolution to limit the total length of consecutive terms of office (e.g. to four years) for the same delegate in a governing body so that delegates can gain sufficient experience but the bodies can at the same time be periodically renewed; (iii) that Member States candidates for a seat on a governing body undertake to nominate a full member or alternate with sufficient experience in that body’s field; (iv) introducing mandatory training for the offices of chair and vice-chair of a governing body, tailored to the experience of the new officers.***

This Recommendation suggests the introduction of new rules regarding the designation/election of Chairs and vice-Chairs of Governing Bodies, limitation of length of terms of office as well as requirements for such a tenure. In this regard, such provisions would be included accordingly in the Rules of Procedures of each Governing Body. However, as indicated above, it should be underlined that amendments/revisions of the texts of the Rules of Procedure of each of the Governing Bodies lies with the Governing Body concerned who is responsible for amending and adopting its own Rules of Procedure.

12. The Subsidiary Committee of the Meeting of States Parties may wish to adopt the following decision:

DRAFT DECISION: C70/16/4.SC/11

The Subsidiary Committee,

1. Having examined Document C70/16/4.SC/11,
2. Recalling the Audit of the working methods of Cultural Conventions and the Evaluation of UNESCO's standard setting work of the Culture Sector undertaken by the Internal Oversight Service (IOS),
3. Takes note of the efforts and steps already undertaken with a view to improve and streamline the working methods of the Governing Bodies of the 1970 Convention in line with the Recommendation by the External Auditor and IOS in this matter;
4. Decides to transmit, as requested, Document C70/16/4.SC/11 as well as relevant decisions adopted on this subject at its fourth session to the Chairperson of the open ended Working Group on the Governance Procedures and Working Methods of the Governing Bodies;