

UNESCO ACTIVITIES

THE PROCESS OF ELABORATION OF A PRELIMINARY DRAFT
CONVENTION ON THE PROTECTION OF THE DIVERSITY OF CULTURAL
CONTENTS AND ARTISTIC EXPRESSIONS CONTINUES*

The *first session of the intergovernmental experts meeting* took place from 20 to 24 September 2004. This session saw a general exchange of ideas and a constructive discussion of the content of the preliminary draft Convention which had been submitted to Member States for their consideration in July 2004. The nature and objectives of the meeting were primarily designed to enable the government experts to exchange opinions on the future convention without embarking on a formal exercise of redrafting or amending the preliminary draft of the convention. A drafting Committee was set up by this first intergovernmental meeting. Following the constructive discussions of the first session of the intergovernmental meeting, Member States engaged in an intense process of consultations in order to prepare their written contributions, which were to be submitted by mid-November 2004 at the latest. Despite the very short time available, the deadline was met, and a great number of contributions was received by the Secretariat.

The *Drafting Committee* set up by the intergovernmental meeting during its first session met for the first time from 14 to 17 December 2004 at UNESCO Headquarters. The Committee's aim was to propose a revision of the preliminary draft on the basis of Member States' written comments; and the new text was in turn to provide a basis for the work of subsequent sessions of the intergovernmental meeting. The Drafting Committee's brief was accordingly to submit new draft proposals to the Plenary, based on the comments and amendments presented by Member States, IGOs and NGOs. At the end of its first meeting, the Drafting Committee produced a draft revision containing a series of options stemming from Member States' contributions, together with the Drafting Committee's own remarks on the Title and Articles 1 to 11 of the preliminary draft.

The *second session* of the intergovernmental experts meeting took place at UNESCO Headquarters from 31 January to 11 February 2005. This session was attended by nearly 540 participants representing 135 Member States, 2 permanent observers, 9 intergovernmental organizations and 23 non-governmental organizations. During this second session, the government experts based their work on the text of the preliminary draft convention as revised by the Drafting Committee, which included a number of options for each of the preliminary draft articles. The Member States made every effort to significantly reduce the number of options in

* For more information, refer to UNESCO Culture Website, [Cultural Diversity](#).

the revised text: this was evidence that their positions had in some respects converged since the beginning of this intergovernmental consultation.

Debates in the Plenary were organized in three parts:

Debate 1: Title, Objectives, Principles, Scope of the Convention and Definitions (consideration of the Preamble was left to a later stage);

Debate 2: Rights and Obligations, and Relationship to Other Instruments;

Debate 3: Follow-up Bodies and Mechanisms, and Final Clauses.

The discussion of the conceptual framework raised a number of so-called “cross-cutting” issues – ones that affected more than one section (“protection”, “protect”, “cultural contents and expressions”, “cultural expressions”, “cultural contents”, “artistic expressions”, “cultural goods and services”, “cultural industries”, “States Parties”). These terms were discussed both in the Plenary and outside it, in informal working groups to facilitate exchanges and reconcile the various positions on questions which were regarded as fundamental and were often controversial: international cooperation and the idea of vulnerability, definition of “cultural goods and services”, definition of the concept of “protection”, inclusion of a federal clause in the Convention.

At the end of the closing session, the second session of the intergovernmental meeting noted that much progress had been made but also that much remained to be done. It adopted a [recommendation](#) asking the Chairman “to prepare a consolidated text consisting of the draft provisions recommended by the Drafting Committee together with proposals by the Chairman himself based on the specific directives of the Plenary for the remainder of the draft text, using, wherever necessary, options or footnotes to take into account different approaches that might require further consideration”. The Member States further asked “that such a consolidated text be circulated to [them] as soon as possible” and have recommended “the convening of a third session”; this last matter will be considered and determined by UNESCO Executive Board at its 171st session.

As a whole, this second session of the intergovernmental meeting enabled Member States to discuss each part of the future convention in greater depth. The session gave an opportunity to work at bringing the individual positions closer and identifying those points which will need more thorough discussion at a later stage.

Lastly, this session made it possible for the Director-General to prepare a Preliminary Report containing two preliminary draft conventions: the first, which is a “composite” text, reflects the current state of progress and shows what has been done as well as what remains to be done. The second preliminary draft convention, which is the consolidated text by the Chairman of the Plenary is being prepared and will be sent to the Member States as soon as possible.