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Организация  
Объединенных Наций по  
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منظمة الأمم المتحدة  
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联合国教育、  
科学及文化组织

# Diversity of Cultural Expressions

# 1.EXT.IGC

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## INTERGOVERNMENTAL COMMITTEE FOR THE PROTECTION AND PROMOTION OF THE DIVERSITY OF CULTURAL EXPRESSIONS

First Extraordinary Session  
Paris, UNESCO Headquarters  
24-27 June 2008

**Item 7 of the Provisional Agenda:** Selection of experts and terms of reference for the reports on preferential treatment (Article 16 of the Convention): interim report

In compliance with paragraph 5 of Decision 1.IGC 5B and Decision 1. IGC 7, this document presents the terms of reference for the requested work in Annex A as well as the list of selected experts to prepare the documents on Art. 16 (Preferential treatment for developing countries) in Annex B.

**Decision required:** paragraph 12

1. In paragraph 5 of its decision 1.IGC 5B adopted at its first ordinary session in Ottawa, the Committee invited the Secretariat to select, in consultation with the Chairperson of the Committee, six qualified experts, representative of the different perspectives relating to preferential treatment (Article 16 of the Convention) and coming from countries in different stages of economic development. Each of the experts was to be tasked with preparing a factual document on this issue, establishing definitions, regulations and existing practices. These documents will be submitted to the Committee for examination at its session in December 2008.
2. The Committee also decided in its Decision 1.IGC 7 that at its first extraordinary session in June 2008, the **Chairperson** would present an interim report on the selection of experts and the terms of reference for the work requested in accordance with Paragraph 5 of Decision 1.IGC 5 (Preferential treatment).
3. This document presents the Terms of reference for the work requested in accordance with Paragraph 5 of Decision 1.IGC 5, in Annex **A**.
4. This document also presents the list of experts, selected in consultation with the Chairperson, in Annex **B**.
5. Given the specific profile of experts and in order to ensure that the experts can be selected from the broadest possible roster, the Secretariat, in consultation with the Chairperson, called three times upon the Parties to the Convention, via their Permanent Delegations to UNESCO, to provide names of renowned experts in the field of preferential treatment from their respective countries or regions, before 25 April 2008.
6. Seven proposals of Parties to the Convention were received by 25 April 2008.
7. The Chairperson held a meeting with the Secretariat on 29 April 2008 to proceed with the selection of experts on the basis of the proposals presented by the Parties. It was decided to set October 15, 2008 as the deadline for delivery of the requested reports.
8. The selection of experts was based on the following criteria:
  - background and experience in the fields of both trade and culture;
  - nationals of or residents in countries in different stages of economic development.
9. Period for establishment of agreements with the selected experts: May 2008.
10. It was also discussed at the meeting between the Secretariat and the Chairperson on 29 April 2008, that in order for the Parties to the Convention to be able to elaborate operational guidelines on the basis of the presented reports, the reports should have a harmonized structure and be based on a uniform approach and methodology. It was therefore decided that a coordinator should be appointed in order to ensure co-ordination of the reports throughout the entire process of preparing the reports. The Secretariat, in consultation with the Chairperson, has selected a coordinator, Mr Pierre Defraigne (Belgium) former Deputy Director-General for Trade at the European Commission (2002-2005).
11. It was also agreed that in order to ensure a uniform quality of the reports and thus facilitate their examination by the Committee at its session in December 2008, the Secretariat should organize a working session between the experts and the coordinator, in September 2008 at UNESCO Headquarters.

12. The Committee may wish to adopt the following decision:

**DRAFT DECISION 1.EXT.IGC 7**

*The Committee,*

1. *Having examined document CE/08/1.EXT.IGC/7 and its annexes,*
2. *Takes note of the interim report of the Chairperson on the selection of experts and the terms of reference for the work requested by the Committee in accordance with paragraph 5 of Decision 1.IGC 5B (Preferential treatment);*
3. *Requests the Secretariat to organize a working session at UNESCO headquarters between the experts and the coordinator before completion of the requested reports.*

## TERMS OF REFERENCE – Article 16

The contractor will prepare a factual document on preferential treatment for developing countries, in the light of Article 16 of the Convention on the Promotion and Protection of the Diversity of Cultural Expressions (2005).

‘Article 16: ‘Developed countries shall facilitate cultural exchanges with developing countries by granting, through the appropriate institutional and legal frameworks, preferential treatment to artists and other cultural professionals and practitioners, as well as cultural goods and services from developing countries.’

This document will comprise:

1. A definition of the notion of preferential treatment in the light of Article 16 of the Convention, which will contain, if necessary, an analysis of the differences between this definition and a general definition of preferential treatment.
2. A general examination of the regulatory framework concerning preferential treatment, including the legal and institutional frameworks as well as the existing mechanisms, at national, bilateral, regional and international levels, concerning:
  - a. The mobility of persons;
  - b. The circulation of goods and services.

The analysis will relate to the frameworks and mechanisms which apply to:

- a. The commercial sector, to the extent to which it concerns the cultural sector;
  - b. Non-commercial sectors relative strictly speaking to the cultural sector.
3. An exhaustive and factual case study (country :.....) including existing bilateral, regional and international agreements and existing application mechanisms. The case study should relate to different cultural fields and take into account, to the extent possible, the viewpoint of developing countries as well as that of developed countries. The case study should comprise an analysis of existing practices and their impact on cultural exchanges between the respective countries, as well as on the cultural sector of the respective countries – in particular countries that are beneficiaries of preferential treatment. The case study should be supported, as far as possible, with qualitative and quantitative data. The study will relate only to preferential treatment concerning developing countries; it will not analyse preferential treatment mechanisms between developed countries.
  4. Conclusions, recommendations and insights concerning the application of preferential treatment to developing countries in the field of culture, particularly from the perspective of the Convention. These should be formulated to guide the Parties in the implementation of Article 16 of the Convention, bearing in mind that this is the first provision concerning preferential treatment to be included as part of an international legal instrument in the field of culture..

**Selected experts (Article 16, Preferential Treatment for developing countries)**

- Mr **Bilel Aboudi**, Deputy Director of International Cooperation and External Relations, Ministry of Culture and Heritage Safeguarding, Tunisia.
- Mr **Edouard Bourcieu**, Directorate General Trade, European Commission, proposed by the Group of the European Union.
- Mr **Eugene Mthetwa**, Chairman of AIRCO (Association of Independent Record Companies), South Africa.
- Dr **Keith Nurse**, Director Shridath Ramphal Centre for International Trade Law, Policy and Services, University of the West Indies, Cavehill, Barbados, proposed by Saint-Lucia.
- Mr **Pierre Sauvé**, Director of Studies and faculty member at the World Trade Institute, Berne, Switzerland, proposed by Canada.
- Ms **Vera Helena Thorstensen**, Economic Advisor to the Mission of Brazil in Geneva, WTO negotiations on trade policy issues.