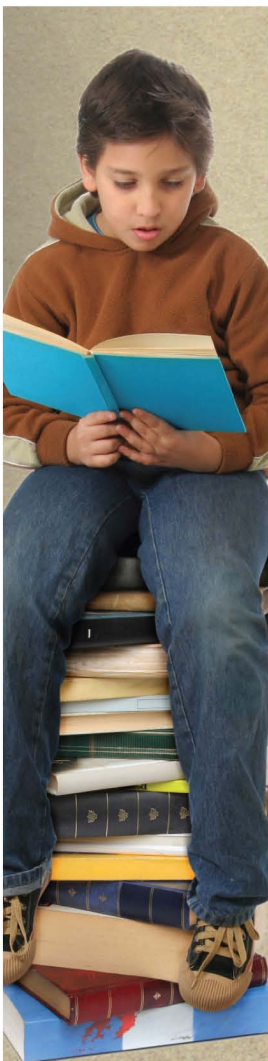


DIRECTORATE-GENERAL FOR INTERNAL POLICIES

**POLICY DEPARTMENT**  
STRUCTURAL AND COHESION POLICIES **B**



Agriculture and Rural Development



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Regional Development



Transport and Tourism



**THE IMPLEMENTATION OF THE  
UNESCO CONVENTION ON THE  
DIVERSITY OF CULTURAL  
EXPRESSIONS IN THE EU'S  
EXTERNAL POLICIES**

NOTE





**DIRECTORATE GENERAL FOR INTERNAL POLICIES**  
**POLICY DEPARTMENT B: STRUCTURAL AND COHESION POLICIES**

**CULTURE AND EDUCATION**

**The Implementation  
of the UNESCO Convention on the  
Diversity of Cultural Expressions  
in the EU's External Policies**

**NOTE**

This document was requested by the European Parliament's Committee on Culture and Education (CULT).

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DIRECTORATE GENERAL FOR INTERNAL POLICIES  
POLICY DEPARTMENT B: STRUCTURAL AND COHESION POLICIES

CULTURE AND EDUCATION

# The Implementation of the UNESCO Convention on the Diversity of Cultural Expressions in the EU's External Policies

NOTE

## Abstract

This paper analyses the implementation of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, which came into force in 2007, in the external relations of the EU. Particular attention is paid to the areas of international trade, development and human rights, as well as to the implications of the Convention in terms of governance. A set of conclusions and recommendations closes the document.



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## LIST OF ABBREVIATIONS

<b>ACP</b>	Africa, Caribbean, Pacific
<b>AIDCO</b>	EuropeAid Cooperation Office
<b>ASEF</b>	Asia-Europe Foundation
<b>AVMSD</b>	Audiovisual Media Services Directive
<b>CARIFORUM</b>	Caribbean Forum of African, Caribbean and Pacific States
<b>DG DEV</b>	Directorate-General for Development and Relations with African, Caribbean and Pacific countries (ACP), European Commission
<b>DG EAC</b>	Directorate-General for Education and Culture, European Commission
<b>ECD</b>	European Consensus on Development
<b>EEAS</b>	European External Action Service
<b>EPA</b>	Economic Partnership Agreement
<b>EUNIC</b>	European Union National Institutes for Culture
<b>FTA</b>	Free Trade Agreement
<b>GATS</b>	General Agreement on Trade in Services
<b>IADG</b>	Internationally Agreed Development Goals
<b>IBPP</b>	Institution-Building Partnership Programme
<b>IFCCD</b>	International Federation of Coalitions for Cultural Diversity
<b>IFCD</b>	International Fund for Cultural Diversity
<b>ILO</b>	International Labour Organization
<b>IPA</b>	Instrument for Pre-Accession Assistance
<b>MDG, MDGs</b>	Millennium Development Goals

- NIP** National Indicative Programme
- OGs** Operational Guidelines (in the context of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions)
- OMC** Organisation Mondiale du Commerce (WTO)
- OMC** Open Method of Coordination
- UN** United Nations
- UNCTAD** United Nations Conference on Trade and Development
- UNESCO** United Nations Educational, Scientific and Cultural Organization
- WTO** World Trade Organization

## 1. THE CONTEXT OF THE CONVENTION

### 1.1. General description and significance for external relations

The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (hereinafter referred to as 'the Convention') places emphasis on the 'connected' nature of contemporary cultural diversity. Where previous paradigms on cultural expressions under threat may have sought to safeguard or isolate them from external influences, the focus now lies on the ability of cultural expressions to develop through a range of measures including exchange, cooperation and access to the global markets. In this context, policies and measures taken at local, national and regional level all have an impact on the international protection and promotion of the diversity of cultural expressions. Beyond the traditional realm of cultural policies, attention should be paid to the role of external policies, including those in the areas of trade, development and human rights.

The Convention establishes a set of commitments aimed at fostering international solidarity and cooperation, wherein support should be particularly targeted to developing countries and cultural expressions under threat. Section IV of the text, on the rights and obligations of Parties, includes the following articles which most directly concern international relations:

- Measures to promote cultural expressions (Article 7), including the creation of an environment where individuals and social groups can have access to diverse cultural expressions from their own territory and from other countries.
- Promotion of international cooperation (Article 12), including bilateral, regional and international cooperation to protect cultural expressions at risk or under threat.
- Integration of culture in sustainable development (Article 13).
- Cooperation for development (Article 14), including cooperation aimed at strengthening the cultural industries in developing countries, capacity-building, technology transfer and financial support.
- Collaborative arrangements (Article 15), including the development of partnerships to enhance the capacities of developing countries.
- Preferential treatment for developing countries (Article 16), including for artists and cultural professionals as well as for cultural goods and services from developing countries.
- International cooperation in situations of serious threat to cultural expressions (Article 17).
- International Fund for Cultural Diversity (Article 18).
- Exchange, analysis and dissemination of information (Article 19).

On the other hand, Section V addresses the relationship of the Convention to other instruments:

- Relationship to other treaties: mutual supportiveness, complementarity and non-subordination (Article 20), which commits Parties to taking into account provisions deriving from the Convention when interpreting other treaties.<sup>2</sup>
- International consultation and coordination (Article 21), including the promotion of Convention objectives in other international forums.

The articles listed above provide the context which should guide international policies and measures adopted by Parties to the Convention, including the EU in its relevant fields of competence. The implementation of the Convention in this field should also take account of other elements, including the Operational Guidelines (OGs) approved by the Conference of Parties to the Convention. OGs covering articles 7 and 13-18 were approved in June 2009, whereas article 12 has been considered of an operational character and thus not needing further explanation. OGs for Article 19 are currently being prepared by the Intergovernmental Committee of the Convention, with a view to discussing them at the next meeting of the Conference of Parties in 2011.<sup>3</sup>

On the other hand, no progress has been made so far as regards the development of OGs for articles 20 and 21, this causing concern among some civil society organisations.<sup>4</sup>

## 1.2. The Convention and the development of the EU's external cultural relations

The coming into force of the Convention in March 2007 and the early stages of its implementation have gone hand-in-hand with a series of milestones in the EU's cultural and external affairs policy, which could ultimately lead to a proper external cultural policy. Although several factors have contributed to this, including globalisation, the European Year of Intercultural Dialogue 2008, the coming into force of the Treaty of Lisbon and the increasing recognition of the role which creativity and the cultural and creative industries play in Europe's growth, reference to the Convention is recurrent.

May 2007 witnessed the launch of the Communication on a European Agenda for Culture in a Globalizing World, the European Commission's first-ever attempt to provide a strategic approach to cultural action, both within DG EAC and in other Directorates-General, as well as with Member States and civil society.<sup>5</sup>

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<sup>2</sup> A thorough analysis of the potential implications of Article 20 is available in Bernier I. (2009), "Les relations entre la Convention de l'UNESCO sur la protection et la promotion de la diversité des expressions culturelles et les autres instruments internationaux : l'émergence d'un nouvel équilibre dans l'interface entre le commerce et la culture", *Diversité culturelle*, online

[[http://www.diversite-culturelle.gc.ca/fileadmin/documents/pdf/FR\\_Relations\\_diversite\\_Convention\\_Unesco\\_instruments\\_internationaux.pdf](http://www.diversite-culturelle.gc.ca/fileadmin/documents/pdf/FR_Relations_diversite_Convention_Unesco_instruments_internationaux.pdf)] (accessed on 10 May 2010).

<sup>3</sup> Resolution 2.CP 7 (Approval of the operational guidelines for the implementation of the Convention and future activities of the Committee) in Conference of Parties to the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2009), "Resolutions", CE/09/2.CP/210/Res.

<sup>4</sup> The need to draft OGs for Article 20 has been subject to discussion. More consensus on the importance of drafting OGs exists as regards Article 21. See McKee J. (2009), "The Importance of Affirming the Principles and Objectives of the UNESCO Convention on the Diversity of Cultural Expressions in Other International Forums", online [<http://www.ifccd.com/content/importance-affirming-principles-and-objectives-unesco-convention-diversity-cultural-expressi>] (accessed on 10 May 2010).

<sup>5</sup> European Commission (2007), *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a European Agenda for Culture in a Globalizing World*, COM (2007) 242 final, Brussels.

Explicit reference to the Convention is made in the Agenda's third objective, 'Culture as a vital element in international relations', which should involve the systematic integration of the cultural dimension in all external and development policies and programmes as well as the support for specific cultural events. Connections with the Convention can also be found in the affirmation of cultural diversity and intercultural dialogue as EU objectives, the recognition of the impact of creativity in terms of growth and jobs and some of the working methods proposed, including partnership with civil society and the mainstreaming of culture in all relevant policies. The latter can be seen as a reflection of Article 167.4 of the Treaty on the Functioning of the EU (formerly Article 151.4), with relevance to several areas of external relations.

A new Commission Communication on the implementation of the European Agenda for Culture since 2007 is currently being prepared and should be presented in July 2010.<sup>6</sup>

Whereas the Agenda could not go beyond setting a framework for Member States to exchange information on their existing policy approaches, through the Open Method of Coordination (OMC) it did reinforce the place of the Council's two-year Work Plan for Culture. 'Promoting and Implementing the Unesco Convention on the Protection and Promotion of the Diversity of Cultural Expressions' was to become one of five priorities in the Work Plan 2008-10.<sup>7</sup> Yet as opposed to the other priorities, each of which entailed the setting-up or re-launching of working groups involving Member States, work on the Convention includes only the coordination of EU positions in relevant international meetings, the exchange of experiences and a commitment to implementing the Convention in national policies. Therefore, although it could be seen as an endorsement of the Convention and its integration at the core of the EU's cultural discourse, commitments contained in the Work Plan merely amounted to the continuation of existing practices.

Yet in November 2008 the Council approved the 'Conclusions on the promotion of cultural diversity and intercultural dialogue in the external relations of the Union and its Member States'.<sup>8</sup> Set against the background of the European Year of Intercultural Dialogue 2008, the coming into force of the Convention and the European Agenda for Culture, the Conclusions can be seen as a most explicit commitment to strengthening the cultural component of the EU's external policies. Indeed, the text calls Member States and the Commission to '*[draw] up a European strategy for incorporating culture consistently and systematically in the external relations of the Union and contributing to the complementarity of the Union's activities with those of its Member States*'.<sup>9</sup> The Conclusions also include a commitment to promoting the Convention, through the following measures:

- encouraging the ratification and implementation of the Convention;
- taking full account of the specific nature of cultural activities, goods and services in the EU's external relations;
- entering into or pursuing a political dialogue with third countries in order to develop the place of culture in their policies;

<sup>6</sup> Telephone conversation with Valérie Panis-Cendrowicz, Policy Officer, Unit C1 (Culture Policy and Intercultural Dialogue), DG EAC; 20 May 2010.

<sup>7</sup> Council of the European Union (2008), *Conclusions of the Council and of the Representatives of the Governments of the Member States, meeting within the Council, on the Work Plan for Culture 2008-2010* (2008/C 143/06), Official Journal of the European Union C 143.

<sup>8</sup> Council of the European Union (2008), *Conclusions of the Council and of the Representatives of the Governments of the Member States, meeting within the Council, on the promotion of cultural diversity and intercultural dialogue in the external relations of the Union and its Member States* (2008/C 320/04), Official Journal of the European Union C 320.

<sup>9</sup> Ibidem.

- promoting external cultural policies that encourage dynamism and balance in the exchange of cultural goods and services with third countries, particularly emerging economies; and
- strengthening the contribution of culture to sustainable development and furthering cooperation and solidarity with developing countries in a spirit of partnership.

Beyond the explicit commitment to drawing a strategy on external cultural relations, the Conclusions also provided evidence of the emergence of a common discourse on the integration of culture in development policies, as well as the EU's adoption of a vocabulary close to that of the Convention itself.

The impulse provided by the European Agenda for Culture and the Council Conclusions of November 2008, among other factors, has led to a number of initiatives which increasingly address the cultural dimension of the EU's external relations. Rather than a specific document, the "Strategy" called for in the Conclusions has led to the integration of cultural aspects in the policy frameworks and cooperation programmes with some third countries and partner regions. An analysis of the most relevant activities in these fields is presented in the next section.

## 2. AREAS OF IMPACT

As the previous section has shown, EU institutions have strengthened the policymaking framework in the area of external cultural relations in the wake of the Convention.

However, when analysing the impact of the text in specific EU policies – as well as, for that matter, in national, regional and local policies across Europe – it should be borne in mind that some pre-existing approaches in cultural policy and foreign affairs already responded to the Convention's aims. Indeed, it could be argued that the legitimisation of public cultural policies and the set of potential measures contained in the text somehow reflect European tradition in this field. In the context of the EU, this is particularly true as regards some internal policies (e.g. audiovisual) but can also be said of external cooperation initiatives, particularly in some regions such as the ACP countries or the setting-up of institutions such as the Asia Europe Foundation (ASEF) and the Anna Lindh Euro-Mediterranean Foundation for the Dialogue between Cultures. It is worth noting that issues such as cultural cooperation with third countries and the taking into account of cultural aspects across other EU policies (*mainstreaming*) have been part of EU legislation since the coming into force of the Maastricht Treaty, even if, most notably in the case of mainstreaming, their implementation has been limited and uneven.

Nonetheless, the set of events recorded since 2007 can be seen as an initial attempt to develop a structured approach to external cultural relations, something which the EU had not openly strived for in the past.<sup>10</sup> As indicated above, the Convention is one of several factors which help to explain this process.

Given that the pre-existing legislative framework already allowed for the natural integration of the Convention principles, changes have generally occurred at the level of policies, programmes and working methods, as well as in declarations and partnership documents, as highlighted by the European Commission in its response to the present study: '*... the implementation of the ... Convention within the EU is not a strict legislative activity ... but rather the pursuit of policy developments, ... which might take the form of legislative action in specific instances.*'<sup>11</sup>

The analysis of the impact of the Convention in specific policies must also take into account that some of the Convention's provisions, in areas such as the integration of culture in sustainable development or preferential treatment, call for long-term paradigm shifts. An assessment of developments in the first three years of implementation can merely provide a hint of the potential long-term impact of the Convention in the EU's external policies.

<sup>10</sup> Relais Culture Europe has described this as a step towards '*la structuration de cette action culturelle extérieure*'. In 2008, Gijs de Vries also analysed existing initiatives in the field of external cultural relations as follows: '*Over the years, the EU Council of Ministers and the European Commission have engaged in aspects of cultural diplomacy. On balance, however, they have done so in a disjointed manner, without common objectives and without mechanisms to evaluate the effectiveness of their policies and projects.*' Cf. Relais Culture Europe (2009), "La Culture dans les relations extérieures de l'Union européenne. Quels enjeux pour le Ministère des Affaires étrangères?", online [[http://www.relais-culture-europe.org/fileadmin/fichiers/1\\_Europe\\_Culture/bibliotheque/Culture\\_Europe\\_et\\_MAE\\_-\\_Janvier\\_2009.pdf](http://www.relais-culture-europe.org/fileadmin/fichiers/1_Europe_Culture/bibliotheque/Culture_Europe_et_MAE_-_Janvier_2009.pdf)] (Accessed on 12 May 2010); and de Vries G. (2008), "A Europe Open to Culture. Proposals for a European Strategy of Cultural Diplomacy", in Drnovšek-Zorko, H. (ed.), *New Paradigms, New Models – Culture in the EU External Relations, Ljubljana, 13-14 May 2008*, Ljubljana, pp. 18-19.

<sup>11</sup> European Community (2010), response to the "Questionnaire for Regional Organizations" in the context of the Study on the Implementation of the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions for the European Parliament, p. 5 [[www.diversitystudy.eu](http://www.diversitystudy.eu)] (Accessed on 12 May 2010).

## 2.1. Trade

The aim to enshrine the 'double nature' of cultural goods and services in international law and to reinforce it in international trade was one of the driving forces behind the negotiation and ratification of the Convention. Since the approval of the text in 2005, developments have continued to be slow in the multilateral trade scene, whereas the trend towards an increase in regional and bilateral agreements conducive to the liberalisation of international trade has been noted by some authors.<sup>12</sup> Lack of progress as regards the promotion of the Convention's objectives in other international forums (i.e. OGs for Article 21) could also be one of the factors which have prevented a more decisive influence of the Convention's principles in the multilateral trade scene.

### 2.1.1. Trade in audiovisual goods and services

It could be argued that existing EU policies on the distribution of audiovisual goods and services somehow match the commitments contained in the Convention. Both 1989's Television without Borders Directive (amended in 1997) and 2007's Audiovisual Media Services Directive (AVMSD) provide a framework for the exchange of audiovisual products within the EU, responding to the specific nature of audiovisual content, which can be seen as a contribution to the promotion of cultural diversity. Although these measures have primarily an internal impact, AVMSD recognises the globalised nature of the contemporary media sector and the implications of the Convention, by broadening the definition of "European works" to include works co-produced in the framework of agreements concluded between the EU and third countries.<sup>13</sup>

In the WTO context, the EU has traditionally chosen to make significant exemptions to the 'most-favoured nation' principle in the field of audiovisual services and it has not made any 'market access' or 'national treatment commitment' for audiovisual services. As a result, it can be argued that *'[actions] by the EC on the international level to promote cultural diversity seem consistent with other international obligations of the EC'*, namely its obligations in the field of trade.<sup>14</sup> This could be seen as an early example of the aim to reconcile trade and cultural diversity commitments and rebalance them. Indeed, whereas evident tensions exist, as expressed in the increasing, US-sponsored trend towards bilateral trade agreements which limit Parties' ability to develop policies to protect cultural goods and services, voices calling for the combination of trade and the protection of cultural assets are increasingly being heard – either prompting a 'third way'<sup>15</sup> or the identification of synergies and 'win-win' situations.<sup>16</sup>

As a recent Commission document stressed, audiovisual is one of the service sectors less committed by WTO members, with only 27 out of 153 members having included audiovisual

<sup>12</sup> See, for instance, Guèvremont V. (2007), "Industries culturelles et négociations internationales: portrait d'une dynamique multidimensionnelle. L'exemple des pays de la zone euro-méditerranéenne", *EUI Working Papers*, RSCAS 2007/33, San Domenico di Fiesole [[http://www.eui.eu/RSCAS/WP-Texts/07\\_33.pdf](http://www.eui.eu/RSCAS/WP-Texts/07_33.pdf)] (Accessed on 12 May 2010).

<sup>13</sup> European Commission (2009), *Commission Staff Working Document on the External Dimension of Audiovisual Policy*, SEC(2009) 1033 final, Brussels.

<sup>14</sup> Wouters J. and de Meester B. (2008), "The Implementation by the European Community of the UNESCO Convention on Cultural Diversity", presented at the European Parliament, Brussels, 27 February 2008 [<http://www.gqs.kuleuven.be/nieuw/publications/policy%20briefs/pb06.pdf>] (Accessed on 12 May 2010).

<sup>15</sup> Quintin O. (2007), speech in the Consultation entitled 'Bringing the UNESCO Convention to Life in everyday practice: Active Policies for Cultural Diversity and Capacity Building', Paris, November 2007 [[http://www.unesco.de/fileadmin/medien/Dokumente/Kultur/Konsultation\\_Paris\\_2007/Speech\\_Quintin.pdf](http://www.unesco.de/fileadmin/medien/Dokumente/Kultur/Konsultation_Paris_2007/Speech_Quintin.pdf)] (Accessed on 15 May 2010).

<sup>16</sup> UNCTAD (2010), response to the "International Organizations and European Union Survey" in the Study on the Implementation of the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions for the European Parliament, p. 3 [[www.diversitystudy.eu](http://www.diversitystudy.eu)] (Accessed on 12 May 2010).



services in their GATS schedule, 'thus demonstrating an overall understanding of the specificity of the sector and the importance of cultural diversity.'<sup>17</sup> In this respect, as Ivan Bernier has argued, 'la pratique des membres de l'OMC concernant les accords de coproduction et de codistribution reflète une interprétation plutôt large de l'Article II de l'AGCS',<sup>18</sup> i.e. the 'most-favoured nation' treatment.<sup>19</sup>

In any case, it is also obvious that the EU's ability to rebalance trade and cultural diversity commitments and foster more balanced international exchanges is far greater than that of weaker countries and regions – as proven by the increasing trend of bilateral agreements, which, as in the case of the US-Morocco trade agreement that came into force in 2006, actually prevent Morocco from establishing trade exceptions in the culture and audiovisual sector.<sup>20</sup> EU policies at both multilateral and bilateral level should take account of existing asymmetries in the international flow of cultural goods and services, so as to ensure consistency with commitments deriving from the Convention. This should have an impact on several fields, including the EU's international development policies.

### 2.1.2. Protocols on Cultural Cooperation in the context of economic agreements

The integration of Protocols on Cultural Cooperation in the Economic Partnership Agreement (EPA) signed by the EU with the CARIFORUM in 2008 and the Free Trade Agreement (FTA) initialled by the EU and South Korea in late 2009 has been presented as a way to promote the principles of the Convention and implement them in bilateral trade negotiations.<sup>21</sup>

In the case of the EPA with the CARIFORUM, the Protocol establishes a series of measures to foster the mobility of artists, other cultural professionals and cultural goods and services. Among the areas of activity should also be the provision of technical assistance to assist CARIFORUM states in developing cultural industries and cultural policies and the promotion of co-production and cooperation agreements in several fields of culture and audiovisual.<sup>22</sup> Insofar as several of these measures are particularly targeted at developing countries, this could be seen as an application of Article 16 of the Convention on preferential treatment. Indeed, the Protocol explicitly refers to the relationship between trade, culture and development measures and the contribution of the cultural industries and cultural cooperation to international development and other policy objectives, while also stressing the implications of the Convention in these areas. It should be noted that the OGs of Article 16 of the Convention indicate that preferential treatment is '*wider than the narrow trade meaning*' and could involve measures around the cultural dimension, the trade dimension and a combination of both – the Protocol seems to respond to this notion.<sup>23</sup>

<sup>17</sup> European Commission (2009), SEC(2009) 1033 final, p. 8 infra.

<sup>18</sup> Bernier I. (2009), p. 12.

<sup>19</sup> Article II of the General Agreement on Trade in Services (GATS) establishes that '1. With respect to any measure covered by this Agreement, each Member shall accord immediately and unconditionally to services and service suppliers of any other Member treatment no less favourable than that it accords to like services and service suppliers of any other country.' However, '2. A Member may maintain a measure inconsistent with paragraph 1 provided that such a measure is listed in, and meets the conditions of, the Annex on Article II Exemptions.'

<sup>20</sup> For further details on the US-Morocco trade agreement and other bilateral negotiations in the Euro-Mediterranean space, see Guèvremont V. (2007).

<sup>21</sup> Cf., among others, European Communities (2010), response to the "Questionnaire...", p. 9.

<sup>22</sup> CARIFORUM States, European Community and its Member States (2008), "Protocol III on Cultural Cooperation", in "Economic Partnership Agreement between the CARIFORUM States, of the one part, and the European Community and its Member States, of the other part", Official Journal of the European Union, L 289, 30 October 2008.

<sup>23</sup> Resolution 2.CP 7, annex, CE/09/2.CP/210/Res., p. 35, para 3.1-3.2.

The integration of a cultural cooperation document in what is primarily a bilateral economic agreement between the EU and the CARIFORUM has raised criticism from several quarters, not least the International Federation of Coalitions for Cultural Diversity (IFCCD), particularly because the integration of cultural aspects in trade pacts ‘*could have the ironic consequence of transforming culture into a selling point for proceeding with trade deals*’, thus ultimately diminishing the ‘double nature’ of cultural goods and services to the detriment of cultural expression. In addition, the need to involve ministries or departments of culture as well as cultural organisations more actively in the negotiating process has been stressed.<sup>24</sup>

More recently, the French government has outlined a series of proposals for the development of an external cultural strategy of the EU, which can be seen as a reaction to the integration of Protocols on Cultural Cooperation in EPAs and FTAs.<sup>25</sup> In particular, its report stresses that cultural negotiations should retain autonomy vis-à-vis those in the field of trade, calls for cultural cooperation agreements to be made conditional upon third parties’ ratification of the Convention and specifies that agreements should be negotiated on a case-by-case basis rather than following a standard format. More generally, the document indicates that future developments in this field should be placed within a broad European strategy: ‘... *c’est l’émergence d’une nouvelle approche européenne de la coopération culturelle avec les pays tiers que la France appelle de ses vœux, fondée sur l’autonomie des négociations commerciales et culturelles en raison de la nature spécifique des biens et services culturels telle que consacrée par la Convention de l’UNESCO* ....’<sup>26</sup>

The *Communication* presented by the French Ministry of Foreign Affairs can be seen as a remarkable step, which proves the increasing attention being paid by Member States to the EU’s external cultural relations and the perception that the EU has a key role to play to help implement the Convention globally. It also points to the need for future agreements to guarantee cultural specificity, to be placed in the context of broader strategies linking culture, trade and development at local and international level and to ensure that cultural actors are involved throughout the process. Indeed, the OGs of Article 16 highlight the importance of involving civil society and ensuring coordination between authorities responsible for culture and trade, among others.<sup>27</sup>

The Protocol on Cultural Cooperation contained in the FTA with South Korea<sup>28</sup> has also met with criticism for a variety of reasons, including the fact that South Korea had not ratified the Convention until April 2010 (the implementation of the Protocol was made conditional upon ratification) and the Protocol being seen as a set pattern, too similar to the one concluded with the CARIFORUM in spite of the obvious differences in context.<sup>29</sup> The

<sup>24</sup> IFCCD (2008), “EU Cites UNESCO Convention in Embedding Cultural Cooperation Protocol in Trade Pacts”, in *Coalition Currents*, volume 6, n°1 [<http://www.ifccd.com/content/eu-cites-unesco-convention-embedding-cultural-cooperation-protocol-trade-pacts>] (Accessed on 12 May 2010).

<sup>25</sup> Ministère des affaires étrangères et européennes (2009), *Pour une nouvelle stratégie culturelle extérieure de l’Union européenne. Communication de la France*, Paris. [[http://www.diplomatie.gouv.fr/fr/actions-france\\_830/culture\\_1031/colonne-droite\\_1695/strategie-culturelle-exterieure-union-europeenne\\_20100/pour-une-nouvelle-strategie-culturelle-exterieure-union-europeenne\\_80488.html](http://www.diplomatie.gouv.fr/fr/actions-france_830/culture_1031/colonne-droite_1695/strategie-culturelle-exterieure-union-europeenne_20100/pour-une-nouvelle-strategie-culturelle-exterieure-union-europeenne_80488.html)] (Accessed on 12 May 2010).

<sup>26</sup> *Ibidem*, p. 2.

<sup>27</sup> Resolution 2.CP 7, annex, CE/09/2.CP/210/Res., p. 38, para 5-6.

<sup>28</sup> European Community, its Member States and the Republic of Korea (2009), “Protocol on Cultural Cooperation”, annex to the Free Trade Agreement. [[http://trade.ec.europa.eu/doclib/docs/2009/october/tradoc\\_145194.pdf](http://trade.ec.europa.eu/doclib/docs/2009/october/tradoc_145194.pdf)] (Accessed on 15 May 2010).

<sup>29</sup> Indeed, early drafts of the Protocol appear to have referred to the application of ‘preferential treatment’, despite the fact that, in the context of the Convention, this should only apply to developing countries: ‘*It is important to note that both Korea and India have a strong audiovisual industry and reciprocity in terms of preferential treatment has to be ensured.*’ European Commission (2008), “Follow-up Argumentaire on the Cultural Cooperation Protocol in future EU trade agreements”, Brussels. [[http://trade.ec.europa.eu/doclib/docs/2008/february/tradoc\\_137751.pdf](http://trade.ec.europa.eu/doclib/docs/2008/february/tradoc_137751.pdf)] (Accessed on 12 May 2010).

completed text involves the granting of mutual benefits in the cultural and audiovisual field. It does not seem to take account of the specific needs of the cultural sector in each partner region or country, nor is it too specific as to how such needs will be analysed once the Protocol comes into force.

Similar Protocols on Cultural Cooperation and Cultural Agreements have been introduced in partnership documents with Central America and the Andean Community, which are currently being finalised.

The connection being made between trade and cultural diversity in recent EPAs and FTAs could be seen to respect the spirit of the Convention and the European Agenda for Culture, by mainstreaming cultural diversity across other policy areas. However, improvements should be made as regards the procedure, by increasing participation of stakeholders (including a stronger role of those from the cultural sector, such as DG EAC and local stakeholders), and content, by ensuring that measures are tailored to the specific needs identified within each partner country or region and that expert knowledge is taken into account. Steps in this field should always be placed in the broader context of measures contributing to the development of cultural industries and cultural policies (including infrastructural support, capacity-building, awareness-raising, etc.), ultimately generating the 'enabling environment' where cultural expressions can thrive.

Again, this indicates the need for a broad European strategy addressing the implications of the Convention in external relations. In this respect, it should be noted that the European Commission is currently drafting a joint concept paper, involving several DGs, which will build on the lessons learned from the negotiations with CARIFORUM and Korea and aim to define the procedures to be followed in future cases, taking into account the specificities of cultural goods and services in trade negotiations and the differences in partner countries.<sup>30</sup>

## 2.2. Development

### 2.2.1. Development and culture in the 2000s

The last decade has witnessed a progressive consensus on the objectives and procedures of international development policies, as exemplified by the Internationally Agreed Development Goals (IADGs), including the Millennium Development Goals (MDGs) approved by the UN General Assembly in 2000, and, in the EU context, 2006's European Consensus on Development (ECD).<sup>31</sup> Although the ECD briefly refers to cultural aspects in the context of human development, the exclusion of culture from the MDGs has limited the appeal of cultural initiatives among international development agencies.

In this context, it should come as no surprise that the Commission's work on the effectiveness and impact of aid has seldom referred to culture,<sup>32</sup> whereas documents in the field of policy coherence in development have only occasionally addressed the role of

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<sup>30</sup> Telephone conversations with Valérie Panis-Cendrowicz, DG EAC, 20 May 2010; and Christine M. Merkel, German Commission for UNESCO, German Federal Coalition for Cultural Diversity, 21 May 2010.

<sup>31</sup> Council of the European Union, European Parliament and European Commission (2006), *Joint statement by the Council and the representatives of the governments of the Member States meeting within the Council, the European Parliament and the Commission on European Union Development Policy: 'The European Consensus'*, 2006/C 46/01, Official Journal of the European Union, C 46.

<sup>32</sup> See, among others, European Commission (2006), *Communication from the Commission to the Council and the European Parliament: Financing for Development and Aid Effectiveness – The challenges of scaling up EU aid 2006-2010*, COM(2006) 85 final, Brussels.

culture as regards security (by fostering intercultural dialogue) and in the development of the Information Society.<sup>33</sup>

Meanwhile, recent years have also seen an increasing debate on the implications of cultural aspects for development – whereas culture was left in the margins of official, MDG-oriented policies, the cultural community has increasingly voiced, through both statements and practical initiatives, its willingness and ability to respond to the challenges of development, as well as the need to acknowledge that culture can provide the framework for human development (“culture as development”). Several national governments, development agencies and NGOs have implemented strategies in the field of culture and development, while others stopped doing so as funds were diverted to respond to the MDG targets.

In this somewhat contradictory terrain, the coming into force of the Convention has inspired the EU to increasingly address cultural aspects in its own development policies – an area where the Commission clearly lagged behind several Member States. The EU has a record in the promotion of cultural cooperation with ACP countries, but in the past this had primarily involved the support to short-term initiatives in the field of artistic exchange. In other regions, such as the Mediterranean, the focus has traditionally been on heritage preservation. Nowadays this appears to give way to a more structural understanding of the implications of culture for development and to new initiatives in several regions.

### 2.2.2. Recent statements and policy initiatives

ACP countries remain the space with which a more advanced cooperation model can be identified. Since the spring of 2009, the European Commission has organised or co-organised two large conferences addressing the relation between culture and development, with a particular emphasis on ACP countries. The earliest event, 2009’s Colloquium ‘Culture and Creativity, Vectors for Development’, held in Brussels, also involved a declaration by European and ACP artists and cultural professionals, an expression of partnership between EU institutions and civil society.<sup>34</sup>

Several initiatives have developed in the wake of that event, thus reinforcing the Commission Director-General for Development’s recent assertion that ‘*[the] European Commission believes that any successful development must build upon an appropriate cultural dimension as an element of social cohesion and inclusion, social stability, empowerment of youth, women and the disabled, and promotion of democracy and human rights.*’<sup>35</sup> The same article points out that, as a result of the Brussels Colloquium, seven ACP countries had requested that cultural programmes be introduced, during the mid-term reviews of their National Indicative Programmes (NIPs). Seven other ACP countries had already integrated a cultural component in their NIPs for the period 2008-13.<sup>36</sup> It should be noted, however, that this amounts to only 14 out of 79 ACP countries and points to one of the limitations of the current context – partner countries do not always share the view that culture should be included in their national development strategies. Good practices from the countries which have integrated culture in their NIPs could be used in awareness-

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<sup>33</sup> European Commission (2005), *Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee: Policy Coherence for Development – Accelerating progress towards attaining the Millennium Development Goals*, COM(2005) 134 final, Brussels.

<sup>34</sup> See [<http://www.culture-dev.eu/www/website.php?lang=en>] (Accessed on 12 May 2010).

<sup>35</sup> Manservigi S. (2009), “Is there a New Approach to Culture and Development in the Strategy of the EU Development Policy?”, *Africa e Mediterraneo*, n°68, p. 14. Part of the original text is in bold.

<sup>36</sup> A cultural programme is part of the NIPs of Eritrea, Ethiopia, Haiti, Mali, Mauritania, Nigeria and Senegal in the period 2008-13. The seven countries which requested to introduce them in 2009 were Burkina Faso, Cameroon, Ivory Coast, Mozambique, Niger, Togo and Zimbabwe. *Ibidem*, p. 16.

raising activities, whereas a better understanding of the obstacles preventing integration in other countries should be fostered.

Cultural cooperation in the Euro-Mediterranean context has generally had a less clear focus, with a less tangible dimension of culture –as in 'intercultural dialogue'- generally prevailing. Nevertheless, recent years have also witnessed some important steps – in particular, the 3<sup>rd</sup> Euro-Mediterranean Conference of Ministers of Culture, held in Athens in May 2008, indicated the aim to develop a *'fully-fledged Euro-Mediterranean Strategy on Culture... [which] should build on the principles stated in the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions...'*<sup>37</sup> Among the areas on which joint cultural actions should focus were the development of human resources, the transfer of know-how, training, information and communication systems and the promotion of sustainable economic development through culture. Ministers also called for the simplification of visa procedures for artists.<sup>38</sup> Although the Strategy should have been presented in the first half of 2010, it is still being developed. Preliminary consultations have been held, expert papers have been requested and the European Commission has started drafting the text. The ministerial conference which should approve it is not expected until, at least, the second half of 2010.

### 2.2.3. Funding programmes

A number of funding programmes which take account of cultural aspects and their contribution to development have been set up over the years. These initiatives have often focused on specific cultural sectors (such as in the case of Euromed Heritage) or tended to privilege short-term initiatives, as in the case of the local cultural actions supported by the EC Delegations in several Mediterranean countries.

Recent initiatives have increasingly paid attention to the structuring of the cultural sector and its integration in broader development strategies – as in the case of Euromed Heritage IV (2008-12), which fosters the connection between heritage sites, tourism strategies and local access to culture, with a total budget of EUR 17 million; and Euromed Audiovisual, which fosters the professionalization of the audiovisual sector through cooperation in the Euro-Mediterranean region and has a budget of EUR 6.5 million.

In the ACP context, the EU-ACP Cultural Industries Support Programme for ACP Countries includes a grant scheme which currently supports 6 multi-annual projects. The Programme has also established the ACP Cultural Observatory, which provides advice and information aimed at improving the policy, legal and institutional frameworks of the sector. Finally, it includes a pilot project involving ACP, ILO, UNCTAD and UNESCO to strengthen the creative industries in 5 ACP countries.<sup>39</sup> The Support Programme, managed by the ACP Secretariat, has a total budget of EUR 6.3 million for the period 2007-12 and aims *'to contribute to poverty reduction and sustainable development through the promotion of an enabling environment for creativity, cooperation and exchanges, independence and viability of the cultural sector in the ACP States...'*<sup>40</sup>

<sup>37</sup> Euro-Mediterranean Conference of Ministers of Culture (2008), "Agreed Conclusions of the third Euro-Mediterranean Conference of Ministers of Culture, Athens, 29-30 May 2008", para 11-12 [[http://ec.europa.eu/external\\_relations/euromed/docs/culture\\_concl\\_0508\\_en.pdf](http://ec.europa.eu/external_relations/euromed/docs/culture_concl_0508_en.pdf)] (Accessed on 13 May 2010).

<sup>38</sup> Ibidem, para 23 and 37.

<sup>39</sup> Fiji, Mozambique, Senegal, Trinidad and Tobago and Zambia.

<sup>40</sup> Taken from [<http://www.acpcultures.eu/?lang=uk&page=index>] (Accessed on 13 May 2010).

A similar programme named ACPFilms operates in the audiovisual field. It aims to contribute to the development and structuring of the film and audiovisual industries in the ACP States, enabling them to create and disseminate their own works more effectively.<sup>41</sup> In this case, a single call for proposals launched in 2008 led to the selection of 24 projects (focusing on production and post-production; distribution, promotion and networking; and training), with a total budget of almost EUR 6.5 million. ACPFilms also includes the provision of legal assistance to film and audiovisual professionals, through the publication of a Guide, a set of directories and an online legal assistance service.

A new Intra-ACP programme supporting the cultural sector is currently under preparation, with an expected budget of roughly EUR 30 m over the period 2010-14. Through South-South, North-South and South-North exchanges, the programme will aim to enhance the circulation and distribution, co-production, transfer of knowledge and a better structuring of the cultural industries in the ACP countries. Existing information indicates the aim to develop co-funding mechanisms, allowing for the involvement of other organisations.<sup>42</sup>

Overall, activities undertaken by the EU in cooperation with ACP countries appear to be increasingly in line with the provisions of the Convention, by involving a wide range of aspects linked to the strengthening of cultural policy, the cultural industries, knowledge, training and networking.

Finally, the cultural sector has also been included in EuropeAid's thematic programme Investing in People, which in the period 2007-13 will devote EUR 50 million to the heading "Access to local culture, protection and promotion of cultural diversity". The approach adopted by this scheme includes the aim to reinforce the capacities of regional cultural networks and promote networking, as well as the recognition of the economic significance of the cultural sector. The perspective is broader than that provided by the Convention, and includes areas such as interethnic relations and the preservation of cultural heritage.<sup>43</sup>

#### 2.2.4. Other issues

Overall, the EU's development policies have been increasingly aligned with the provisions of the Convention, particularly in the ACP context. Among the issues which should still be addressed are the following:

- **Visas:** difficulties found by artists and cultural professionals from non-EU countries in obtaining visas have become a recurring concern, which impacts negatively on cultural mobility and cooperation, as expressed by the European Parliament, national governments and several civil society organisations.<sup>44</sup> Both the Convention and the increasing interest paid by the EU to cultural mobility call for this situation to be addressed. The EU Visa Code which came into force in April 2010 should

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<sup>41</sup> See <http://www.acpfilms.eu> (Accessed on 13 May 2010).

<sup>42</sup> Information taken from [[http://www.culture-dev.eu/pages/en/en\\_suivi\\_suiviColloque.html](http://www.culture-dev.eu/pages/en/en_suivi_suiviColloque.html)] (Accessed on 13 May 2010), and presentations at the International Seminar "Culture and Development", Girona, 4-5 May 2010.

<sup>43</sup> European Commission (2008), "Grants awarded under Call for Proposals EuropeAid/126415/C/ACT/Multi published on 21/12/2007" [<https://webgate.ec.europa.eu/europeaid/online-services/index.cfm?ADSSChck=1273835269081&do=publi.getDoc&documentId=93413&pubID=126415>] (Accessed on 14 May 2010).

<sup>44</sup> European Parliament (2007), *Resolution of 7 June 2007 on the social status of artists (2006/2249(INI))*, para 22-24. See also FREEMUSE, ELMF (European Live Music Forum) and ECA (European Council of Artists) (2008), *Visas – the discordant note. A White Paper on visa issues, Europe & artists' mobility*, Copenhagen [<http://freemuse.synkron.com/graphics/Activities/Campaigns/PDF/VisaWhitePaper.pdf>] (Accessed on 14 May 2010).

contribute to simplifying administrative procedures and increasing transparency.<sup>45</sup> However, concerns remain as regards the lack of harmonisation among Member States, as well as the awareness of the specificities of cultural mobility among officials in charge of visa procedures.

- **Culture and the MDGs:** in September 2010, the UN General Assembly will hold a Summit aimed at reviewing progress as regards the MDGs. Some voices have argued that culture should be more explicitly integrated in future development goals. Whereas the integration of a "9<sup>th</sup> MDG" on culture at this stage seems unrealistic, a revision of existing goals which takes account of progress made in the area of culture and development is desirable. In the post-2015 scenario, where the international community will need to set new development targets, an explicit integration of cultural aspects should be expected. This could take the form, at least, of a mainstreaming of cultural aspects across other development policies, along the lines suggested by a recent EC communication on the MDGs: *'To foster ownership by the populations concerned, donors' actions need to also acknowledge the cultural dimension of the development process.*<sup>46</sup> However, beyond the transversal contribution that culture can make to other development objectives, a proper integration of the Convention also requires that culture itself be understood as a sectorial priority in development policies. This would be in line with the commitment to promoting the objectives of cultural diversity in other international forums, as per Article 21 of the Convention, and would also highlight the EU's understanding of culture as being essential for its own development, which should also be reflected in the development of other regions.
- **International Fund for Cultural Diversity (IFCD):** early 2010 has seen the launch of the first call for projects which could benefit from this Fund set up in accordance with Article 18 of the Convention. As of March 2010, the IFCD had received voluntary contributions worth only USD 2.4 million. Even though 25 Member States of the EU have ratified the Convention, only 8 had contributed to the IFCD – a strong role of the EU in advocating contributions could be expected.<sup>47</sup>

Whereas the EU, as a Party to the Convention, had initially indicated the aim to contribute to the IFCD, its current strategy appears to be to fund specific projects through direct partnerships with UNESCO. In 2010 the UNESCO Secretariat is set to receive EUR 1 million from the European Commission to establish a North-South network of experts, with a view to offering technical assistance for the development of cultural policies in developing countries.<sup>48</sup> This is seen as a model of good practice which could later receive contributions from other Parties and donors.

<sup>45</sup> "Regulation (EU) No 265/2010 of the European Parliament and of the Council, of 25 March 2010, amending the Convention Implementing the Schengen Agreement and Regulation (EC) No 562/2006 as regards movement of persons with a long-stay visa", Official Journal of the European Union, L 85.

<sup>46</sup> European Commission (2010), *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A twelve-point EU action plan in support of the Millennium Development Goals*, COM(2010) 159 final, p. 8.

<sup>47</sup> The OGs on Article 18 encourage Parties to provide annual contributions amounting to at least 1% of their contributions to the UNESCO budget. Resolution 2.CP 7, annex, CE/09/2.CP/210/Res., p. 39, para 3.

<sup>48</sup> As announced by the European Commission during the meeting of the Intergovernmental Committee of the Convention in December 2009. Intergovernmental Committee for the Protection and Promotion of the Diversity of Cultural Expressions (2010), "Draft summary record. Third Ordinary Session. Paris, UNESCO Headquarters, 7-9 December 2009", p. 9.

### 2.3. Human rights and fundamental freedoms

Article 2 of the Convention, which presents its guiding principles, starts by addressing the 'Principle of respect for human rights and fundamental freedoms', according to which '[cultural] diversity can be protected and promoted only if human rights and fundamental freedoms, such as freedom of expression, information and communication, as well as the ability of individuals to choose cultural expressions, are guaranteed.'<sup>49</sup> Later on, the Convention establishes that 'Parties shall endeavour to create in their territory an environment which encourages individuals and social groups... to create, produce, disseminate, distribute and have access to their own cultural expressions ... [and] to have access to diverse cultural expressions from within their territory as well as from other countries of the world.'<sup>50</sup> Arguably, restrictions to human rights and fundamental freedoms are one serious hindrance to the emergence of this 'enabling environment' for the diversity of cultural expressions.

In spite of this, the discourse on the Convention and its policy implications has until now generally failed to address the political context in which diverse cultural expressions can thrive – including restrictions to freedom of expression and access to the media, harassment of independent civil society organisations and discrimination of ethnic and linguistic minorities. It is worth bearing in mind that one of the risks which the Convention faces is its being misused to legitimise national cultural policies curtailing internal diversity and pluralism.<sup>51</sup>

Neither have recent EU documents in the field of human rights taken much account of the Convention and its human rights implications. Although both the 2006 and 2007 editions of the EU's Reports on Human Rights in the World mentioned the Convention, they appeared to understand it as a tool for intercultural dialogue, rather than address its implications for human rights within third countries. Neither subsequent editions of this Report nor the EP's Reports on Human Rights in the World have referred to the Convention.

Synergies with existing human rights policy documents, including the set of EU Guidelines on Human Rights, could be sought. The Guidelines on Human Rights Dialogue with Third Countries, which aim to mainstream human rights and democratisation into all aspects of the EU's external policies, indicate the need to address freedom of expression and the role of civil society in the context of dialogue with third countries.<sup>52</sup> Although this is a non-binding document, its principles should be taken into account when negotiations with third countries and regions are held, in all policy fields, including culture.

<sup>49</sup> UNESCO (2005), *Convention on the Protection and Promotion of the Diversity of Cultural Expressions*, Article 2.1.

<sup>50</sup> Ibidem, Article 7.1.

<sup>51</sup> Indeed, an analysis of the Convention and its implications in the Arab world noted that states tended to neglect the domestic dimension and favour the international, less politically-sensitive implications: 'While Arab governments have adopted the Convention, they have a tendency to regard it more as a means through which they can gain recognition in the global arena rather than as a guiding document for internal policy-making, particularly because they are conscious that opening the door to cultural pluralism will naturally lead to a political pluralism that they would much rather delay.' The same could apply in other regions. Rezk L. (2006), "Negotiating diversity: The meaning of the Convention for the Arab World", in Obuljen N. and Smiers J. (eds.), *UNESCO's Convention on the Protection and Promotion of the Diversity of Cultural Expressions: Making It Work*, Zagreb: Institute for International Relations, p. 250.

<sup>52</sup> Council of the European Union (2009), "EU Guidelines on human rights dialogues with third countries – Update" [<http://www.consilium.europa.eu/uedocs/cmsUpload/16526.en08.pdf>] (Accessed on 14 May 2010). The set of EU Guidelines on Human Rights also includes the Guidelines on Human Rights Defenders (adopted in 2004, revised in 2008), which address several issues relevant to the development of an enabling environment for democracy and fundamental freedoms. Council of the European Union (2008), "Ensuring Protection – European Union Guidelines on Human Rights Defenders" [<http://www.consilium.europa.eu/uedocs/cmsUpload/16332-re02.en08.pdf>] (Accessed on 24 May 2010).



It is worth noting that some recent exercises in cultural dialogue with third parties have been particularly cautious in this field: when listing the areas for action in the future Euro-Mediterranean Strategy on Culture in 2008, cooperation with civil society was the sole field where the need to take account of national legislation was noted.<sup>53</sup>

A full implementation of the Convention should not focus exclusively on technical and financial aspects (e.g. capacity-building, co-production, funding of significant creative industries, etc.) but embrace its political dimension as well, including strengthening civil society, access to the media, the place of independent creativity in the public realm, etc. This would be in line with the international promotion of the EU's core values, as de Vries has noted: *'European cultural diplomacy should be about expanding cultural choice for individuals. Where foreign governments seek to restrict or control the cultural freedom of their citizens, ... these individuals should find [in] the European Union their ally.'*<sup>54</sup>

An initial exploration of the common ground between the Convention, cultural diversity and human rights, including cultural rights, has recently been presented by the new UN independent expert in the field of cultural rights.<sup>55</sup> The EU could take account of these developments when examining the implications of human rights for the implementation of the Convention.

## 2.4. Other policy fields

Although trade, development and human rights can be seen as the core areas of the EU's external relations in which the implications of the Convention should be felt, the text should also be taken into account in other domains, such as relations with Enlargement countries and with emerging industrialised countries. Even though many provisions in the Convention are particularly aimed at improving the conditions of developing countries and cultural expressions under threat, the strengthening of all types of cultural cooperation, including with developed countries, is also prompted, particularly by Article 12.

As regards **Enlargement**, all current candidate and potential candidate countries, except Turkey, have ratified the Convention. The alignment of national legislation and practices with European standards on media and audiovisual is one element of the "Copenhagen criteria", as is respect for human rights and fundamental freedoms.<sup>56</sup> In the negotiation stage, intellectual property law, education and culture are part of the *acquis*. However, the scope of cultural affairs in the negotiations is very limited, mainly amounting to the ability to participate in the EU cultural cooperation programmes.

The promotion of dialogue among civil society organisations in the area of the arts and culture in the EU and candidate or potential candidate countries, such as Turkey, has been the subject of several calls for proposals issued in the context of the Instrument for Pre-

<sup>53</sup> *'Intensifying cooperation with civil society in accordance with national legislation'*. Euro-Mediterranean Conference of Ministers of Culture (2008), para 45.

<sup>54</sup> de Vries G. (2008), p. 38.

<sup>55</sup> Shaheed F. (2010), "Report of the independent expert in the field of cultural rights, Ms. Farida Shaheed, submitted pursuant to resolution 10/23 of the Human Rights Council", UN General Assembly, Human Rights Council, A/HRC/14/36, 22 March 2010.

[[http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.36\\_en.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.36_en.pdf)] (Accessed on 24 May 2010).

<sup>56</sup> European Commission (2009), SEC(2009) 1033 final, p. 15.

Accession Assistance (IPA).<sup>57</sup> By facilitating mobility and contributing to strengthen civil society in partner countries, these initiatives can respond to the aims of the Convention.

Culture has also found a place in the context of **cooperation with emerging and industrialised countries**, such as Russia, China, India and Brazil. Since 2007, the Commission Delegation in Russia has launched three calls for proposals to support cultural cooperation between the EU and Russia, in the context of the Institution-Building Partnership Programme (IBPP). Priorities include cultural mobility and networking between cultural organisations in Russia and the EU, with a particular view to strengthening the cultural sector.<sup>58</sup> The first EU-China Cultural Industries Forum, explicitly referring to the Convention, was held in Shenzhen in May 2009. Despite previous declarations on the promotion of cultural cooperation between the EU and China, lack of interest on behalf of Chinese authorities has been noted.<sup>59</sup> The future EU-China Partnership and Cooperation Agreement is expected to include an article on cultural cooperation, addressing dialogue on cultural policies, including creative and cultural industries. Both China and India were the target of the 'Actions with Third Countries' strand of the European Commission's Culture Programme (2007-13) in 2007, under which 13 projects were selected, whereas Brazil was the beneficiary country in 2008, when 7 projects were chosen.

The latter examples prove that, in the context of globalisation, internal policies and programmes increasingly need to be aware of their external connections. As the recent *Green Paper: Unlocking the potential of cultural and creative industries* argues, '[nurturing] world-class [cultural and creative industries] and exporting their works, products and services obviously entails developing links with third countries.' In this respect, the paper suggests that the creative industries be included as priority areas in future technical assistance and cooperation schemes and opportunities for industry-to-industry dialogues be fostered.<sup>60</sup> It is indeed desirable that opportunities for policy dialogue, civil society strengthening, mobility and the support to the cultural industries be increasingly integrated in agreements with third countries and cooperation schemes.

Among the Commission programmes which have recently integrated an external component is **MEDIA**. Between 2007 and 2010, the MEDIA International action will have provided roughly EUR 8 million to support networking between European and third-country professionals from the audiovisual industry, mobility of film and audiovisual works, networking of cinemas and training. One of the limitations of the programme appears to be the fact that, possibly due to the limited resources available, the eligible duration of projects is short – with a maximum of 8 months in the case of the 2010 call for proposals.

MEDIA International is a preparatory action for MEDIA Mundus, which will operate in the period 2011-13, with an overall budget of EUR 15 million. The programme aims to increase the competitiveness of the European film and audiovisual industry, to reinforce Europe's cultural and political role in the world and to increase consumer choice and cultural diversity, through improved access to third-country markets and the development of trust

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<sup>57</sup> For further details, see European Commission (2007), *Commission Staff Working Document: Inventory of Community actions in the field of culture*, SEC(2007) 570, accompanying document to the European Agenda for Culture.

<sup>58</sup> [[http://www.delrus.ec.europa.eu/en/p\\_634.htm](http://www.delrus.ec.europa.eu/en/p_634.htm)] (Accessed on 14 May 2010).

<sup>59</sup> Media Consulting Group (2009), *The Potential for Cultural Exchanges between the European Union and Third Countries: The Case of China*, European Parliament, Brussels, IP/B/CULT/IC/2008\_109, pp. 85-86 [[http://ec.europa.eu/culture/news/pdf/mediaconsulting\\_Report\\_China\\_07\\_07\\_09.pdf](http://ec.europa.eu/culture/news/pdf/mediaconsulting_Report_China_07_07_09.pdf)] (Accessed on 14 May 2010).

<sup>60</sup> European Commission (2010), *Green Paper: Unlocking the potential of cultural and creative industries*, COM(2010) 183, Brussels, pp. 16-17.

and long-term working relationships.<sup>61</sup> Even though the main objective of the initiative is to strengthen the European industry, all projects will need to involve partners in the EU and in third countries, in areas such as information exchange, training, distribution and circulation. By supporting the setting up of cinema networks operating on a mutual-exchange basis and contributing to increase audiovisual content from partner countries on European distribution channels, the programme could somehow help to tackle one of the major difficulties met with by cultural producers in developing countries – access to the markets. MEDIA Mundus can be seen as a result of the progressive merging of the EU's priorities in the areas of culture, audiovisual, and external relations, along the lines proposed by the European Agenda for Culture and other related documents.

## 2.5. Governance

As the previous sections have shown, an increasing number of initiatives in the field of external cultural relations, both at policy and at programme level, have arisen in recent years, often covering several areas relevant to the Convention. Given that these initiatives emerge in a wide range of institutional contexts and policy fields, the dispersal of efforts and a certain lack of consistence in approaches was foreseeable. In this respect, initiatives in the field of governance seem necessary, in order both to increase effectiveness and policy coherence and to respond to several Convention objectives, including the involvement of civil society and the development of innovative partnerships.

The Council Conclusions of November 2008 already highlighted the importance of seeking synergies between the actions of the EU and Member States, taking advantage of the OMC.<sup>62</sup> Progress in this respect seems limited as of 2010, since none of the working groups set up in the context of the OMC have focused on external relations and only scattered references to the international implications of cultural development in the EU have been made (e.g. in the case of mobility). It is to be expected that the Council Work Plan on Culture which will cover the period 2011-14 will involve more active coordination in the area of external cultural relations and the implementation of the Convention.

In a more informal context, the national cultural institutes from most EU Member States have launched cooperation initiatives, such as the EUNIC network of European Union National Institutes for Culture, as well as on a bilateral basis.<sup>63</sup> Even though many obstacles to such cooperation exist, not least because of diverse aims and uneven resources, the identification of areas of common interest around European values and cultural diversity has led to some interesting initiatives.<sup>64</sup> It remains to be seen how this could be further integrated in a cohesive manner, which should also involve EC Delegations in the field.

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<sup>61</sup> European Parliament and Council of the European Union (2009), *Decision n° 1041/2009/EC of the European Parliament and of the Council, of 21 October 2009, establishing an audiovisual cooperation programme with professionals from third countries (MEDIA Mundus)*, Official Journal of the European Union, L 288.

<sup>62</sup> Council of the European Union (2008/C 320/04).

<sup>63</sup> See Batora J. and Mokre M. (2008), "International Cultural Relations in and of the European Union. Perspectives of EUNIC", in Drnovšek-Zorko, H. (ed.) (2008).

<sup>64</sup> For instance, the collaboration between the Goethe Institute and the French Embassy in Ghana, alongside the Alliance Française in Accra and other local partners, on the development of Accra as an 'African Cultural Capital' and the steps necessary for that in terms of local cultural policy development. "Report on the African Cultural Capital Forum – 12-13 March 2010, Accra" [<http://www.goethe.de/mmo/priv/5963073-STANDARD.pdf>] (Accessed on 14 May 2010).

The European Commission has also taken important steps towards increasing internal coordination, through the setting up of Inter-Service Groups, first in the context of the negotiations of the Convention and later upon the approval of the European Agenda for Culture and its implications in terms of cultural mainstreaming – this can be seen as a step forward in the implementation of Article 167.4 of the Treaty, even if progress will need to be assessed in the long term. Sub-groups focusing on specific issues, such as the Protocols on Cultural Cooperation, have also been set up.

The integration of cultural affairs in the future European External Action Service (EEAS) could be one fundamental step in determining to what extent cultural aspects have become important elements of the EU's external relations. To what extent cultural aspects are mainstreamed across thematic and geographical directorates and what coordination mechanisms with the Commission are set up will be important issues. The expertise gained by some Commission DGs (particularly DG EAC, as well as DG DEV and others) in addressing the challenges of cultural diversity today should not be neglected.<sup>65</sup>

Just as in the case of the European Commission, the European Parliament should also increasingly address the confluences between culture and external relations, including trade, development and human rights, by exploring the relevant synergies between Committees and Delegations.

Initiatives in the area of governance should be supported by awareness-raising and training activities addressing all stakeholders, aiming to build capacity and clarify concepts. It is worth noting that in late 2009 AIDCO started a pilot training programme of the EU's Delegation staff in partner countries, covering the relation between culture and development. DG DEV is also designing a series of awareness-raising seminars which should bring together local authorities and EU staff in third countries.<sup>66</sup>

Awareness-raising and capacity-building should focus, among others, on the ability of staff to network with stakeholders both within the EU and in third countries, including national and local authorities, private companies and civil society organisations (in culture, development, human rights, etc.). Implementing the Convention calls for an increasing ability to cooperate with others and be able to adopt diverse roles within specific partnerships.

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<sup>65</sup> See, in this respect, European Parliament (2009), *Report on the institutional aspects of setting up the European External Action Service* (2009/2133(INI), A7-0041/2009, rapporteur Elmar Brok.

<sup>66</sup> [[http://www.culture-dev.eu/pages/en/en\\_suivi\\_suiviColloque.html](http://www.culture-dev.eu/pages/en/en_suivi_suiviColloque.html)] (Accessed on 14 May 2010).

### 3. CONCLUSIONS AND RECOMMENDATIONS

Based on the analysis outlined above, this section presents a set of recommendations in order to improve the integration of the Convention in the EU's external cultural relations.

**1. Developing a cohesive strategy.** Progress has been made in recent years through several declarations and initiatives, but the implications of the Convention have not yet been fully explored, particularly as regards some regions and policy areas. The EU Strategy on External Cultural Relations should be aligned with commitments deriving from the Convention, foster synergies and coordination between the EU and Member States, create space for regional strategies negotiated with third parties, set the framework for similar arrangements at other levels (e.g. among national cultural institutes) and be provided with adequate resources. The EP should play an important role in ensuring policy consistency and monitoring the respect for the Convention's principles in the design and implementation of initiatives.

**2. Addressing the multilateral trade scene.** The combination of commitments in the field of cultural diversity with those arising from the field of trade remains to be further explored. Given their long-term record in promoting cultural diversity, the EU and Member States should be expected to have a leading role in the context of the Intergovernmental Committee of the Convention, in order to strengthen the specific nature of cultural goods and services vis-à-vis multilateral trade negotiations. In doing so, account should be taken of the pressure being exercised upon weaker countries through bilateral trade agreements.

**3. Clarifying the role of Protocols on Cultural Cooperation and placing them in a broader context.** Whereas the Protocols can be seen as a way to mainstream cultural diversity in trade policy, their ability to harness cultural expertise available in the EU and in partner countries, to recognise the specific needs of partners and to address underlying asymmetries should be improved. The forthcoming Commission paper on the Protocols should provide clearer guidelines for developing future Protocols, addressing at least the procedures and the parties to be consulted and ensuring that the relevant ministries and departments of culture, as well as civil society organisations, will be actively involved. In the case of developing countries, Protocols should be complemented with relevant strategies in the field of culture and development.

**4. Integrating culture in the IADGs, including the MDGs.** The EU should try to ensure that culture be part of the main documents emerging from the Summit which will revise the state of the MDGs in September 2010. In the mid-term, measures should be taken to increase and disseminate knowledge on the place of culture in human development, including the design of indicators and awareness-raising among the development community. In the post-2015 scenario, a more explicit integration of culture in the international development objectives should be sought – at least by mainstreaming cultural aspects across other development targets, and ideally also by recognising the specific cultural dimension of human development, which should be addressed on a sectorial basis.

**5. Fostering long-term development.** In the past, funding programmes have often privileged short-term actions, devoid of significant structural impact on developing countries' cultural policies and industries. Recent initiatives have increasingly embraced infrastructural aspects (capacity-building, policy-making, distribution and access to the markets, regional and international networking, etc.) and provide a model to follow. Programmes should be provided with adequate resources and funding mechanisms allowing for joint responsibility with other donors should be considered.

**6. Facilitating mobility.** Recent steps aimed at easing the transparency of visa procedures for third-country nationals should be pursued, with measures being taken to increase harmonisation among Member States and raise awareness of the specificities of cultural mobility among officials in charge of visa procedures.

**7. Addressing the domestic implications of the Convention in third countries.** The implications of the Convention in the area of human rights and fundamental freedoms should be recognised. Existing EU monitoring tools, such as the EU Report on Human Rights and Democracy in the World and the EP's Report on Human Rights in the World, should be taken into account when designing partnerships and initiatives related to the Convention – e.g. as regards the strengthening of civil society, the promotion of independent media or the design of pluralistic cultural policies. Future updates of existing EU Guidelines on Human Rights could integrate references to cultural diversity and a new set of Guidelines on Cultural Rights and Cultural Diversity could also be considered, taking account of ongoing work at the UN. In the EP, synergies should be sought between the committees on Culture and Education and on Foreign Affairs, including the Subcommittee on Human Rights, as well as with Delegations for relations with third countries.

**8. Promoting awareness-raising and capacity-building.** Internal and external activities in the field of education and public awareness on the Convention and the interactions between culture and other policy areas should be reinforced. This includes the training of EU personnel in all relevant policy areas. Good practice examples should be used to raise awareness of third-country authorities as regards culture in development.

**9. Improving and transferring cultural policy knowledge.** European countries have a remarkable record in cultural policy research and knowledge, as proven by initiatives such as the Compendium on Cultural Policies and Trends in Europe. This expertise should be used in partnerships with third countries and regions, in order to strengthen the professional development of cultural policy from within, by the responsible government authorities and cultural stakeholders. Further efforts are also needed in the area of cultural indicators and, particularly, the setting up of data-collection mechanisms in third countries, in areas such as the creative industries and their economic impact.

**10. Guaranteeing coordination.** The principles and objectives of the Convention should be integrated in the future EEAS, through the mainstreaming of cultural aspects across thematic and geographical directorates. Coordination will need to be ensured with all relevant Commission DGs and Member States, so as to take advantage of existing knowledge.

**11. Setting up new governance spaces.** Both within Europe and in third countries, the EU should ensure that all stakeholders be involved in the design and implementation of policies and programmes related to the Convention. Relevant agents include national, regional and local authorities, civil society organisations, cultural professionals, UN and national development agencies and other donors. By setting up adequate, permanent dialogue spaces, the emergence of alternative working arrangements leading to responsibility-sharing should be considered.

**12. Encouraging contributions to the IFCD.** The EU should encourage Member States to provide contributions to the IFCD. The same could be done in dialogue with other Parties to the Convention, as well as with private donors.

**13. Fostering ratification.** The EU should continue to encourage countries that have not yet ratified the Convention to do so. This includes both the two Member States of the EU that have yet to ratify the text and third countries. In the light of the Intergovernmental Committee's aim to reach 140 State Parties by 2013, the EU could set specific targets and address specific countries each year.





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