



**United Nations  
Educational, Scientific and  
Cultural Organization**

## **FINAL REPORT**

### **International Round Table on 'Intangible Cultural Heritage – Working Definitions' 14 – 17 March, Turin, Italy**

#### **INTRODUCTION**

The International Round Table “Intangible Cultural Heritage – Working Definitions” was held in Turin, Italy, from 14 to 17 March 2001.

The purpose of the meeting was:

- i) to examine working definitions of intangible cultural heritage currently being used by Member States, inter-governmental and non-governmental organizations,
- ii) to analyse current terminology in the field of intangible cultural heritage and related areas,
- iii) to explore the advisability of regulating internationally, through a new standard-setting instrument, the protection of traditional culture and folklore,
- iv) to study a possible working definition for UNESCO (see Appendix 1: Agenda; and Appendix 2: Annotated Agenda).

The Round Table was jointly organized by UNESCO Intangible Heritage Section and the Fondazione Premio Grinzane Cavour. The latter financed the meeting, which was hosted in the castle Grinzane Cavour, Piedmont. Sixteen experts from fifteen countries attended the meeting (see Appendix 3).

#### **AGENDA ITEM 1 : OPENING SESSION**

Welcome speeches were given by Giuliano Soria, President of the Grinzane Cavour Foundation ; Senatore Zanoletti, President of the Enoteca del Castello de Grinzane ; Luigi Cabutto, Mayor of Grinzane Cavour ; Giuseppe Rossetto, Mayor of Alba ; and Mr Quaglia, President of the Province of Cuneo.

The meeting was officially opened by Mr Koïchiro Matsuura, Director General of UNESCO. In his address, Mr Matsuura stressed that intangible heritage is gaining increasing recognition worldwide for the fundamental role it plays in the maintenance and enhancement of cultural identity and diversity. He also highlighted the “ubiquitous nature” of such

heritage and stressed that many of its expressions such as languages, traditional values and know-how are fundamental to cultural identity and ways of life. But he cautioned : Intangible heritage urgently requires increasing protection in order to ensure its continuity and development.

The Director General emphasized UNESCO's role as the only organization within the United Nations to have a mandate in culture to promote a standard-setting instrument in this field. He further announced that he would submit a preliminary study on the advisability of developing an instrument for the safeguarding of intangible cultural heritage at the next session of UNESCO's Executive Board (May-June 2001). He added it would be up to the Member States to decide whether to go on to adopt regulatory instrument at national level, and that it was therefore essential during the Turin meeting to provide a solid basis for their informed consideration of the issues involved.

### **Election**

Francesco Francioni was elected President of the meeting.

Discussion concerning the organization of the meeting followed, and the Vice-President and Rapporteurs were elected. Mr Olabiyi Babalola Joseph Yai was elected as Vice-President ; Ms Janet Blake and Ms Manuela Carneiro da Cunha were elected as Rapporteurs.

A drafting committee was proposed, with the mandate to draft an action plan for the safeguarding of the intangible cultural heritage and to develop the most appropriate working definition of intangible cultural heritage for UNESCO. The following members were appointed: Lourdes Arizpe as president ; Peter Seitel as rapporteur ; and, as members : Janet Blake, Manuela Carneiro da Cunha, Hajime Endo, Francesco Francioni, Ugne Karvelis, Ralph Regenvanu, Albert Sasson, Olabiyi Babalola Joseph Yai.

## **AGENDA ITEM 2: WORKING DEFINITIONS CURRENTLY IN USE BY VARIOUS MEMBER STATES AS WELL AS BY INTERGOVERNMENTAL AND NON-GOVERNMENTAL ORGANIZATIONS**

Professor Francioni introduced the session discussing the relevance of existing international normative instruments in relation to various aspects of cultural heritage, such as the 1972 World Heritage Convention and the 1954 Convention on the protection of cultural heritage in times of armed conflict. He referred to activities of UNESCO during the 1990s as having been particularly significant in the domain of revising and improving cultural heritage protection, and to the ongoing progress being made in preparing an instrument for the protection of underwater cultural heritage.

Francesco Francioni then referred to the central role of UNESCO activities in the strengthening of international cultural heritage protection, such as the UNIDROIT convention of 1995, but drew attention to ongoing weaknesses in the mosaic of activities and tools aiming to protect intangible cultural heritage, stating that it remains the task of UNESCO to address this situation for moral, political and legal reasons.

### **1) Presentation by Professor Lourdes Arizpe : “Intangible Cultural Heritage: Perceptions and Enactments”**

Professor Lourdes Arizpe gave a graphic presentation entitled ‘Perceptions and Enactments’, summarizing issues and problems in defining the scope, working definition and elements which should be protected through an international legal instrument. The title of the

presentation reflected her view that the notion of heritage is constituted of meanings, shaped by people's perceptions, whether as objects, knowledge or practices. She then explained that enactment is an essential and defining aspect of intangible heritage, in the sense that this heritage exists and is sustained through the acts of people.

Lourdes Arizpe stated that as an intergovernmental organization, UNESCO's role and activities in the domain of intangible cultural heritage must be acceptable to the majority of Member States. Therefore, a balance is necessary between Member State consensus and scientific rigour. She posed the question as to why a legal instrument to safeguard intangible cultural heritage is necessary, and provided the following answers:

*1. To conserve human creations that may disappear forever.* In this regard, two necessary assumptions were outlined : i) that human creations are to be valued, and ii) that the diversity of human creations is important for humanity. During consultations of the World Commission on Culture and Development, concern for the survival of intangible heritage was a prominent issue;

*2. To give world recognition to a certain kind of intangible cultural heritage.* Two necessary assumptions were outlined : i) that all world inhabitants have a stake in conserving and, ii) that nations and groups gain from world recognition of their heritage, and as such, the pride of the few becomes the pride of everyone;

*3. To strengthen identity* encompassing local, ethnic, cultural, national identities, etc., in compliance with UNESCO's mandate to promote peace;

*4. To enable social co-operation* in an era where the market and consumerism and many other forces are stressing individualism;

*5. To provide historical continuity* in addressing the apparent psychological need for people to feel that they belong to some historical tradition;

*6. To foster enjoyment.* Emphasis was placed on intangible cultural heritage being viewed holistically and understood as a process of creation, comprising skills, enabling factors, products, meanings, impacts and economic value. The relevance of these aspects was described as follows:

**Skills:** the conservation of intangible cultural heritage is ensured by the continuity of the skills necessary for its creation. She noted that further activities should be devoted to this aspect, and in this regard, the value of UNESCO's Living Human Treasures System programme was underlined;

**Enabling factors:** it is necessary to consider the inclusion of the following factors in a potential legal instrument: i) respect to enable the creation and conservation of heritage, ii) access to knowledge, objects and practices of past cultures (museums and research are important), iii) dialogue with other cultures, and iv) copyright for the protection of creations;

**Products:** it is necessary to consider which aspects should be conserved, for example, knowledge or products, practices or performances, the meaning given to physical heritage as related to specific cultural contexts and the group, location and time in which it is created;

She pointed out that should traditional knowledge be included in a definition, UNESCO's scope will overlap with other organizations, such as WIPO. In this regard, it is necessary to decide which practices and performances a definition should address;

**Meanings:** Meanings concern identity, aesthetic enjoyment, emotive sentiments, expressive culture and historical reasons. It is necessary to consider whether these aspects should be criteria for inclusion and whether Member States should decide to which priority should be given;

**Impacts:** Lourdes Arizpe pointed out the potential difficulty of dealing with the impacts of intangible heritage in an international legal instrument. Intangible cultural heritage has an impact on social representation, she added, an example being people's self perception as belonging to a group, a culture, a community, etc.

**Economic value:** There is a market value for many objects and performances of intangible cultural heritage as commodities and royalties for copying, reproducing, playing, recording and other uses. The activities of WIPO and WTO address most of these areas, and in this respect, Lourdes Arizpe agreed with the view that UNESCO should not duplicate the work of organizations dealing with economic aspects of intangible cultural heritage;

**Protection of the creative process:** The need for a normative instrument to protect the creative process of an element, with the recommendation that it includes the following aspects: i) ensure transmission of skills ; ii) establish institutional mechanisms for collecting, inventorying and conserving elements or examples; iii) provide support for its producers or performers ; iv) give responsibility to the State; and v) foster international co-operation.

### **Scope of an international instrument**

In view of the wide-ranging domains encompassed by intangible heritage, Lourdes Arizpe suggested that a primary step in defining areas to be addressed in an international instrument would be to identify which existing institutions already address certain domains. She provided the following examples:

- life: much of this category is covered by organized religions
- social: governments take care of settlements, borders and nation
- land : governments have policies for landscape and land property
- symbolic: nations have flags and national, civic rituals
- spiritual: organized religions have sacred books and institutions
- literary: printed books are a cultural industry
- festive: school and civic festivities are organized by governments, religious festivities are organized by religions.

A table of domains for UNESCO to address with a comparative advantage in developing a new international legal instrument and in its programmes was presented: i) areas of contact between nature and culture (nature beliefs, etc) ; ii) areas concerning indigenous people; iii) social co-operation and social cohesion; iv) oral traditions (reference was made to the UNESCO programme Proclamation of Masterpieces of the Oral and Intangible Heritage of Humanity); v) local arts (local performing arts and crafts).

### **2) Presentation by Professor Manuela Carneiro da Cunha : 'Notions of Intangible Heritage Towards Working Definitions'**

Manuela Carneiro da Cunha gave a presentation which relied on the results of an extensive inquiry on the "intangible cultural heritage" working definitions currently in use by various member states, intergovernmental and non-governmental organizations.

The first part of the presentation underlined the various scopes of intangible cultural heritage between 1972 and 1989. The second addressed the possible development of a

normative instrument. She noted that a shift from a focus on products to a focus on production has occurred, and that this focus recognizes cultural heritage as being in a permanent process of production (as given in definitions by Croatia and the Czech Republic).

Manuela Carneiro da Cunha took the example of traditional knowledge and explained that it is cumulative and innovative. She cited the WIPO observation from fact-finding missions undertaken on intellectual property and traditional knowledge, mentioning that ‘a fundamentally important aspect of traditional knowledge ... [is].... traditional innovation and creativity’. She then cited the contribution of J.Ekpere on behalf of the Organization for African Unity : ‘What is traditional about traditional knowledge is not its antiquity but the way it is acquired and used’. While the shift in focus from products to production has occurred, Manuela Carneiro da Cunha referred to two other principal aspects requiring further attention, the first being that the protection of cultural heritage necessarily entails the protection of the social and environmental context in which it exists. This is insufficiently acknowledged in the 1989 Recommendation, she stated. The second aspect relates to the need to support producers of cultural heritage as participant agents in its protection and conservation. In this regard, she suggested re-evaluating the role of producers.

Manuela Carneiro da Cunha discussed the ‘internal’ and ‘external’ features in the assertion of identity of a group vis-à-vis other groups, referring to the definition of intangible cultural heritage of the NGO *Traditions pour Demain* which distinguishes between folklore for cultural ‘consumption’ within the custodian group, and external ‘consumption’. This duality is present in definitions given by Member States (Andorra, Zimbabwe). Referring to identity, she noted that the issue is complicated by political injunctions in situations such as when the legitimacy of local cultural identities are denied or suppressed for nationalistic purposes. Major changes have taken place in many countries, including a shift from the notion that local identities are inimical to national identities. The corresponding view that cultural minorities can hinder progress has declined, she added. In this regard, she referred to the acknowledgement of pluri-ethnicity in the new Constitution of Ecuador, and the definition of cultural heritage given in the Federal Constitution of Brazil as ‘goods of a material or non-material nature, taken individually or as a whole, bearing reference to identity, to action, to memory of different groups that form Brazilian society, among which are included ...’.

Manuela Carneiro da Cunha stated that UNESCO can play an important role in raising awareness of the value of cultural diversity for a country’s cultural heritage, and noted that the question of whether an instrument would concern both present and future heritage should be addressed. She added that a primary objective should be to maintain living rather than exclusively historic processes and that in preparing an instrument, more recent definitions and instruments should be examined. She addressed the current situation concerning intangible heritage, highlighting the following major characteristics :

- i) the growing acknowledgement of the general importance of local culture (noting that the European Union is attentive to this aspect);
- ii) the issue of traditional knowledge, in particular the increasing recognition of indigenous and local people’s knowledge. She noted that traditional knowledge was a prominent issue during the Convention on Biological Diversity (1992), and is also being addressed by the World Bank and WIPO;
- iii) acknowledgement of the inter-relatedness of ecological knowledge, genetic resources and the way of life of local and indigenous people, and the growing understanding of the concerns of indigenous and local communities, particularly with regard to the link between traditional knowledge and land rights,

- iv) recognition of the importance of equity and control by producers of cultural goods. In forums such as UNCTAD, the principle that prior informed consent (control) should be a prerequisite for registering any innovation is gaining acceptance. Innovations deriving from indigenous or local knowledge should be acknowledged and prior informed consent sought. This subject also relates to the issue of sharing of benefits (equity). Manuela Carneiro da Cunha referred to decision 486 of the Commission of Andean Countries, which recognizes the right by indigenous communities to decide over their collective knowledge.

Much debate, noted Manuela Carneiro da Cunha, has focused on the appropriateness of the system of Intellectual Property Rights (IPR) for protecting systems subject to differing cultural logic. There is growing consensus for *sui generis* intellectual rights, she underlined. She mentioned in particular that a proposal made by the Third World Network in relation to South-East Asia, seeking to ensure that local knowledge is not be privatised but maintained in the public domain, has spread to English-speaking African countries and Latin America. Concerns raised under this system were that such knowledge could not then be appropriated, and that knowledge used for commercial purposes should involve shared benefits for custodians. This approach, she stated, differs from that of WIPO which has examined how traditional knowledge may be adapted to existing instruments such as IPRs. Thus, the Third World Network prepared a Community Intellectual Rights Act which they propose to apply in the public domain.

Linked to the aforementioned issues is that of whether the relation of people to their culture should be identified as a form of 'property'. The term 'heritage' may be inappropriate due to the connotations of 'property' it carries. The idea of 'custodianship' or 'sole custodianship' has appeared as an alternative approach and seems widespread in areas including the South African Development Community countries and the Andean Community. Manuela Carneiro da Cunha expressed her view that maintaining traditional knowledge in the public domain is the most appropriate way to ensure its renewal. The issue of how best to protect intellectual rights remains the subject of much debate. In a general sense, some difficulties relate to the interface between a global IPR system and local regimes. While the present IPR system relies on the premise that monopoly of the author for a legally determined period fosters creativity, it is difficult to evaluate whether such a system fosters innovation and creativity with regard to traditional knowledge.

In this respect, Manuela Carneiro da Cunha expressed her view that WIPO's role is restrictive and overlooks the significance of fostering innovation with regard to traditional knowledge. Alternatively, UNESCO could take a holistic view of protection which addresses domains concerning WIPO in relation to economic protection, but within a more encompassing framework for protection. She suggested that a definition of intangible cultural heritage should address the aforementioned issues, with its objective being to foster traditions of cultural production while privileging cultural producers as beneficiaries and agents. Manuela Carneiro da Cunha noted that the scope may include wide-ranging domains, such as human remains and languages, and gave an example of a wide ranging scope as provided by Erica Daes (United Nations High Commissioner for Human Rights): i) folklore and crafts, (ii) bio-diversity, (iii) indigenous knowledge. She added that bio-diversity is likely to be opposed by some countries.

In conclusion, she stated that UNESCO's definition should not be narrow in scope, and that the Organization could prepare an encompassing document, separating a working definition from a general definition, as has been the approach of WIPO.

### 3) Debate on Agenda Item 2

Participants debated over the “intangible cultural heritage” working definitions currently in use by various Member States as well as by intergovernmental and non-governmental organizations. Different themes were addressed during the discussion.

#### *a) The applicability of a definition*

One participant raised the question of the applicability of a working-definition, stating that UNESCO should pay close attention to what States might consider acceptable.

It was mentioned that the protection of heritage is mediated differently among States, and that the issue of globalization should therefore be discussed with a particular attention to how it is mediated among States and between citizens and States.

The fact that UNESCO is an international organization of the United Nations system which should further collaborate with the civil society was strongly supported by participants. It was thus suggested that experts in the meeting should consider normative texts in relation to ethics and intellectual values which could be proposed to UNESCO. In the context of globalization, they noted that utmost importance should be given to ‘participatory democracy’ rather than ‘representative democracy’, and that in this respect, a future normative instrument should emanate from a democratic process, in which citizens actively participate.

It was also recommended by a participant that UNESCO should take a broad and inclusive approach in defining the scope of intangible cultural heritage. Some participants noted that the so-called ‘high arts’ are somehow not included as an area of activity for UNESCO, whereas there are circumstances, such as in areas of Asia, where the consequences of rapid urbanization have led to the need to protect forms of ‘high culture’ which would otherwise disappear. A broad approach would allow for the possible identification of future priorities, it was stated.

#### *b) Traditional custodians, traditional knowledge*

Reference was made to the Conference entitled ‘A Global Assessment of the 1989 Recommendation the Safeguarding of Traditional Culture and Folklore: Local Empowerment and International Co-operation’. This conference, jointly organized by UNESCO and the Smithsonian Institute, (Washington D.C, 1999), emphasised the centrality of traditional custodians as full partners and experts in the safeguarding of cultural heritage. Participants pointed out that the mediation of traditional custodians of intangible heritage, as creators with the expertise and conscious intention to transmit their traditions, should be given greater recognition.

One participant debated over the need to include the process of creation and innovation, while recognizing that processes of creation are not necessarily accompanied by innovation in all instances. In response to these points concerning innovation, it was stated that intangible heritage is continually shaped according to the circumstances and social environment in which it occurs.

Referring to traditional knowledge, a participant referred to a general tendency to associate this domain with indigenous people and suggested that UNESCO should consider traditional knowledge in a broader sense as encompassing indigenous and all communities in a given country. However, the expressions of ‘traditional culture’ and ‘innovation’ were also put into question, due to the fact that while innovation is not necessarily in contradiction to tradition, the notion of tradition is not often widely considered to encompass innovation.

Participants went on to discuss over the significance of the active participation of makers of culture in the protection of cultural heritage. The question of whether makers of culture should be considered or not as experts was raised. A certain hesitancy to give status

to makers of culture equal to that given to scholars was noted and in this regard, it was emphasised that a legal instrument should work *with* people and not *on* people.

*c) The role of UNESCO and related agencies*

Concerning the role of agencies, participants stated that UNESCO should reflect upon how to enhance, define and protect intangible heritage, and raise awareness in Member States, while economic aspects and their protection should be addressed by other agencies with expertise specific to this domain. Others pointed out that as an intergovernmental organization, UNESCO should develop a possible normative instrument through the co-operation of Member States, while keeping in mind that an instrument should address the custodians and communities' needs.

The question of the role of UNESCO, in relation to other organizations concerned by the safeguarding of intangible cultural heritage, was addressed. It was pointed out that, having an encompassing mandate, UNESCO should not duplicate or replace the activities of other agencies. The question of sharing the tasks between WIPO and UNESCO was addressed. A participant mentioned that the experience of the World Heritage Centre demonstrates that while UNESCO tends to safeguard natural and cultural heritage of universal outstanding value, commercial utilization of this heritage can occur under intellectual property law.

It appeared during the debates that recurrent issues were commercial and social exploitation, and the inclusion of protective measures in a normative instrument. The need to define the nature of UNESCO's role and its priorities in this domain was discussed, taking into account that other organizations, such as WIPO, UNDP and CBD Secretariat, were concerned with such specific domains as copyright and patents.

*d) Customary law, normative law*

Participants debated over the question of the consistency of normative law with customary law. One participant referred to an evolution of the perception of customary law, giving the example of Vietnam whereby after having denied customary law that was not in conformity with State law, the State more recently published customary laws in the languages of ethnic groups. Others stated that a dynamic of normative structures may exist in some societies and that vital sources of customary law should be maintained.

The ability of international law to protect values independently of the instrumental utility of those values was questioned by participants. The example of the Japanese society, in which the westernization influence has had some adverse impacts on traditional expressions such as kabuki or nô, performing arts and crafts, was mentioned. Consequently, it was noted that the Japanese government has developed legal protection for such expressions by designating them to be important cultural heritage. This example was used to argue that a normative instrument should perhaps not only protect the rights of custodians as individuals, but encourage a system whereby the State recognises the importance of a particular cultural expression in a broader sense.

*e) Community levels : working definition*

Participants debated over the process of creation occurring at community levels. It was underlined that 'community' should be considered a keyword and carefully examined in defining intangible cultural heritage. They raised the question as to how rights of communities whose boundaries do not correspond to the geographical boundaries of States can be protected both by State governments and international organizations. In this respect, they questioned whether the term 'community' is defined and applied within UNESCO in a manner that is appropriate, and whether communal property rights can be addressed within



legal frameworks. It was pointed out that in many communities, creators of intangible cultural expressions such as songs, stories and legends are not easily identifiable, yet are known to belong to particular communities. However, they queried how such communities could protect these expressions, particularly if documented in written form, from economic exploitation or from being exploited in the media (radio, film, etc.).

Participants also drew attention to the term ‘community’ as having various meanings and applications. They noted that in international law, ‘community’ refers to the totality of humanity as organized in many different political systems. Others stressed that the term ‘community’ may be understood as a local group or in the sense of the international community.

The example of Africa, where regulations are made through governments, was referred to. It was thus stated that creators of culture should be encouraged to participate actively in the development of regulations and decision-making.

Bearing in fact the shift in anthropological thinking about product, production and process, participants noted that while production and processes are important, the product must also be recognized. With regard to measures to be taken to protect intangible heritage, they stated they should not undermine what is to be protected, and must take into account the continual recreation of new expressions. The example of the innovation process in Ghanaian culture was given, as a way to highlight the need to recognise the contemporary relevance of the continuity of traditions for traditional cultures. In this respect, it appeared that interculturalisation and sharing of diversity are also significant. In Africa, it was mentioned that certain elements of intangible cultural heritage are being re-conceptualized from the community level to larger areas, in response to changing demographics. Thus, a distinction should be made between the use of heritage for commercial purposes and the activities internal to a community which build on the cultural experience.

Some participants stated that the term ‘enactment’ should be used in reference to communities as the creators of intangible cultural heritage. They noted that the perception of the various agents in the creation of intangible heritage should be reflected in the terminology to be used in a definition. Differences between languages, and consequently the perception of certain terms by communities, should be taken into account, as the meaning of some terms, once translated, may alter.

#### *f) Human rights*

Participants addressed the human rights dimension of the protection of intangible cultural heritage, stating that the issue of protecting people’s rights to practice intangible cultural heritage is a human rights issue.

It was explained by one participant that the knowledge of indigenous people cannot be protected unless their rights to access the resources relating to this knowledge are protected. By way of example, it was pointed out that traditional knowledge is used in accessing land and its resources. The example of the Pacific was thus brought forward, because this region has the highest number of indigenous people, and has been the most colonized in the world. Two contemporary examples of human rights abuses in the region were also referred to. In Hawaii, for example, recent legislation removes the rights of a community to practice its culture by denying access to its own resources, and in Irian Jaya, indigenous people are being killed. Thus, it was stated that protecting intangible cultural heritage is also a means of protecting the right to live and to be secure.

#### *Elements of agreement*

One participant sought to identify the terms for which agreement had so far been reached during the meeting. Two terms were thus put forward.

The first term was the notion of ‘makers of culture’. It was noted that this notion should apply to bearers and holders of culture in order to emphasize enactment, bearing in mind two aspects of the term: the person creating the elements and those who enact them.

The second term identified was ‘interculturalization’, referred to otherwise as the ‘sharing of culture’. Participants noted that efforts should be made to protect elements of intangible cultural heritage which support social co-operation, adding that much intangible heritage relating to the natural environment (nature beliefs, season calendars, cosmo-visions, etc.) remains unprotected, and that UNESCO could undertake the protection of such elements.

Finally, the Chairman suggested that future discussions should focus on identifying: i) elements to be protected, ii) the scope of intangible cultural heritage, iii) the kind of protection to be developed, iv) means available to ensure that there is no unethical exploitation of this heritage.

### **AGENDA ITEM 3 TERMINOLOGY IN THE FIELD OF INTANGIBLE CULTURAL HERITAGE AND RELATED AREAS**

#### **1) Presentation by Dr Peter Seitel “Proposed Terminology for Intangible cultural Heritage : Toward Anthropological and Folkloristic Common Sense in a Global Era ”**

Peter Seitel stated that his paper was intended to encourage discussion on the choice of terminology. He added that the term ‘folklore’ has never been defined and that in his view, there is no reason to define it. He supported Lourdes Arizpe’s proposal to use the word ‘enactment’, while noting that alternative terms could be ‘performance’ or ‘process’.

Peter Seitel stated that definitions assist in developing policies. He differentiated between descriptive definitions and stipulative definitions, noting that the latter, developed for specific purposes, were the concern of the present meeting. He added that it is important that definitions are situated within a logical system, and that the relationship between words should be both clear and placed within an historical context. Such contexts may include globalization and developments in the safeguarding of intangible heritage since the 1989 Recommendation (for example, the results of the regional consultations, the importance of hybrid cultures for Latin America, the importance of considering traditional high or court culture in addition to traditional culture and folklore for Asia, etc.).

Peter Seitel referred to conceptual and operational definitions, noting that these have been developed by WIPO in relation to traditional knowledge. He explained that they are interdependent - a conceptual definition fits into an analytic system that can be used as a tool to understand and develop policies. Operational definitions illustrate how conceptual definitions are applied in institutional practice. His paper provided a limited set of definitions including ‘cultural process’ (corresponding to the term ‘enactment’), ‘traditional cultural process’, ‘traditional culture’, ‘traditional knowledge’ and ‘safeguarding of traditional cultures’. Other significant terms include ‘oral tradition’, ‘transmission’, ‘community’ and ‘traditional cultures’.

Peter Seitel then noted that products of a process are not only the material products, but also include spirituality and knowledge. In a traditional society, knowledge comes from the enactment of the traditional processes. He stated that he did not support the use of the term ‘folklore’ due to his view that it cannot and need not be defined. He added that ‘folklore’ is an institutional term which is not used analytically in the Smithsonian Institution. He proposed traditional cultures, as an analytical term which would be more acceptable among different regions of the world.

Peter Seitel supported Dr Blake's proposal that WIPO should undertake the protection of products of traditional cultural processes, noting that WIPO's operational definition of traditional knowledge refers to the products (songs, stories, etc.) of traditional cultural processes. He underlined the need for WIPO to change its notion of 'ownership' to 'collective ownership', and the temporal term of protection to one of perpetuity. He then added that WIPO should be encouraged to protect moral rights.

Peter Seitel then discussed the recommendation presented in his paper that the internet be used as one of the most accessible, inexpensive and effective tools in enabling local communities to safeguard their traditions. He noted that a priority issue is that connection to the internet should be regulated through a code of ethics, as has been proposed by NGOs and professional organizations. He pointed out that the proposal was intended for discussion and to encourage the involvement of custodians of local traditional cultural expressions in the preservation and the safeguarding of their own practices.

## **2) Debate on agenda item 3**

The critical points having been addressed during the Round Table were first summarized by the rapporteur Janet Blake as follows. She noted that the principal issues requiring further attention were: i) the concept of community and the importance of an inclusive approach encompassing the diverse forms a community may constitute, ii) social co-operation as a central element in considering communities and developing policy at the national level, iii) the need for governments to take into account views of specific communities and to address the centrality of practitioners as makers of culture and of enactment and processes.

Participants went on to debate over the terminology used in the field of intangible cultural heritage and related areas. Different themes were addressed during the discussion.

### *a) UNESCO, Member States and globalization*

Participants insisted that Member States should be encouraged to work together with local communities, acknowledging their processes for transmitting and safeguarding these traditions, while facilitating mediation and debate.

With regard to transnational communities, a participant noted however a tendency to limit discussion during the Round Table to those existing within the boundaries of Nation States, and remarked that the Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms introduced the term 'transfrontier exchanges'. It was thus suggested that governmental approaches should take into account the reality of transnational communities.

Participants agreed that defining the scope of intangible cultural heritage and considering a possible normative instrument must take into account the new reality offered by the globalization era. This question of the globalization impact upon culture, it was reminded, was strongly addressed during the 160th session of the UNESCO Executive Board (October, 2000) and remains a central concern for UNESCO and Member States.

Some participants mentioned that one positive dimension of globalization is the capacity of new technologies to provide local communities with a greater access to State structures such as archives and universities. They referred in particular to the positive impact of new technologies for communication and exchange between cultures, and mentioned that it should be taken into account when drafting a document. In contrast, it was stressed that globalization's impact on the maintaining of cultural identity can also threaten the survival of cultures.

*b) Property, custodianship and ownership*

Property, custodianship and ownership were identified as concepts requiring further consideration. Emphasis was laid on the significance of these elements in relation to intangible cultural heritage, due to the fact that traditionally accepted legal concepts of ownership and property may not be consistent with the objectives of a new instrument and practitioner's views of this heritage. Human Rights were here again addressed in terms of the rights of communities to practice their heritage and with regard to economic sustainability and land rights.

*c) The scope and limits of a normative instrument*

Participants first commented on the need to define the scope and limits of UNESCO's activities for the protection of intangible heritage without duplicating activities of other organizations, and suggested that increasingly horizontal interaction between WIPO and UNESCO is necessary.

Participants referred to the need to clearly define the scope of the domain of intangible heritage for the purpose of preparing a possible instrument.

Concerning the scope of a potential instrument, the following elements were emphasised : i) the importance of practitioners and of their agency ii) the significance of the creative process as well as the product, iii) the transmission of skills and know-how, iv) the context of creation and transmission.

Several participants expressed the view that UNESCO should be concerned with broader approaches to the safeguarding of intangible cultural heritage. In terms of strategy, some stressed that the meeting's greater objective was to identify important characteristics of this heritage rather than to list examples.

A participant referred to a resolution by the International Council of Scientific Unions at the World Conference on Science which expressed concern over the phrase 'traditional and local knowledge systems' as follows: 'The importance of empirical knowledge built up over generations and grounded in practical evidence is acknowledged but such knowledge must be distinguished from approaches that seek to promote anti-science and pseudo-science...'. The participant thus pointed out that it is problematic to attempt to verify intangible heritage with scientific methods due to the nature of such heritage.

Finally, noting that the need to respect all cultures should be referred to in the terms of reference of a normative instrument, it was suggested by some participants that UNESCO's activities for the protection of intangible cultural heritage should be understood in the framework of the Universal Declaration of Human Rights. It was also mentioned that universally accepted human rights should be referred to in the preamble as a principle.

*d) Problematic notions*

Participants went on discussing over problematic denominations, such as:

(i) the term 'traditional culture'. For example, it was underlined that, in the English and French languages, the term 'tradition' can take a meaning which is opposed to modernity. 'Heritage' might be a preferable term to 'tradition', it was often noted.

Referring to the misuse of traditional cultures in folkloric groups, some participants voiced their opinion that the term 'traditional cultures' should be used instead of 'folklore'.

By contrast, a participant stressed the importance of the notion of inter-culturation with regard to cultural diversity, and added that States should not impose protective measures, but should instead develop them in collaboration with communities concerned. This matter, it was said, also concerns the importance of training those who will have management roles with regard to the protection of traditional cultures. Noting that this aspect

should be underlined in the text to be adopted by the meeting, it was pointed out that training should be organized in collaboration with international organizations such as UNESCO.

(ii) the term ‘intangible heritage’. The word was said to be problematic and not necessarily the most adequate expression because tangible heritage has chronologically preceded intangible heritage in the history of UNESCO programmes. However, it was stressed that the term ‘intangible heritage’ avoids the problem of the conservative meanings associated with the term ‘tradition’, and that ‘heritage’ implies tradition and inter-generational transmission.

(iii) the term ‘treasures’. The word was said to present tradition and those threatened with disappearance in a ‘paternalistic’ way.

#### **AGENDA ITEM 4: PRELIMINARY STUDY ON THE ADVISABILITY OF REGULATING INTERNATIONALLY, THROUGH A NEW STANDARD-SETTING INSTRUMENT, THE PROTECTION OF TRADITIONAL CULTURE AND FOLKLORE**

##### **1) Presentation by Janet Blake ‘Introduction to the Draft Preliminary Study on the Advisability of Developing a Standard-setting Instrument for the Protection of Intangible Cultural Heritage’.**

Janet Blake commenced her presentation by discussing UNESCO’s historic involvement in activities related to the protection of intangible cultural heritage, noting that the Organization has long been concerned with the preservation of cultural diversity through standard-setting. The 1997 World Forum on the Protection of Folklore (Phuket) recommended that regional meetings be organized on the development of a new international agreement for the protection of folklore. Various regional consultations held jointly by UNESCO and WIPO called for the development of *sui generis* protection of expressions of folklore. In her study, she sought to address the development of the scope of UNESCO’s involvement in intangible cultural heritage, and a definition taking into account the obligations and the type of legal and administrative measures to be recommended to Member States. She added that defining the scope of intangible cultural heritage for UNESCO is necessary in order to examine the concepts involved before legal questions can be addressed. She noted that there exist different types of instrument that could be developed.

Janet Blake then discussed work of other intergovernmental organizations, highlighting their activities in the area of traditional knowledge and indigenous heritage. She expressed the view that UNESCO should not necessarily avoid working in the same domains as other organizations where cooperation or alternative approaches are beneficial to the protection of intangible heritage.

Concerning identification of the content and scope, she underlined the importance of practitioners in transmission, contexts and processes of creation, the need to work with a broader anthropological concept of culture and the relationship of culture with development.

Addressing the question of customary law/rules (access, use, control of intangible heritage), she underlined that this question should be given greater consideration by UNESCO in a normative instrument.

Referring to definitions of intangible heritage as universal heritage, she noted that they should not imply that intangible cultural heritage is a common heritage of mankind in terms of resources. Intangible heritage exists within the specific communities that practice, create and maintain it. In this regard, she suggested that the protection of this heritage be presented as a matter of universal *interest* rather than as a ‘universal heritage of humanity’.

The objectives of an instrument may include those which exist in other texts and in programmes of UNESCO. For example, intangible elements are explicitly referred to in the texts of previously established standard-setting instruments, such as the 1972 World Heritage Convention. However, a normative instrument for the protection of intangible heritage would be the first to provide a definition of this heritage. An outline of some of the domains which an instrument might encourage was provided :

- i) Recording and inventorying of oral heritage and customs in danger as activities that an instrument would be likely to encourage and support;
- ii) Revitalisation of the continuing creative process of traditional culture through measures that Member States would be invited to put in place;
- iii) Strengthening measures enabling the communities to continue to create and maintain and transmit their culture in traditional contexts;
- iv) Preventing the unauthorized use of intangible heritage and its inappropriate distortion;
- v) Restitution of items of cultural property are associated with intangible heritage. While this domain is covered by the 1970 Convention (Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property), it would be strengthened if restated in a convention dealing specifically with intangible heritage;
- vi) Raising awareness of the value of intangible cultural heritage.

Janet Blake noted that an instrument may also require measures for the establishment of systems for international co-operation and assistance to enable States to carry out the necessary measures for safeguarding intangible heritage, such as were established in the 1972 World Heritage Convention for tangible heritage. She then referred to the inclusion of customary rules in a normative instrument, and the involvement of practitioners and communities in the preservation, maintenance, management, etc. of their intangible heritage, giving an example of the respect for customary rules relating to secrecy. These aspects, she stated, have been included in the revised version of the operational guidelines of the 1972 World Heritage Convention, and are clearly domains in which UNESCO is working in the wider domain of cultural heritage.

Concerning the type of instrument that could be envisaged, Janet Blake recommended that two models in particular should be considered if UNESCO decides to develop a Convention:

- i) an instrument inspired by the 1972 World Heritage Convention. If a convention of that kind were to be developed, it may be necessary for it to be associated with a set of recommendations which deal with the question of national measures for safeguarding intangible cultural heritage;
- ii) a general cultural heritage protective instrument that seeks to address a broad scope of intangible heritage. This would most likely require certain *sui generis* rules, and the adaptation of existing legal approaches, including customary legal approaches, because there are aspects to the safeguarding intangible heritage that the existing standard legal measures cannot fully address. She added that the domains included in a definition of intangible heritage will have a significant effect on the choice of the type of instrument to be developed.

## 2) Debate on agenda 4

Participants debated over the Preliminary study on the advisability of regulating internationally, through a new standard-setting instrument, the protection of traditional culture and folklore. Different themes were addressed during the discussion.

### *a) Clarification*

Following the presentation by Janet Blake, clarification on the Living Human Treasures System and the Programme “Proclamation of Masterpieces of the Oral and Intangible Heritage”, both initiated by UNESCO, was provided by the Secretariat.

It was reminded that the first term derives from the Japanese system of National Treasures, which refers to human treasures as ‘holders of important cultural property’. Thus, the Japanese system was originally established in the 1950s, and a similar system was established in Korea in the 1960s. In 1993, the Republic of Korea submitted a resolution to the Executive Board, which resulted in the Living Human Treasures System, thus becoming a UNESCO programme. In Japan, the system grants recognition and prestige more broadly to certain so-called high cultural expressions. UNESCO, it was underlined, has been encouraging Member States to give official recognition of value to exceptional practitioners through the system of Living Human Treasures.

The term ‘masterpiece’, included in the Programme ‘Proclamation of Masterpieces of Oral and Intangible Heritage of Humanity’, was then presented. It was emphasized that the term was extensively debated during Executive Board meetings, and that while it’s appropriateness in describing intangible heritage remains problematic, it was adopted on the understanding that it should be broadly interpreted by UNESCO, and not in an elitist way.

Referring to issues concerning the active participation of local communities, civil society and NGOs, it was also pointed out that the Organization seeks to do so through the Proclamation Programme. As a concrete example, the case of the Jama’a El Fna (Morocco) candidature file, where a local association was created and received funding to prepare the file, was mentioned.

### *b) Intangible heritage : a common heritage of humanity?*

Participants discussed over the recommendation that intangible heritage should not be referred to as the “common heritage of humanity”. They posed the question as to what criteria should be adopted to validate intangible heritage as the common concern of humankind. Referring to the 1972 World Heritage Convention, one participant noted that the threshold for recognition of outstanding universal value to qualify for protection, assistance, financing and monitoring, etc., for cultural heritage is extremely high. Thus, it appeared that this Convention is not necessarily an appropriate model in that such a high threshold would reduce the possibilities of protection for much intangible heritage, due to its nature. In this regard, it was suggested that an alternative criteria to ‘outstanding universal value’ could be ‘exceptional importance’.

It was also pointed out by a participant that the notion of the ‘common heritage of humankind’ should be excluded as it implies that certain forms and expressions of intangible heritage cannot be appropriated. Others expressed their view that ‘universal heritage of humanity’ is likely to be a controversial notion. The notion of ‘universal interest’ was proposed as an alternative to ‘common heritage’ or ‘universal heritage’. Referring to operational criteria, they questioned whether diversity in general rather than specific outstanding expressions of diversity could be emphasised.

*c) The applicability of Intellectual Property Rights*

The issue of intellectual property rights, in relation to universally held heritage, was raised. Such rights, it was noted, are not only linked to privatization of land or objects but also to images. In this regard, the proposal to further develop the internet as a domain for the protection of intangible heritage was acknowledged by several participants. The question as to whether images of such heritage could be sold through the internet was also addressed.

Furthermore, referring to the need to consider the applicability of Intellectual Property Rights, participants noted that UNESCO has an important role to play in the public domain. They stated for example that while members of WTO are obliged to apply Intellectual Property Rights, what is in the public domain in one country is not necessarily so in another country.

*d) Involving practitioners*

The necessity to involve practitioners in the development of a legal instrument was stressed. Participants mentioned that such an instrument should enable communities to develop their own ways of preserving their heritage. At community levels, it was noted that States should also facilitate ways for holders of traditions to determine their own approaches to preserving, developing and enacting their heritage. Notwithstanding these remarks, it was underlined that such an instrument should be prescriptive at the international level and encourage interactions between States and the communities. Participants also noted that official recognition of exemplary intangible traditions has positive effects on the tradition holders in that it encourages their efforts to preserve and transmit their skills and knowledge.

It was also pointed out that while priority should be given to the active involvement of local communities and civil society, agencies linked to UNESCO or Member States should be consulted. A participant acknowledged the fact that Member States are often better placed to compile any registries of their own heritage, and have a greater capacity to identify the complexities within their national borders than a local community or civil society. Thus, there are some cases where State foundations offer an opportunity for communities to draft proposals for the protection of a language, an artisan practice, etc. State agencies can also provide resources (monetary, technical assistance, training) for these communities to document for themselves, it was added.

*e) “Intangible heritage”, a problematic notion*

Concerning the term ‘intangible heritage’, the use of the word was put into question. The case of Japan and Korea, where heritage is categorized according to that which has a physical form and that which does not, was mentioned. Thus, ‘Intangible’ heritage translates into ‘without physical form’ and presupposes some creation and development, whereas tangible heritage implies restrictions on the change of its physical form. It was therefore suggested that the term ‘oral heritage’ might appear to be too narrow and exclusive of some traditions.

Other participants replied that the term ‘intangible heritage’ has gained increasing acceptance in Member States in the course of it being applied through UNESCO Programmes, such as the ‘Proclamation of the Oral and Intangible Masterpieces of Humanity’. Some also expressed their personal preference for the term ‘oral heritage’ because of the centrality of this heritage to intangible heritage.



## AGENDA ITEM 5: POSSIBLE WORKING DEFINITION FOR UNESCO

### 1) paper presented by Francisco Francioni

Francisco Francioni presented his paper, in which he sought to examine three principle subjects: i) how international law and law in general may address the problem of intangible property, ii) how UNESCO has dealt with the definition with regard to the cultural heritage to date, iii) what kind of indications can be drawn from existing relevant practices and instruments. He expressed his general approval of the term ‘intangible heritage’, as a term which can encompass a wide range of intangible expressions. He went on to explain that the protection of non-material heritage has been addressed in existing legal instrument and referred to the French legal notion of ‘*biens*’ as encompassing the intangible dimension of objects. He agreed that under domestic law and under international law, it is necessary to develop a regime of protecting intangible aspects in the interest of the creators.

Another element which should be taken into account is the need for legislation to provide regulations concerning the authorization, procedure on the enjoyment, licensing, time limits and the public policy exceptions, etc. He noted that the intellectual property rights paradigm can perform a useful function in developing a normative instrument to protect intangible heritage. However, it is clear, he added, that UNESCO’s mission goes beyond IPRs and the safeguarding of the economic utilization of the end product of a cultural process.

Francisco Francioni emphasized the importance of the processes from which the creation of intangible heritage derives. He pointed out that the processes of creating intangible heritage differs fundamentally from those of scientific enquiry. The communal traditions that a social body expresses, he noted, are not finalized nor targeted to a particular achievement, but are often more integrated aspects of life, and are inter-related with intellectual and social structures or processes that characterize a particular people. He went on to discuss how UNESCO has developed definitions of cultural heritage in existing instruments.

a) The *1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict (The Hague Convention)* provides a useful example of parameters delineating the domains which it addresses, he noted. One parameter is that of ‘importance’, which can be very controversial. In the 1954 Convention, UNESCO and the contracting parties felt that it was necessary to qualify the heritage to be protected by reference to its importance. The Convention refers to three categories of property, he emphasized : works of art, buildings and places that contain monuments and centres of monuments. Another valuable parameter to be considered is the identification of cultural heritage of outstanding importance. This has been singled out for a special type of protection, he went on. The 1999 Protocol of the aforementioned Convention places great importance on cultural heritage of outstanding value. While reservations initially existed with regard to the establishment of such an institution, he noted that Member States eventually accepted it as a positive development.

b) The *1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property* contains a general clause defining cultural property as that of importance for archaeology, history, literature, art and science, he stated. Following this general clause is a listing of the specific cultural heritage that may be the object of the Convention. The combination of a general clause and a specific listing could be considered for a normative instrument for intangible heritage, he added.

c) The 1972 *Convention concerning the Protection of World Cultural and Natural Heritage (The World Heritage Convention)* confers responsibility for identifying heritage to be protected to Member States. UNESCO plays a role in the process once the heritage has been identified and the State concerned has decided to co-operate with UNESCO in its conservation. The definition of the 1972 Convention requires the criteria of outstanding universal value. Francisco Francioni expressed his view that this threshold would be inappropriate as a model for a normative instrument to protect intangible heritage.

d) The draft *Convention on the Protection of the Underwater Cultural Heritage* is currently being negotiated, he underlined. This area is presently regulated to some extent by the UN Law of the Sea Convention. However, he stated, UNESCO can take initiatives in areas already regulated by international law which will benefit from the Organization's contribution in ways such as achieving a higher level of protection.

Finally, Francesco Francioni presented a draft definition of intangible cultural heritage that could be used for the purpose of an "instrument" or "convention" :

"Any non-corporeal manifestation of tradition-based creativity, spontaneously originated and developed within a cultural community by which it is perceived to be an important component or reflection of the community's social or cultural identity. It includes, besides the immaterial product of the tradition based creations, the social, intellectual and cultural processes that from generation to generation, by oral transmission, by imitation or by other means of learning have made possible the development of a distinct cultural tradition whose preservation and protection is important for the safeguarding of the cultural diversity and creativity of humanity.

The forms in which intangible heritage may manifest itself are, among others, languages, literature, music, drama, dance, mime, games, hunting, fishing and agricultural practices, religious ceremonies, traditional skills in weaving, building and carving, cuisine, extrajudicial methods of dispute resolution, traditional medicine and traditional knowledge applied to plants and their medical, biological and agricultural properties".

## 2) Debate on agenda item 5

Participants debated over the possible working definition for UNESCO. Different themes were addressed during the discussion.

### a) "*Intangible heritage*" : *questions of terminology*

The adoption of the term 'intangible cultural heritage' was criticized by some participants who underlined that the adoption of one conceptual framework undermines cultural diversity, although the term is also used in various cultures.

The use of English or French as the sole framework for the definition of a normative instrument was also considered by participants to be limiting. They stated that it would be necessary to contrast this against the historical production of ideas and word symbols of communities who do not make a distinction tangible and the intangible heritage.

Referring to the notion of spontaneous creation, they noted that the word 'spontaneity' is inappropriate, as cultural enactments and expressions are rather based on intentions, which have evolved historically and continue to do so. It was objected that the use of the adjective 'spontaneous' was not intended in a reductionist context, but rather in contrast to civil law which deals with monumental heritage as a non-spontaneous one.

Taking into account the fact that many cultures do not make a distinction between tangible and intangible heritage, participants noted that it is important to explain what UNESCO means by 'intangible cultural heritage', rather than to define it, as such. They suggested that UNESCO should seek to explain what intangible heritage is *considered* to be.

Referring to the existing definition of traditional culture and folklore in the 1989 Recommendation, participants noticed that the criteria described as ‘oral transmission by imitation or by other means of learning’ is too broad for a UNESCO definition.

A participant went on to comment on the terms used in the definition presented by Francisco Francioni, mentioning that :

- i) **‘non corporeal’** appears to be problematic, as there are elements of intangible heritage that have nothing to do with the body: signs, colours, etc;
- ii) **‘tradition-based creativity’** seems a useful term, as it emphasises creativity rather than tradition;
- iii) **‘developed by a cultural community’** is considered acceptable if it is specified that ‘community’ has broad applications referring to local, regional, international community, etc.
- iv) **‘cultural process passed on from generation to generation by oral transmission, by imitation or by other means of learning’** may be supplemented with ‘by exchanges with other cultures’, in order to avoid the impression that culture and their traditions are totally distinct. It was noted that local traditions encompassed within a micro-regional tradition may also be national traditions, which may in turn extend to broader regional levels. Thus, the distinctiveness of a given tradition may appear at every level, but it more often constitutes a system or a network of traditions rather than traditions specific to a given community or country;

#### *b) Domains of intangible heritage to be addressed by UNESCO*

The issue of the domains of intangible heritage which UNESCO should address was questioned.

A participant suggested adding the following domains : (i) hunting, fishing and agriculture ; (ii) cultural, physical and/or temporal spaces, owing their existence to cultural activities traditionally taking place in such spaces ; (iii) movable and immovable heritage with strong intangible heritage associations ; (iv) natural landscapes with strong intangible heritage associations ; (v) intangible heritage associated with life and festive events, symbols and rituals.

Others recommended that the scope of domains should be restricted, and that at this stage, UNESCO should seek to address the domains to be safeguarded in general terms. It was also pointed out that establishing a strict list might seem impossible, due to the continually evolving nature of intangible heritage.

#### *c) The basis for a legal framework*

Participants reflected on the means to develop a normative instrument that could provide a basis for a convention to be applied both at national and community levels.

Concerning the terminology, some stated that the term ‘protection’ may be inappropriate and suggested that a more suitable term could be ‘safeguarding’. In commercial contexts of protecting intangible heritage, it was recommended that the term ‘regulation’ would be more appropriate, and that UNESCO and WIPO should work together in determining the most appropriate terminology.

Concerning the type of instrument to be prepared, it was suggested that a Convention may be most appropriate. The purpose of the Convention was also put into question. Some proposed that one of the first element to be addressed should be the role of the custodians of intangible heritage, followed by the transmission, the learning processes, and the processes of creation and co-operation surrounding intangible heritage. Others recalled that calls for a code of ethics in a normative instrument for intangible heritage had been made. It was noted that a similar arrangement was included in the original draft of the Underwater Heritage Convention.

## *Conclusion*

In conclusion, a summary of the principal issues and themes having emerged in the presentations and discussions was provided by the rapporteur Janet Blake as follows :

- i) the need to avoid hierarchical approaches to intangible heritage;
- ii) the importance of clearly delineating the scope of the intangible heritage to be safeguarded through a normative instrument;
- iii) the need to develop an operational definition that serves as a useful basis for future work;
- iv) the significance of globalization, and of recognizing both its potentially positive uses and negative impacts, and the need for UNESCO to clarify its position with regard to globalization and its impact on intangible cultural heritage;
- v) the need to state clearly that respect should only be given to those cultures that themselves are tolerant and respectful of other cultures;
- vi) the general consensus on the term 'intangible heritage'. Although objections were raised, there was also general agreement that it can be operationally useful. The need to explain the application of the term was also raised, particularly with regard to explaining the inter-relationship between tangible and intangible heritage, and to take into account that many cultures do not make a distinction between the two domains;
- vii) the importance of the idea of sharing between cultures;
- viii) the need to emphasise cultural diversity, and the significance of dialogue between the different cultures;
- ix) the need to reinforce the participation of community members in all aspects of safeguarding intangible heritage;
- x) the necessity to identify intangible heritage within the custodian communities;
- xi) the importance of recognizing the inter-relationship between different forms of intangible heritage;
- xii) the need to stress the oral heritage, in its varying manifestations, with an emphasis on transmission and languages as major elements.

## **AGENDA ITEM 6 : ADOPTION OF THE ACTION PLAN**

The draft Action Plan, including definitions of the term Intangible Cultural Heritage, as well as its suggested scope, was presented by Ms Lourdes Arizpe, the Chairperson of the drafting group. The draft Action Plan was approved unanimously (see Appendix III).

### **Appendices**

- Agenda
- Annotated agenda
- List of participants
- Action Plan