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Cultural industries : towards a policy framework

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Ladies and Gentlemen, on behalf of Mr Matsuura, Director-General of UNESCO, let me convey to all of you the Organization's gratitude for having accepted to participate in this important gathering, at the initiative and under the responsibility of my dear colleague and friend, Richard Engelhardt, UNESCO's Regional Advisor for Culture in Asia. It is for me both a honour and a pleasure to share with you our views on policy frameworks for cultural industries, a topic that currently stands at the top of the international agenda.

Technology and freer markets have undeniably provided opportunities for economic growth and social progress. But not all societies, communities and individuals are currently able to benefit from them. The realities of today, including widespread poverty, the digital divide and limited access to education and information mean that many of the needs and interests of a large portion of humanity continue to be pushed aside. If it is true that creativity is indeed the most equitably distributed and eternally renewable natural resource, it is also a fact that the world mapping of cultural industries shows a serious divide to the detriment of developing countries. Many of them lack cultural industry infrastructures, training, access to capital, knowledge of markets and effective regulatory or policy framework. Inadequate copyright systems and enforcement often contribute to the proliferation of piracy, which thereby prevents numerous countries from reaping the potential benefits of a freer movement of goods, services and capital although research shows that cultural industries are powerful generators of income and

employment, even more so than traditional sectors of the economy. As a result, they also suffer a severe “brain-drain” of creators and artists.

Taking into account the hybrid nature –cultural and economic- of cultural goods and services produced and distributed by those industries and the fact that market alone has not proven efficient to address this challenge, neither at the international level nor at the regional/sub-regional or national scale, this situation became a serious concern for those who believe in the importance of cultural diversity. As a result, culture has moved to the forefront in a context of increasing globalization, regional integration processes and a generalized claim by all cultures of their right to express themselves... It is now widely recognized that this legitimate aspiration will remain unanswered in absence of appropriate policy frameworks.

What cultural industries are we talking about?

Although there is no internationally agreed definition, it is generally accepted (working definition by UNESCO) that this term applies to those industries that combine the creation, production and commercialisation of contents which are intangible and cultural in nature. These contents are typically protected by copyright and they can take the form of a good or service (neither defined by WTO in its GATS Treaty).

The original draft Convention text, prepared by a group of international experts at the request of the Director-General of UNESCO and currently being subject of passionate intergovernmental discussions, defines cultural goods and services as “those goods, services and activities that embody or yield cultural expressions and have the

following characteristics: a) they are the outcome of human labour (industrial, artistic or artisanal) and require the exercise of human creativity for their production; b) they express or convey some form of symbolic meaning, which endows them with a cultural value or significance distinct from whatever commercial value they may possess; c) they generate, or may generate, intellectual property, whether or not they are protected under existing intellectual property legislation". As a corollary, "cultural industries" refer in the same document as those "industries producing and distributing cultural goods and services as defined above". It is important to remember here that this definition has been maintained by the Drafting Committee of the Intergovernmental Committee that, on the other hand, has not yet reached an agreement on the opportunity to mention "cultural goods and services" in the Convention. For the time being, this term – and accordingly its definition – remains in brackets. The indicative list elaborated by the Group of Experts as an annexe to the future Convention, will most probably be suppressed, according to current discussion trends.

Moreover, in certain countries, cultural industries may also be referred to as "creative industries", "sunrise" or "future-oriented industries" (economic jargon) or even "content industries" (technological jargon). In all cases, the notion includes printing, publishing and multimedia, audiovisual, phonographic and cinematographic productions as well as crafts and design. However, in some countries, this concept also embraces architecture, visual and performing arts, sports, manufacturing of musical instruments, advertising and cultural tourism.

By all means, we are talking about industries that add value to contents, generate value for individuals and societies, are knowledge and labour-intensive, create employment and wealth, nurture creativity and foster innovation in production and commercialisation processes. They are also central in promoting and maintaining cultural diversity and in ensuring democratic access to culture.

Towards policy frameworks at the global level

Creative works, embedded in books, records, films, multimedia, crafts and fashion design products - nowadays most popular gateways to enjoy cultural and artistic expressions - are conveyed and worldwide disseminated by cultural industries. To a large extent, reciprocal images and stereotypes of cultures and civilizations are being constructed through global cultural industries. World citizens need opportunities to develop new 'content' products reflecting their own concerns, lifestyles and interests, as well as the means to ensure that these cultural goods and services can compete in domestic, regional and global markets.

However, the hybrid nature of cultural goods and services, as previously mentioned, explains the difficulties to establish a policy framework of general acceptance. Economic interests always move quicker and international regulation of overall goods and services was addressed in the GATS, to be discussed later on in this meeting by Alvaro Garzon. I will therefore limit my comments on the fact that GATS makes no specific legal exception in favour of cultural goods and services, contrary to what one can often hear.

Those particularly concerned with the negative impact of trade and economic aspects taking precedence on cultural ones, pushed the idea of elaborating a binding Convention on the Diversity of Cultural Contents and Artistic Expressions, designed to deal with the culture-related aspects of these hybrid products (cultural goods and services) in an attempt to re-establish the balance between cultural and trade policies. The rationale behind is simple, but less so the solution, moreover when considering that efficient cultural policies in this area have to include measures of economic nature to which I shall refer later on.

Seeking to provide an overall international framework on cultural diversity, the UNESCO's General Conference unanimously adopted **the Universal Declaration on Cultural Diversity** in 2001. Building upon the principles of freedom of expression, unrestricted circulation of ideas by word and image and respect for individual rights and democracy, the Universal Declaration addresses the various aspects covered by the notion of cultural diversity and also states that cultural diversity is equally important for human beings as biodiversity is for nature. The Universal Declaration soon became a worldwide ethical reference but the need for a binding instrument was strongly felt as a way to successfully face current market pressures on cultural diversity as the positive expression to prevent the development of a uniform world by promoting and supporting all world cultures and languages.

Cultural diversity is indeed a broad notion. While originally embracing aspects related to the recognition of cultural identity and the cultural rights of ethnic minorities, in the era of globalization it turned

out to enlarge the contemporary debate on identity, social cohesion of multicultural societies, the protection of cultural heritage – both tangible and intangible – diversification of cultural contents in the Internet and the harmonious international flow of cultural goods and services. Nowadays, culture also constitutes a global asset of major economic importance and globalization is eminently a political process and a struggle for redistribution of powers among players.

Through its longstanding role as consensus-builder and leading UN actor in cultural industry development, UNESCO appeared to be the suitable forum for assuming the huge task of drafting and negotiating this future Convention on cultural diversity aspects, not yet covered by any international instrument.

The challenge we face is how to establish international rules that create spaces in which citizens are able to express themselves, safeguard, create and promote their own cultural products and choose the ones they prefer within a broad, diverse cultural offer, with due respect to human rights and copyright and without infringing the free circulation of ideas through word and image, a principle enshrined in UNESCO's Constitution. And how to ensure the adequate inter-relation between the future Convention and other pre-existing international Treaties, which the same States are parts to.

The work is well underway and the Intergovernmental Committee where the negotiations of the final Draft Convention text take place, only finished its II session last 18 February. After long and time-consuming discussions, only the 11 articles were drafted by the Drafting Committee

and taken not of by the Plenary with still many substantive matters in brackets. For the rest, the Chairman has been invited to provide a Chairman's statement (expected to be available early March) to be joined to the report to be submitted by the Director-General to UNESCO's Executive Board session (18-28 April). Clear divergences remain and must be bridged along a III session of the Intergovernmental Committee has been envisaged for next 23 May-4 June. We are working under heavy time pressure since, for statutory reasons, the draft Convention text has to be circulated to Member States by the end of next July, in the six working languages (English, French, Spanish, Arabic, Chinese and Russian) in order to be examined by the next General Conference scheduled next 3-21 October 2005.

The Global Alliance for Cultural diversity : making globalization work for culture

At the time we drafted the Universal Declaration on Cultural Diversity, we realised that those aspects relating cultural goods and services conveyed by cultural industries could only attract real interest among Member States that already had a minimum of cultural industry infrastructure and were in a position to design and finance appropriate cultural policies thereon. It therefore appeared necessary to advance, in parallel, operational action to develop and strengthen cultural industries (publishing, music, cinema and audiovisual, multimedia, crafts and fashion design) in developing countries. We were also fully aware that rampant piracy was eroding the sound development of legally established local industries in many countries and was about to become

a major enemy of cultural diversity at the global scale. International instruments on cultural diversity and trade agreements will have little value for developing countries if there are no endogenous goods or services to be consumed domestically or to be exported.

UNESCO's answer has been the design of a mega-project known as the **Global Alliance for Cultural Diversity**. The **Global Alliance** started to operate in 2002 with the aim to sustaining cultural diversity in cultural goods and services in developing countries as well as in those in transition to a market economy. Its overriding goal goes hand-in-hand with economic development and copyright enforcement. By combining the "local" and the "global", the Global Alliance galvanizes technical and financial support to develop local content and provide broader market opportunities for local talent worldwide while acting towards the building of a global knowledge society that is open, fair, participatory and transparent for all. It also stresses the values of diversity and cultural inclusiveness.

The Global Alliance draws in UNESCO's expertise in these areas, now sharpened by the expertise and concerted energies of flexible partnerships based on the "win-win" principle to create synergy among public, private and not-for-profit sectors in support of sustainable creative enterprise. Far from the notion of assistance, the Global Alliance is a project-oriented and results-based new approach to international solidarity that has raised great expectations. It has already established :

- a proprietary methodology,
- a dedicated fund to provide seed-money at the project launching phase and to finance required accompanying measures,
- 400-member base (governments, micro- and small enterprises, multinational corporations, professional associations, copyright collecting societies, universities, researchers, NGOs and foundations) and strategic associations with several UN Agencies such as UNCTAD, WIPO and ILO as well as the Interamerican Development Bank,
- 50 on-going pilot partnership projects of different size ("person-to-person", "institution-to-institution" and large integrated projects involving policy-making) currently under development in the five continents.
- The Global Alliance team periodically reports to its partners through a e-newsletter and also produces the Alliance Tools (strategic studies, relevant statistics, etc.)

Concrete actions include:

- providing technical and legal assistance as well as professional know-how, suitable for the sustainable development of small- and medium- size cultural enterprises;
- sponsoring of professional training;
- undertaking any other initiative aimed at opening domestic and international market spaces for endogenous cultural products.

When assessing domestic policy development for cultural industries the Global Alliance addresses a variety of issues including copyright legislation and enforcement, economic and fiscal schemes, technological infrastructure, promotional activities and training, investment,

exportation strategies, international partnerships, anti-piracy initiatives, alternative distribution channels, etc.

In order to support these activities, as well as policy and regulatory measures to enable participating developing countries and those in transition to fully benefit from such partnerships, a dedicated fund has been established to which corporations, governments, development banks, foundations and institutions of all kinds are invited to contribute. An increasing number of Member States consider that the Global Alliance could become the solidarity mechanism to be embedded in the future Convention.

Towards policy frameworks at the regional/sub-regional level

The international nature of cultural production and distribution makes evident that national policy measures, although necessary for the development of cultural industries, are not sufficient for their consolidation. It is essential to find competitive ways of production, new audiences and, above all, to ensure the ability to distribute. This can only be accomplished through a mix of national, sub-regional and regional strategies to reach a global orientation that facilitates expansion beyond national market borders.

At the regional/sub-regional level, following measures may be developed:

- specific agreements concerning custom taxes, intellectual property, foreign investment and multinationals (multilateral trade treaties allow developing countries to create special trade areas)
- co-ordinated investments based on specific sector research, statistics and strategic analysis of opportunities and needs in each area.
- Establishment of mixed funding schemes dedicated to supporting common projects
- Common mechanisms to support and encourage export activities and the development of new markets (join permanent representative offices in preferential markets, common facilities for film and television programme dubbing and subtitling, promotional campaigns, etc.)
- Common policies, strategies and incentives for co-production and co-distribution projects
- Creation of alternative distribution channels (innovative strategies to enter saturated markets)
- Effective support to international initiatives concerning copyright, anti-piracy action, capacity-building, etc.
- Common positions for global negotiations on trade, copyright and cultural diversity treaties and bilateral agreements.

National policy frameworks

Cultural policies need to adapt to globalization intelligently. Although there is no magic, “one-fits-all” recipee for successful cultural policies, neither all cultural industry sectors can positively respond to the same policy measures, the following can proof useful:

- mapping the sector and carry out in-depth analysis of its weaknesses and strengths with the direct involvement of all potentially concerned ministries and governmental agencies;
- strategic analysis in order to define which industry sector/s may react more favourably to policy efforts in a reasonable period of time (the “satellite account” experience)
- Sector analysis along its chain and establishment of priority measures, to be defined with the participation of all involved business actors;
- Adoption/update of national copyright laws and improvement of enforcement mechanisms, including collecting societies, and launching awareness-raising anti-piracy campaigns;
- Analysis and potential review of regulations on foreign investment;
- Preferential access to low-interest loans and convertible currency for the domestic sector;
- Fiscal incentives and tax reductions to local producers, specially for export activities;

- Incentives for technology renewal in the sector and improvements in facilities and infrastructures
- Specific regulations for Post and Telecommunication operators such as preferential postal tariffs and advertising tariffs on state-owned TV and radio networks, screen and content quotas for local content (as long as there are no binding commitments by the State concerning the deregulation of the audiovisual sector)
- Institutional support for domestic cultural products (acquisition of materials for the education system, public libraries and media centers, legal deposit system, reference materials of interest for the industry, such as directories, integrated compilations of all regulations applicable to the sector, statistics, etc.). Other forms of support such as awards, campaigns targeting the public opinion, surveys on cultural consumption practices, national festivals and trade fairs, subsidies to commercial missions for prospecting foreign markets, etc.;
- Professional training for relevant local actors in the sector;
- Encouragement to the creation of representative, dynamic sectoral organizations;
- Fostering creativity and innovation through the inclusion of arts education in the educational curricula, and cultural entrepreneurship in technical/vocational training, fellowships, etc.;

- Establishment of stable public/private panels to define in concert the implementation of policy measures and their follow-up.

Of course, any of these suggested policy measures would require a far more careful development. They emanate from our long experience in dealing with governments and the private sector in the formulation and follow-up of cultural industries development policies. The list is only indicative and non-exhaustive and some of the listed measures may not equally apply to each and every sector of the cultural industry galaxy. It is, however, clear that, nowadays, many of the sine-qua-non cultural policy measures are in fact of economic nature and therefore require the involvement of several public entities. Experience also shows that no policy in the area of cultural industries can succeed with the only commitment of the Ministry of Culture, although its benefits favour cultural interests. This is part of the problem... and also perhaps part of its solution.