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## REPORT

on preserving and promoting cultural diversity: the role of the European regions and international organisations such as UNESCO and the Council of Europe  
(2002/2269(INI))

Committee on Culture, Youth, Education, the Media and Sport

Rapporteur: Christa Prets

PR\_INI

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## PROCEDURAL PAGE

At the sitting of 16 January 2003 the President of Parliament announced that the Committee on Culture, Youth, Education, the Media and Sport had been authorised to draw up an own-initiative report under Rule 163 on preserving cultural diversity: the role of the European regions and international organisations such as UNESCO and the Council of Europe, and the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy had been asked for its opinion.

The Committee on Culture, Youth, Education, the Media and Sport had appointed Christa Prets rapporteur at its meeting of 28 November 2003.

The committee considered the draft report at its meetings of 20 May, 11 September, 4 November, 25 November and 2 December 2003.

At the last meeting it adopted the draft resolution by 20 votes to 1 with 2 abstentions.

The following were present for the vote: Michel Rocard, chairman; Vasco Graça Moura and Mario Mauro, vice-chairmen; Christa Prets, rapporteur; Konstantinos Alyssandrakis (for Alexandros Alavanos), Pedro Aparicio Sánchez, Juan José Bayona de Perogordo (for Juan Ojeda Sanz), Raina A. Mercedes Echerer, Säid El Khadraoui (for Giorgio Ruffolo), Janelly Fourtou (for Marielle de Sarnez), Geneviève Fraise, Jean-Claude Fruteau (for Barbara O'Toole pursuant to Rule 153(2)), Jas Gawronski (for Domenico Mennitti), Lissy Gröner, Ulpu Iivari, Maria Martens, Pietro-Paolo Mennea, Gérard Onesta (for Daniel Marc Cohn-Bendit), Doris Pack, Roy Perry, Feleknas Uca, Gianni Vattimo and Eurig Wyn.

The opinion of the Committee on Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy is attached.

The report was tabled on 15 December 2003.

## DRAFT EUROPEAN PARLIAMENT RESOLUTION

### on preserving and promoting cultural diversity: the role of the European regions and international organisations such as UNESCO and the Council of Europe 2002/2269(INI))

*The European Parliament,*

- having regard to the communication from the Commission to the Council and the European Parliament 'Towards an international instrument on cultural diversity' (COM(2003) 520),
- having regard to its legislative resolution of 3 February 2000 on the joint text approved by the Conciliation Committee for a European Parliament and Council decision establishing the Culture 2000 Programme<sup>1</sup>,
- having regard to its resolution of 6 September 2000 on the Communication from the Commission "Principles and guidelines for the Community's audiovisual policy in the digital age"<sup>2</sup>,
- having regard to its resolution of 1 February 2001 on new frontiers in book production: electronic publishing and printing on demand<sup>3</sup>,
- having regard to its resolution of 15 May 2001 on e-learning<sup>4</sup>,
- having regard to its resolution of 5 September 2001 on cultural cooperation in the European Union<sup>5</sup> and in particular to paragraph 10 concerning the demand to submit a draft decision for setting up a 'European cultural observatory', with the aim of promoting the exchange of information and coordination between the cultural policies of the Member States and Community cultural policy ,
- having regard to its resolution of 13 November 2001 on achieving better circulation of European films in the internal market and the candidate countries<sup>6</sup>,
- having regard to its resolution of 28 February 2002 on the implementation of the 'Culture 2000' programme<sup>7</sup> and the forthcoming Culture programme after 2006,
- having regard to its resolution of 12 March 2003 on the General Agreement on Trade in Services (GATS), within the WTO, including cultural diversity<sup>8</sup>, and in particular its paragraphs 12 to 14,

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<sup>1</sup> OJ C 309, 27.10.2000, p. 61.

<sup>2</sup> OJ C 135, 7.5.2001, p. 181.

<sup>3</sup> OJ C 267, 21.9.2001, p. 83.

<sup>4</sup> OJ C 34 E, 7.2.2002, p. 153.

<sup>5</sup> OJ C 72 E, 21.3.2002, p. 142.

<sup>6</sup> OJ C 140 E, 13.6.2002, p. 143.

<sup>7</sup> OJ C 293 E, 28.11.2002, p. 105.

<sup>8</sup> P5\_TA(2003)0087.

- having regard to its resolution of 4 September 2003 on Television without Frontiers<sup>1</sup>,
- having regard to its resolution of 4 September 2003 on European regional and lesser-used languages in the context of enlargement and cultural diversity<sup>2</sup>,
- having regard to its resolution of 4 September 2003 on cultural industries<sup>3</sup>,
- having regard to Article 149(1) of the EC Treaty and Article 151 of the EC Treaty, in particular paragraph 3 advocating stronger cooperation with third countries and the Council of Europe and paragraph 4 introducing an obligation to take cultural aspects into account in other Community policies,
- having regard to the Preamble and Article 22 of the Charter of Fundamental Rights of the European Union,
- having regard to Article 3(3), fourth subparagraph, of the Draft Treaty establishing a Constitution for Europe, affirming that the Union shall respect its rich cultural and linguistic diversity, and shall ensure that Europe's cultural heritage is safeguarded and enhanced; to Article II-22, affirming that the Union shall respect cultural, religious and linguistic diversity; to Article III-181(1), reaffirming that the Union shall contribute to the flowering of the cultures of the Members States, while respecting their national and regional diversity and at the same time bringing the common cultural heritage to the fore, and paragraph 4, reaffirming that the Union shall take cultural aspects into account in its action under other provisions of the Constitution, in particular in order to respect and to promote the diversity of its cultures; to Article III-182(1), reaffirming that it shall fully respect the cultural and linguistic diversity of the educational systems of the Member States; to Article III-217(4), affirming the unanimity rule in the Council when negotiating and concluding agreements in the field of trade in cultural and audiovisual services, where these risk prejudicing the Union's cultural and linguistic diversity;
- having regard also to the introduction of qualified majority voting under the provisions of the Draft Constitution to ensure support for internal policies in the cultural sector,
- having regard to the Conclusions of the General Affairs Council on 26 October 1999 in connection with the new WTO negotiating round,
- having regard to the Cannes declaration<sup>4</sup>, in which EU Culture Ministers, in the presence of the chairman of the European Parliament's relevant Committee and the European Commissioner responsible for Culture, insist on maintaining the unanimity rule for decisions relating to cultural and audiovisual services in trade agreements,
- having regard to the conclusions of the informal meeting of the Ministers of Culture in Thessaloniki on 25 May 2003 on cultural diversity and the international instrument on cultural diversity,

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<sup>1</sup> P5\_TA(2003)0381.

<sup>2</sup> P5\_TA(2003)0372.

<sup>3</sup> P5\_TA(2003)0372.

<sup>4</sup> Cannes, 15 May 2003.

- having regard to the Florence agreement of 1950 as an international instrument which promotes the free circulation of objects of an educational, scientific or cultural nature<sup>1</sup>,
- having regard to the adoption on 7 December 2000 of the Declaration on cultural diversity by the Committee of Ministers of the Council of Europe<sup>2</sup>,
- having regard to the adoption of the UNESCO Universal Declaration and Action plan on Cultural Diversity by the General Conference at its 31st session on 2 November 2001<sup>3</sup> and the Union's support thereof,
- having regard to the discussions and outcome of the high-level round table on cultural diversity and biodiversity for sustainable development (Summit on Sustainable Development, Johannesburg, 3 September 2002),
- having regard to the Brixen/Bressanone declaration on cultural diversity and GATS adopted by the European Regional Ministers for Education and Culture at the Assembly for the European Regions on 18 October 2002<sup>4</sup>,
- having regard to the decision of UNESCO's General Conference on 17 October 2003 to launch work towards the elaboration of a draft Convention on cultural diversity for the next session of the General Conference in 2005,
- having regard to the decision taken at the African Union Summit in Addis Ababa on 10 July 2003, reaffirming the importance of cultural diversity and supporting the UNESCO process,
- having regard to the statement by the Ministerial Conference of the Francophonie, held in Rabat on 4-5 September 2003, on the World Summit of the Information Society in Geneva,
- having regard to the statement of the Culture Ministers from the ACP countries meeting in Dakar on 20 June 2003, notably undertaking to engage in debates and supporting the launch of negotiations for the adoption of a Convention on Cultural Diversity in the framework of UNESCO,
- having regard to the adoption by the Commission of the Action Plan on Language Learning and Linguistic Diversity on 24 July 2003,
- having regard to useful efforts deployed in the field of cultural diversity by organisations and civil society, such as the International Network for Cultural Diversity, the International Network on Cultural Policy, the International Organisation of the Francophonie, and the International Liaison Committee of Coalitions for Cultural

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<sup>1</sup> sponsored by UNESCO, originally signed in 1950 and updated by the 1976 Nairobi Protocol, [www.unesco.org/culture/laws/florence/html\\_eng/page1.shtml](http://www.unesco.org/culture/laws/florence/html_eng/page1.shtml)

<sup>2</sup> (2000) 44 Council of Europe, Declaration of the Committee of Ministers on Cultural Diversity. Adopted by the Committee of Ministers on 7.12.2000.

<sup>3</sup> 31 C/ Resolution 25 and Annexes I and II.

<sup>4</sup> <http://unesdoc.unesco.org/images/0013/001321/13214le.pdf> (see debate 5)

Diversity,

- having regard to Rule 163 of its Rules of Procedure,
  - having regard to the report of the Committee on Culture, Youth, Education, the Media and Sport and the opinion of the Committee on Foreign Affairs, Human rights, Common Security and Defence Policy (A5-0477/2003),
- A. whereas the preservation and promotion of cultural diversity are among the founding principles of the European model<sup>1</sup>,
  - B. whereas the accession countries will bring further cultural and linguistic diversity to enrich the Union,
  - C. whereas cultural diversity cannot be preserved unless every individual has access to, and can participate in, his or her own culture,
  - D. whereas cultural diversity is a concept of cultural development and a leading principle of sustainable development, involving cultural exchange and dialogue,
  - E. whereas in some Member States of the European Union cultural identities are not uniform and do not necessarily match the borders of those States,
  - F. whereas cultural dialogue fosters mutual understanding between peoples in the interests of peace, and whereas intercultural dialogue is an appropriate method for effectively counteracting racism and xenophobia,
  - G. whereas excessive concentration of the media poses a threat to cultural pluralism,
  - H. whereas the European Union is attached to multilateral solutions as a fundamental element of external policy,
  - I. whereas obligations stemming from agreements reached within multilateral organisations complement those resulting from agreements reached within a WTO framework,
  - J. welcoming the approval given by UNESCO's General Conference for a mandate enabling work to commence on the elaboration of a Convention on Cultural Diversity,
  - K. whereas every Member State, and the EC, must continue in future to have the legal right to take all measures in the fields of culture and the audiovisual media necessary to uphold and promote cultural diversity,
  - L. whereas the opening of negotiations on the liberalisation of audiovisual and cultural services in accordance with the GATS rules sets in motion an ongoing liberalisation as a result of which the regional, national and European instruments for the promotion of the domestic audio-visual sector are being reviewed and consequently dismantled,
1. Considers culture in a globalised techno-economic modernisation process and in a

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<sup>1</sup> COM(2003) 520, 27.8.2003.



situation of ongoing world-wide liberalisation trends as a fundamental dimension of human development;

2. Considers cultural diversity implies the recognition, promotion and development of local cultures, cultural industries, cultural public policies and openness towards other cultures and the protection of indigenous and national institutions and achievements, including the rich variety of languages, indigenous knowledge, traditions, lifestyles, expressions of art and culture, media pluralism and diversity of educational systems;
3. Points out that the principle of cultural diversity is still not recognised as a fundamental right under international law;
4. Considers that the technologies of information and communication potentially present through their inherent flexibility, an opportunity to foster cultural diversity and advocates non-discriminatory access to these technologies for all countries ; points out, however, that the widening digital gap is exacerbating the disparities between the countries of the North and those of the South;
5. Considers that the right for the Member State, the regions and sub-states entities where appropriate to define, implement and adapt cultural policies is one of the fundamental guarantees for the respect and promotion of cultural diversity;
6. Calls upon the Intergovernmental Conference to consolidate the various references to cultural diversity and pluralism in the Draft Constitution by adopting the draft provisions as proposed by the Convention, in particular the unanimity rule in the Council laid down in Article III-217(4), when negotiating and concluding agreements in the field of external trade in cultural and audiovisual services;
7. Calls upon the Commission to actively engage in facilitating, promoting and geographically extending exchanges in the field of culture, audio-visual services and education within Europe and other third countries in order to broaden the base for an international consensus on these matters, in particular in the framework for the Culture 2000, Youth and Socrates programmes after 2006 and in respect of all future programmes;
8. Calls upon the Commission to actively engage in the promotion of cultural diversity within EC development and cooperation policies through the valorisation and significant enhancement of cultural co-operation actions and programmes with third countries, in particular to develop the cultural expression capacity of developing countries;
9. Calls upon the Commission to foster cultural dialogue with national, federal and regional Ministers of culture and education, associating civil society and civil servants;
10. Requests the Commission to submit a Communication, based on Article 151(4) of the EC Treaty, as how to incorporate culture as a cross-cutting principle applicable to all policies in the European Union, thereby assessing possible consequences for culture of decisions in other policy areas;
11. Calls on the Commission to ensure that the growing trend towards concentration in the media does not lead to an oligopoly that threatens pluralism, cultural diversity and

freedom of choice for consumers;

12. Calls upon the Commission to fully integrate the concept of European cultural diversity in its communication strategy, to provide information about the World Day for Cultural Diversity, 21 May, and to present proposals as to how to participate in this event;
13. Calls upon the Commission to improve mobility opportunities of artists, creative works and cultural products and services;
14. Considers that the aforementioned Convention on cultural diversity should fully acknowledge the necessity of preserving language diversity as a basic fact of development cooperation and international relations in general, and with that in mind calls for specific strategies for the preservation and protection of diversity and strategies for the promotion of multilingualism to be developed by means of active and concrete support for education in the mother tongue and for the acquisition of foreign languages, training and consciousness-raising without discrimination;
15. Reaffirms its vigilance concerning the treatment of minority populations and minority languages, including indigenous languages, in the context of the enlarged Europe; reiterates the need for multilateral institutions, including regional ones, to protect and guarantee the rights and freedoms of all peoples, particularly in the context of a multi-polar world made up of regional units;
16. Stresses that cultural services and products and education are not merchandise or consumer goods like any other, and must therefore be made subject to special conditions in the light of their dual nature as economic and cultural goods; these conditions must take account of the fact that the market cannot be the measure of all things, and must guarantee in particular diversity of opinion and pluralism;
17. Reaffirms the importance of public services in preserving cultural diversity. In particular, stresses that public service broadcasting plays an important role in safeguarding cultural diversity and identity, democratic dialogue, media pluralism and access for all citizens to quality content and knowledge for their successful participation in the information society;
18. Calls on the European Union to place an unmistakable stress, in the context of the WTO and GATS, on the nature of cultural services and products as cultural goods, and to exempt them from trade liberalisation;
19. Calls upon the Union to actively promote at international level the recognition of the special nature and status of culture and to engage in multilateral talks within the forthcoming negotiations on a Convention on cultural diversity in UNESCO with a view to broadening the forum of countries supporting this action;
20. Calls upon the Union to evaluate trade in cultural services and products as a common value in the light of the demands of sustainable development and cultural identity;
21. Calls upon the European Union, its Member States and third countries to refrain from

actions at international level, such as committing themselves to liberalisation under bilateral trade or investment agreements, which could compromise fundamental objectives in areas such as education and culture or undermine the ability of governments to support cultural and national identities;

22. Calls upon the Council to fully implement and maintain on the 1999 mandate<sup>1</sup> given to the Commission;
23. Stresses, in view of the twofold significance of cultural, audiovisual and education services in economic and cultural terms, that no negotiations should be opened in the context of GATS on liberalisation of these services, and further stresses that protection of support instruments, and thus of cultural diversity, cannot be achieved in the context of the WTO and GATS, but can only be promoted by negotiating a Convention within the framework of UNESCO; urges the Union to apply the unanimity principle strictly in foreign trade in cultural and audiovisual services with third countries, as is already laid down in the Treaty and in the draft Constitution;
24. Reiterates its political determination that the GATS rules on cultural services, and on the audiovisual sector in particular, should not compromise the cultural diversity and autonomy of the WTO contracting parties;
25. Asks the Commission for a list of offers made in the recreational, educational and audiovisual sector and possible consequences in these sectors;
26. Reaffirms that it sees its contribution to the elaboration of a legally binding instrument on cultural diversity as a political priority and as necessary in order to consolidate cultural rights, commit the parties involved to international cooperation, create a forum for debate on cultural policies and establish global monitoring of the state of cultural diversity worldwide, as proposed by the European Parliament in its resolution on cultural cooperation in the European Union;
27. Requests the Commission to regularly and fully inform the European Parliament of its activities in international organisations;
28. Considers that it is essential to recognise cultural diversity within the field of international law by negotiating and adopting a Convention on cultural diversity in the near future within UNESCO;
29. Considers the Convention on cultural diversity, as agreed by UNESCO's General Conference, as a means of bringing cultural policies to the fore and to ensure on a global scale the protection and promotion of diversity of cultural contents and artistic forms of expression, which appear to be particularly threatened by globalisation;
30. Welcomes the Commission's position in favour of jointly addressing relevant issues regarding a Convention on cultural diversity as a significant development of affirmative

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<sup>1</sup> Conclusion of the General Affairs' Council of 26.10.1999 : "The Union will take care to guarantee during the next WTO negotiations, as in the Uruguay round the possibility for the Community and its Member States to preserve and develop their cultural and audiovisual policies for the preservation of their cultural diversity."

action by the Member States and their regions, and in addition by the Community as laid down in Article 151(3) of the EC Treaty;

31. Agrees with the Commission that a legally binding standard on cultural diversity is necessary in order to consolidate cultural rights, foster the development of public cultural policies in each State, commit Parties to international cooperation, create a forum for debate on cultural policies and establish global monitoring of the state of cultural diversity world-wide, as proposed by the European Parliament in its aforementioned resolution of 5 September 2001;
32. Specifies that the Convention's main aims ought to lie in recognising the special nature of cultural products and services, enshrining in international law the legitimate right of any State or group of States to determine their cultural policies freely, and strengthening international cooperation policies and solidarity in the sphere of culture;
33. Calls for the Convention to provide for the adoption of measures guaranteeing creative artists and independent cultural industries proper access to the means of production, distribution and dissemination of their works;
34. Calls for the Convention to establish procedures relating to technical and financial assistance in developing and least developed countries so as to strengthen their capacity to preserve and promote their cultural creative work;
35. Considers this Convention as a proactive means of building consensus on the need to preserve and promote cultural diversity worldwide and of assuring and monitoring international commitments in the cultural sphere; in order to ensure its efficiency a dispute settlement mechanism shall be an integral part of this Convention;
36. Calls on the UNESCO General Conference to insist that the Member States do not undertake commitments in other international forums or bilateral agreements which would run counter to the protection and promotion of cultural diversity;
37. Considers that specific provisions in this Convention should allow for least favoured countries to be able to develop their cultural industries and policies. In that context, calls upon the Commission to reinforce international solidarity and to encourage and facilitate the development of partnership between the public and the private sector;
38. Calls upon the Commission to pay particular attention to the preservation and promotion of cultural and linguistic diversity in the accession countries;
39. Calls on the General Conference to ensure that the Convention relates to all forms of cultural expression: the creation, production, distribution, exhibition and performance of cultural contents including the audiovisual media in the form of cultural products, i.e. goods and services;
40. Calls on the General Conference to guarantee transparency of cultural policies, the right to freedom of information, freedom of opinion, intellectual property, the protection of fundamental rights and cultural human rights, and the democratic principle;

41. Calls on the General Conference of UNESCO to devise procedures, policies and programmes to permit access to culture and the development of cultural policy, in order to permit countries, particularly developing countries, to produce and distribute their own cultural goods and services;
42. Calls for the Convention to lay down a requirement for the Parties to recognise mutual obligations;
43. Sees the need for the Convention to make provision for a monitoring committee that can issue recommendations and opinions on the implementation of the provisions of the Convention by the Parties and a dispute settlement procedure;
44. Requests, therefore, the European Union to be united in its conduct at the forthcoming UNESCO negotiations, and to this end the Presidency and the Commission to work closely in order to seek common positions of the EU; requests furthermore the Member States to give the Commission, in accordance with the provisions of the EC Treaty and with the participation of the European Parliament and the relevant groups in civil society, a clearly worded mandate to authorise the Commission in cooperation with the European Parliament to negotiate in the UNESCO framework on the issue related to a Convention on cultural diversity and conduct these negotiations in accordance with the terms of the EC Treaty on behalf on the EU and its Member States;
45. Calls on the Commission to submit a new Communication to the Council and the European Parliament setting out its position on the Convention on cultural diversity and on its purpose, objectives and operating methods and suggesting how it can tie in with other international instruments;
46. Urges the Member States, in taking stock of, registering and restoring cultural assets, to pay particular attention to monuments, buildings and everyday implements which are of great importance to the cultural heritage of minority peoples;
47. Instructs its President to forward this resolution to the Council, the Commission, the governments of the Member States, the Committee of the Regions, the Economic and Social Committee, the Council of Europe and UNESCO.

## EXPLANATORY STATEMENT

It is difficult as well as risky to define cultural diversity, a concept just as complicated as that of culture itself. Both the Council of Europe and UNESCO have made laudable attempts to agree upon dynamic definitions. One should, however, agree, that cultures are constantly subject to a changing and moving process and that this dynamism is an impulse for human progress. Nevertheless, we shall have to produce a formal definition of cultural policy, cultural goods and services, and of course cultural diversity, particularly in connection with agreements under the aegis of international organisations like the WTO or the proposed international instrument on cultural diversity.

Against the current background of modernisation and globalisation, and the accompanying transformation and liberalisation of the economy, it is increasingly important to establish networks of local, regional and national interest groups. This report is intended to identify possible instruments and measures which could ensure, strengthen and foster cultural diversity, list international organisations and draw attention to their potentially damaging impact, call for a new, innovative and binding legal instrument and ensure that existing legal frameworks are carried into effect.

Various organisations, international networks and coalitions have over the years, addressed the issue of cultural diversity which makes it highly important that the European Parliament stresses, once more, the importance of cultural diversity, the need to respect and promote national and regional diversity and to bring the common cultural heritage to the fore, as is advocated by the EU (*ius cogens*).

Preserving the cultural heritage as the common heritage of mankind is a central concern of our civil society, and the preservation and encouragement of cultural diversity helps to ensure peace, security, stability and development. That is why culture and cultural diversity should belong to the core business of the European integration project, which is why it is essential for cultural aspects to be taken into account in all the European Union's other areas of activity<sup>1</sup> via a horizontal approach. Although only consolidated since the 1992 Maastricht Treaty, culture-related achievements nowadays say just as much as the results in other policy areas, if not more, about the origins and fundamental nature of democratic European societies. The specificity of norms and values shared by Europeans and non-Europeans in the cultural field justify, in your rapporteur's view, specific treatment on a global scale.

Diversity of languages and cultural backgrounds is, indeed, shared by today's and tomorrow's Member States of the European Union. This cultural diversity, which may be regarded as one of EU's unique assets, is being recognised, respected, and should be more strongly promoted through regional, national and international means. Yet, preservation of cultural diversity and values is sometimes perceived by third parties as a nasty obstacle, in particular to free trade. Shifting from a purely defensive stance to a more dynamic - or proactive - approach, one should bring arguments to the fore in an attempt to convince the sceptics that cultural diversity is a value worth protecting in itself.

In the **internal EU debate** a relative consensus to safeguard cultural diversity has prevailed,

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<sup>1</sup> as stipulated by Article 151, paragraph 4 EC

although, lately, the Commission went through some difficulties in getting its act together; when it came to preservation or promotion of cultural diversity, there was no real consensus for some time. The application of this theoretical adage has mainly been in multilateral trade negotiations within a WTO framework, although discussions and negotiations in the European Convention have also, partly, been devoted to this issue. In the end, the overall outcome of these in the form of a **Draft Constitution** has widely been interpreted as positive : general principles have been confirmed and, sometimes, enhanced; majority voting in a Union soon to be composed of 25 Member States, has been adopted for internal decisions to be taken on cultural matters by the Council; unanimity has been retained for all outward oriented decisions, such as the agreements in the field of trade in cultural and audiovisual services. Your rapporteur firmly believes that this scheme should be confirmed by the forthcoming Intergovernmental Conference. It is in fact the consolidation of the consensual principle that each EU Member State should have the legal flexibility to take all necessary measures in the areas of cultural, audiovisual and educational policy so as to preserve and promote cultural diversity.

The long-term objective is for European and non-European actors to agree on the fundamental principle, enshrined in UNESCO's Universal Declaration on Cultural Diversity, that cultural goods and services "must not be treated as mere merchandise or consumer goods"<sup>1</sup>. Ever since this principle was advanced and adopted by the Union in **WTO** negotiations (which led to the "cultural exception"), this policy has drawn fierce opposition from unconditional supporters of free trade.

It is of the utmost importance that the expanding Union consolidates its fragile internal policy with regard to culture and education before taking new initiatives in either the WTO/GATT or GATS framework to open up its market. In particular, the acceding Member States should accept the fundamentals of EU policy in these sectors.

In the past, the EP has underlined on numerous occasions (although in different words, inter alia in the audiovisual field<sup>2</sup>, in publishing<sup>3</sup>, in cultural cooperation<sup>4</sup>, in enlargement and the role of regional and lesser-used languages<sup>5</sup>, in cultural industries<sup>6</sup>) its attachment to Europe's distinctive feature, i.e. its unity in diversity, that is to say the ongoing coexistence and interaction of a rich variety of languages, traditions, lifestyles, trends, movements and artistic and cultural expressions. This European richness is worthwhile developing and could serve as an example for other nations to preserve cultural heritage and foster diversity under the aspect - and not the priority - of free trade.

It is your rapporteur's firm belief that the multilateral trade liberalisation being pursued within the WTO framework puts developing countries in a delicate situation in comparison with the 'rich countries': the pressure to open up markets, even when being barely present, is hard to resist. Its benefit to sustainable development is far from guaranteed. Scholars have argued that often, under the pretext of economic development, developing countries were asked to enter

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<sup>1</sup> Article 8.

<sup>2</sup> OJ C 135, 7.5.2001, p. 181.

<sup>3</sup> OJ C 267, 21.9.2001, p. 83.

<sup>4</sup> OJ C 72, 21.3.2002, p. 142.

<sup>5</sup> Not yet published in the OJ

<sup>6</sup> Not yet published in the OJ

into agreements that could greatly compromise their cultural development<sup>1</sup>.

It has been argued before that the so-called cultural exception is not eternal, due to its limitation in time (5 years, renewable). The concept of cultural diversity, which over time gradually replaced it, would profit from being embedded in a legal approach within a more favourable environment. The initiative taken by Canada, France, Germany, Greece, Mexico, Monaco, Morocco and Senegal, supported by the French-speaking group of UNESCO, to place the item of a preliminary study on the technical and legal aspects relating to the desirability of an international **Legal Instrument on Cultural Diversity**, on the agenda of the forthcoming UNESCO General Conference is, therefore, very timely. In fact, the UNESCO Executive Board recommended that the General Conference decide to continue action aimed at drawing up a new international instrument and to determine its nature. This is, in fact, of vital importance in view of the cleavage which exists among Member States of UNESCO on the issue of the link between the future international convention and other international agreements, such as those agreed upon in a WTO framework. Agreement on such an instrument is necessary and must not involve protracted negotiations in view of the conclusion of the Doha Round scheduled for 2005 and the ongoing negotiations on liberalisation. The convention would play an important role in consciousness-raising and as a possible counterweight to the WTO.

In your rapporteur's view, the Union should not question, modify or fail to fulfil its obligations with regard to the WTO. On the contrary, the Union should in good faith live up to the obligations it freely entered into. However, the Union is entitled to use the flexible architecture of these agreements to ensure that the Community's commitments are fully consistent with European policy objectives. It also is free to choose the ways to uphold its primary objectives - among them that of cultural diversity - in international law.

The choice of an enhanced instrument for the preservation and promotion of cultural diversity is an obvious one for the European Union and its Member States. It is also a choice made by more and more countries concerned about the integration of global strategies for sustainable development. The passage from a mere Declaration to a legally binding Convention, from action-oriented capacity building through the Global Alliance for Cultural Diversity to normative action via intergovernmental process is necessary. Such an instrument should have the overall objective of promoting cultural diversity, contributing to cultural dialogue and fostering mutual understanding and respect.

The legitimacy UNESCO acquired in this context is a necessary precondition for success, although by no means a guarantee, since decisions are made by consensus between nearly 190 states. It is also a fortunate element that the Universal Declaration on Cultural Diversity, drawn up by UNESCO, and the Council of Europe's Declaration on Cultural Diversity, undoubtedly the founding texts for a Convention in this area, go beyond the mere trade aspects of educational and cultural services and cultural goods by encompassing specific objectives such as developing viable local cultural industries and improving the distribution of cultural works at global level.

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<sup>1</sup> BERNIER, Ivan, Developing countries and the plan for an international Convention on Cultural Diversity, June 2003.



The Union and the European Parliament, therefore, have every interest to take this matter seriously and to ensure coherence between internal and external EU policies and multilateral agreements. The Commission recently reaffirmed the Union's attachment to the multilateral solutions as a fundamental part of its external policy<sup>1</sup>. In a context of global uncertainty and various threats to peaceful coexistence and mutual understanding between peoples and cultures, the multilateral approach is to be preferred above a unilateral one. Or, in the words of the Ministers of Cultural, at their informal meeting in Thessaloniki under the Greek Presidency : "Europe as a continent of culture can neither accept the threat of cultural homogeneity, nor the threat of the clash of civilisations. The European answer to all this is to insist on safeguarding and promoting cultural diversity." And the Culture Ministers continued to stress the need for an appropriate legal basis. Your rapporteur welcomes the ensuing Commission communication<sup>2</sup> referring to its intention that the EC play an active role in the forthcoming UNESCO General Conference, notably with regard to exploratory discussions concerning the drawing-up of an international legal instrument on cultural diversity and its willingness to involve civil society in this process.

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<sup>1</sup> COM(2003) 526 final

<sup>2</sup> COM(2003) 520 final, p 8.

## **OPINION OF THE COMMITTEE ON FOREIGN AFFAIRS, HUMAN RIGHTS, COMMON SECURITY AND DEFENCE POLICY**

for the Committee on Culture, Youth, Education, the Media and Sport

on preserving and promoting cultural diversity: the role of the European regions and international organisations such as UNESCO and the Council of Europe  
2002/2269(INI))

Draftsperson: Nelly Maes

### **PROCEDURE**

The Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy appointed Nelly Maes draftsman at its meeting of 21 January 2003.

It considered the draft opinion at its meetings of 16 June 2003 and 1 October 2003

At the latter meeting it adopted the following conclusions by 26 votes to 2, with 1 abstention.

The following were present for the vote Elmar Brok (chairperson), Baroness Nicholson of Winterbourne (vice-chairperson), Geoffrey Van Orden (vice-chairperson), Christos Zacharakis (vice-chairperson), Nelly Maes (draftsperson), Ole Andreasen, Per-Arne Arvidsson, Alexandros Baltas, Bastiaan Belder, André Brie, Paul Coûteaux, John Walls Cushnahan, Véronique De Keyser, Per Gahrton, Alfred Gomolka, Willi Görlach (for Glyn Ford), Vasco Graça Moura (for Michael Gahler), Ulpu Iivari (for Jacques F. Poos), Efstratios Korakas, Catherine Lalumière, Hugues Martin, Emilio Menéndez del Valle, Cristiana Muscardini, Pasqualina Napoletano, Arie M. Oostlander, Reino Paasilinna (for Jannis Sakellariou), Hans-Gert Poettering (for David Sumberg), Luís Queiró, José Ignacio Salafranca Sánchez-Neyra, Amalia Sartori, Ioannis Souladakis, Ursula Stenzel, The Earl of Stockton (for Charles Tannock), Demetrio Volcic, Karl von Wogau, José Ribeiro e Castro (for Jean-Charles Marchiani pursuant to Rule 153(2)),

## CONCLUSIONS

The Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy calls on the Committee on Culture, Youth, Education, the Media and Sport, as the committee responsible, to incorporate the following points in its motion for a resolution:

1. Reaffirms the importance of cultural values for all citizens, and that cultural activity creates development, a sense of belonging and integration in social life; reaffirms the value of culture for all citizens, both within the EU and in the EU's political and economic relations with other countries; recalls that this dimension underlies the principles expressed in the UN Charter and in this framework welcomes the renewed participation of the United States of America in UNESCO;
2. Calls for the EU's foreign policy to be inspired by respect for cultural diversity, which forms an integral part of its fundamental values and its identity, and which it has clearly declared to be a criterion for accession, and calls on the Union to seek to promote this diversity as a matter of course in its policy within the international organisations; recalls that respect for cultural diversity is an essential element in conflict prevention strategy;
3. Stresses that an EU cooperation and development policy in the EU, both within its own institutions and in the context of international organisations, particularly the UN, is unthinkable without respect for and promotion of cultural diversity as an integral part of the identity of the political entities and communities involved; recalls that the will to work towards sustainable development is linked to the need to form a sustainable community which takes account of the needs of indigenous peoples;
4. Urges that cultural assets should be treated with respect for the values and identities which they represent; the diversity characterising European culture being something which inspires interest and thus provides cultural producers in Europe with a basis for international success once borders are opened to increased cultural exchange and trade; reaffirms that cultural assets require special treatment reflecting respect for the values and identities which they bear; calls therefore on the Commission and Council to show the greatest determination in this field in the negotiations in the WTO, particularly in order to preserve distinctive cultural features;
5. Urges that language diversity should be fully recognised at state and nation level as a basic fact of development cooperation and international relations in general, and with that in mind calls for specific strategies for the preservation and protection of diversity and strategies for the promotion of multilingualism to be developed by means of active and concrete support for education in the mother tongue and for the acquisition of foreign languages, training and consciousness-raising without discrimination;
6. Reaffirms its vigilance concerning the treatment of minority populations and minority languages, including indigenous languages, in the context of the enlarged Europe; reiterates the need for multilateral institutions, including regional ones, to protect and guarantee the rights and freedoms of all peoples, particularly in the context of a multi-polar world made up of regional units;
7. Is convinced of the importance of action at local and regional level to supplement

traditional forms of cooperation in the context of efforts towards greater involvement and an extensive application of the subsidiarity principle and, with that in mind, encourages cross-border and inter-regional projects in the context of cultural diversity;

8. In view of the danger of the disappearance of numerous languages and cultures, is convinced that thought needs to be given without delay to working out and realising a legal instrument guaranteeing respect for cultural diversity on the international scene, both individually and collectively; calls on the Commission to take an initiative in this connection;
9. Urges the Member States, in taking stock of, registering and restoring cultural assets, to pay particular attention to monuments, buildings and everyday implements which are of great importance to the cultural heritage of minority peoples.