

BACKGROUND

UNESCO has for some time been considering the issue of cultural diversity. With unanimous support from the Member States UNESCO issued the Universal Declaration on Cultural Diversity in November 2001. The UK, after a consultation carried out by the UK National Commission for UNESCO, was able to contribute constructively to this Declaration.

The text of the Universal Declaration on Cultural Diversity is available on UNESCO's website. (<http://unesdoc.unesco.org/images/0012/001271/127160m.pdf>).

In the Action Plan annexed to the Articles of the Declaration (see p.15 of the weblink above), the first point allows for "taking forward notably consideration of the advisability of an international legal instrument on cultural diversity".

The draft text under consideration in this consultation represents this step of that Action Plan.

The text has been drafted by a working group of 15 experts appointed by the Director General. This is the first opportunity Member States and the general public have had to consider this draft.

NEXT STEPS

At the meeting of UNESCO Member States that will take place in Paris 20 – 24 September 2004, a preliminary exchange of views on the draft convention will take place. A meeting dedicated to the draft convention will take place in February 2005. By the time of that meeting the UK Government will have been able to come to a considered view on the draft convention, including those views from civil society that accrue from this consultation process.

UNESCO itself is consulting other international bodies, such as the WTO, to ensure that this convention does not come up against provisions (e.g. for trade) set out in other international agreements (see below). The UK awaits the results of these consultations.

SOME INITIAL GOVERNMENT OBSERVATIONS

The main purpose of this consultation is to solicit views from civil society. But Whitehall Departments and the Devolved Administrations are also being consulted. The following points are set out not to prejudice your views in any way, but rather to give a general idea of some of the concerns to which this preliminary draft gives rise.

The scope of the convention seems to be extremely wide, and the drafting of the text is imprecise. While negotiations will determine the final convention, there would be major problems with implementing this convention into UK law in its current form.

The definitions set out in Article 4 are very broad and imprecise. The convention needs to be much clearer about this.

References to human rights are vague and open to a very wide interpretation. Similarly other concepts, such as “sustainability” and “solidarity” are very vague and in their present form, as with the scope and definitions, there would certainly be problems implementing such notions into UK law.

A key area of concern is the relationship between this draft instrument and other, existing international agreements, such as the WTO. UNESCO is aware of this potential clash and is consulting relevant international organisations. (Were the draft Article 19 (b) rather than 19 (a) be adopted this would reduce this concern.)

Most of the requirements set out in the text are phrased in mandatory language. This would give States Parties to the convention little scope for subsidiarity, and such requirements could be vexatious.

We would need to examine carefully any financial implications imposed by the proposed Cultural Diversity Observatory (Article 15). As well as the proposed Observatory, no less than three further bodies are proposed: a General Assembly of States Parties [to the Convention] (Article 20); an Intergovernmental Committee (Article 21) and an Advisory Group (Article 22). This seems like a very heavy new bureaucratic system which would certainly have resource implications.