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Study on the Implementation of the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions for the European Parliament

BACKGROUND INFORMATION

Introduction

The Geneva based law firm Germann Avocats and its interdisciplinary research team is completing a study for the European Parliament's Committee on Culture and Education (CULT) whose overall objective is to provide a summary of the state of implementation of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions of 2005, in particular in fields where the European Community would be expected to provide leadership or coordination.

This study shall give assistance and long-term guidance to the EU on implementing the UNESCO Convention by carrying out a detailed analysis of the obligations set out by this international treaty. In particular, we shall gather information on the various practices in implementing the UNESCO Convention, from a legal and practical viewpoint, and identify challenges and measures to help achieve the objectives of this instrument.

For these purposes, we drafted three sets of questionnaires. The first questionnaire shall allow us to gather legal data. The second questionnaire shall inform us about the implementation of the UNESCO Convention from the perspective of representatives of civil society. The third questionnaire shall cover the situation from the angle of a selection of regional and regional organizations, (the ASEAN, the African Union, the Association of Caribbean States, the Commonwealth, the International Organisation of La Francophonie, the Council of Europe, the European Union, UNESCO, WTO and WIPO).

Expected results from the surveys

We expect to collect valuable information on the public measures that are specifically undertaken to protect and promote cultural diversity on the national level in different jurisdictions. We shall obtain insights to compare regulatory practice in a variety of economic and political situations that characterize the selection of countries located in different geographical area. We will obtain data which will allow us to compare regulatory practice in varying economic and political situations. We shall use and compare this information in our subsequent analysis that will eventually provide the basis of our conclusions and recommendations to the European Parliament.

Legal survey

The legal questionnaire will focus on legal aspects of the implementation of the Convention. We send our survey to law firms specializing in international public law in Canada, Brazil, China and Senegal. In Europe, we will directly investigate the legal situation in Italy (as a larger jurisdiction) and Switzerland (as a smaller jurisdiction). In addition, we will send the legal questionnaire to a sample of eight National UNESCO Commissions of EU Member States, which will reflect geographic, political and economic diversity. This legal survey shall allow us to assess the current state of implementation of the UNESCO Convention in these countries in terms of regulations and administrative practice.

We will attach the replies to this questionnaire to our study that will be available over the internet.

For the text of the Convention and other useful documents, please consult:

www.unesco.org/culture/en/diversity/convention

LEGAL QUESTIONNAIRE

A General questions

1 When did the UNESCO Convention **enter into force** in your country?

PLEASE INSERT YOUR ANSWER HERE: April 30, 2007

2 Are those provisions of the UNESCO Convention that are precise and clear directly applicable ("**self-executing**") in your country?

() Yes () No (Please note that under Chinese Constitution, there have no provisions relating to implementation of treaty in China. Whether a treaty is directly applicable within China will depend on a variety of factors, including the subject matter of the treaty, the competence of the relevant Chinese authorities and the legal nature of the provisions of the treaty.)

3 Please list any **non-governmental organizations** that deal with cultural diversity concerns and that represent a substantial part of the stakeholders concerned by cultural policies in your country.

PLEASE INSERT YOUR ANSWER HERE:

There have many non-governmental organizations in China dealing with cultural issues (including cultural diversity). Here are some examples. 1. Institute of Ethnic Literature of Chinese Academy of Social Science (<http://iel.cass.cn>); 2. Chinese National Academy of Arts (<http://www.zgysyzy.org.cn/main.jsp>); 3. China Federation of Literary and Art Circles (<http://www.cflac.org.cn>); China Artists Association (<http://www.chinaartist.com.cn>)

B Questions on the implementation of the UNESCO Convention so far

*For the purpose of this questionnaire, "**national law**" includes national legislation, regulations, administrative practice and case law that entered into force before or after the entry into force of the UNESCO Convention in your country.*

4 Does your country have national law implementing the UNESCO Convention as of 1 January 2010?

() Yes () No

Although there is no legislation specifically implementing the UNESCO Convention in China as of 1 January, 2010, it is conceived that the current Chinese laws and policies are consistent with the UNESCO Convention. Where there exist conflict, the UNESCO Convention shall prevail over the relevant Chinese laws (see Article 142 of China's General Principles of Civil Law (1986); Article 238 of the Civil Procedure Law of the People's Republic of China (1991); Article 27 of the Regulations on Diplomatic

Privileges and Immunities (1986); Article 42 of the Law on Postal Service (1986); Article 72 of the Administrative Litigation Procedure Law (1989); Article 268 of the Maritime Law (1992); Article 19 of the Regulations for the Implementation of International Copyright Treaties (1992), and to some extent, Article 17 of the Trademark Law (2001); Article 2 of the Copyright Law (2001); Article 18 of the Patent Law (2000)).

If the answer is "No", please explain the absence of national law implementing the UNESCO Convention and how this treaty is implemented in your jurisdiction as of 1 January 2010:

PLEASE INSERT YOUR ANSWER HERE: n.a.

If the answer is "Yes": Please reply to the questions as follows that refer to the legal situation as of 1 January 2010, and specify for each of your replies, where applicable, whether the relevant national law existed already prior to the entry into force of the UNESCO Convention in your country:

4.1 How does your country comply with points 4, 7 and 8 of article 2 of the 2005 UNESCO Convention ("principle of **international solidarity and cooperation**" and "Principle of **equitable access**" and "principle of **openness and balance**") and with articles 12 to 17 of the 2005 UNESCO Convention ("promotion of international cooperation") in its implementing national law?

PLEASE INSERT YOUR ANSWER HERE:

1. The principle of **international solidarity and cooperation**: Chinese Constitution stipulates that China will develop cultural exchanges with other countries in accordance with the five principles of mutual respect for sovereignty and territorial integrity, mutual non-aggression, non-interference in each other's internal affairs, equality and mutual benefit, and peaceful coexistence (see the preamble). The provisions are consistent with the principle of international solidarity and cooperation under the UNESCO Convention. In practice, China has established many cultural cooperations with other countries at bilateral, regional and international levels.
2. the principle of **equitable access**: Chinese Constitution prescribes that all nationalities in the People's Republic of China are equal; all nationalities have the freedom to use and develop their own spoken and written languages and to preserve or reform their own folkways and customs (Art. 4). The provisions are consistent with the principle of equitable access;
3. the principle of **openness and balance**: the "open to the world" is a basic policy of Chinese government. In the field of cultural exchanges, China has established cooperations with 160 countries and regions, and has close cooperations with more than 1000 cultural organizations in the world. Each year, China will organize around 800 cultural activities. For example, China has cooperated with many other countries to organize mutually their culture year, including the Chinese - French Culture Year, Chinese - Russian Culture Year, Chinese - American Culture Year. All these are consistent with the principle of openness and balance under the UNESCO

Convention;

4. the promotion of **international cooperation**: the China's National Guidelines of Cultural Development Program for the Eleventh Five-Year Term (2006 – 2010) (hereafter "the Cultural Guidelines 2006") state that China will strengthen cultural exchanges with other countries, to cooperate with other countries in the cultural affairs, to participate actively in the process of relevant international rules making, and to maintain the cultural diversity in the world (see 34(1) of "the Cultural Guidelines 2006").

4.2 What **measures** in the sense of articles 6, 7 and 8 of the 2005 UNESCO Convention, including but not limited to measures aimed at protecting and promoting linguistic diversity, were adopted in your country by the implementing national law?

PLEASE INSERT YOUR ANSWER HERE:

1. The measures in the sense of article 6 of the 2005 UNESCO Convention were adopted in China

- (1) regulatory measures aimed at protecting and promoting diversity of cultural expressions:

Cultures or cultural activities used to be conceived by Chinese government as "spiritual matters", to be applied mainly as educational instruments for ideological or political purpose. Cultures or cultural activities were in the heavy control of the government. Since its opening up, especially after China's accession to the World Trade Organization, Chinese government has gradually realized that cultures and cultural activities have great economic significance, cultures or cultural industries are increasingly integrated into its economic development programme. In 2006, Chinese government published its National Guidelines of Cultural Development Program for the Eleventh Five-Year Term (2006 – 2010). The Guidelines set forth a variety of policies concerning construction of theories and spiritual and moral foundations, public culture services, news and publication affairs, cultural industries, cultural creations, national cultures protections, cultural exchanges with other countries, professional training and education, and relevant measures and important policies. These policies have produced considerable impacts on Chinese regulatory measures on promoting cultural development. Policies and laws are two main regulatory instruments used by Chinese government to regulate cultural activities, and they are closely related each other.

There are few regulatory measures direct on protecting and promoting diversity of cultural expressions in China, however, many different levels of policies and laws in one way or another relate to or have implications on protection and promotion of cultural diversities. Here are some examples

- The Several Opinions Relating to Further Flourish and Develop Minority Nationalities Cultures (published by the State Council in 2009);
- The National Guidelines of Cultural Development Program for the Eleventh Five-Year Term (2006 – 2010) (published by the Central

- Committee of Communist Party of China and the State Council in 2006)
- The Several Decisions Concerning the Investment of Non-Public Owned Capitals into Cultural Industries (published by the State Council in 2005);
 - The Law of the People's Republic of China on the Protection of Cultural Relics (2002);
 - The Copyright Law of the People's Republic of China (2001)
 - The Regulations on Implementation of the Copyright Law of the People's Republic of China (2002)
 - The Regulations on Publication Administration (the State Council, 2001)
 - The Regulations on the Administration of Audiovisual Products (the State Council 2001);
 - The Regulations on the Administration of Movies (the State Council 2001)
 - The Regulations on the Administration of Printing Industry (the State Council 2001)
 - The Regulations on Protection of Traditional Arts and Crafts (the State Council 1997)
 - The Regulations on Broadcasting and TV (the State Council 1997)
 - The Provisions on the Administration of Sino-foreign Cooperation in the Production of TV Plays (the State Administration of Radio, Film and Television, 2004)
 - The Provisions on the Administration of Chinese-foreign Cooperative Production of Films (the State Administration of Radio, Film and Television, 2004)
 - The Measures for the Administration of Examination and Approval of Radio Stations and Television Stations (the State Administration of Radio, Film and Television, 2004)
 - The Provisions on Administration of the Import and Broadcasting of Overseas TV Programs (the State Administration of Radio, Film and Television, 2004)
 - The Provisions Regarding the Administration of the Establishment by Overseas Institutions of Administrative Offices for Radio and Television in China (the State Administration of Radio, Film and Television, 2004)
 - The Provisional Regulation on Investment in Cinemas by Foreign Investors (the State Administration of Radio, Film and Television, 2003)
 - The Measures for the Administration of Landing of Foreign Satellite Television Channels (the State Administration of Radio, Film and Television, 2004)
 - The Provisions on the Administration of Examination of TV Plays (the State Administration of Radio, Film and Television, 2004)
 - The Regulations on Administration of Commercial Performances (the State Council 2005, modified in 2008)
 - The Implementation Rules on Administration of Commercial Performances (the Ministry of Culture, 2009)
 - The Provisions of the Ministry of Culture on the Administration of Foreign-related Culture and Art Performances and Shows (the Ministry

of Culture 2004)

- The Notice of the State Council on Strengthening Protection of Cultural Heritages (2005);
- The Notice of the General Office of the State Council on Strengthening Protection of World Cultural Heritages of China (2004);
- The Opinions of the General Office of the State Council on Strengthening the Protection of Intangible Cultural Heritage of Our Country (2005);
- The Interim Measures for the Protection and Administration of National Intangible Cultural Heritages (the Ministry of Culture, 2006);
- The Interim Measures Relating to the Special Fund for Protection of National Intangible Cultural Heritages (the Ministry of Finance, the Ministry of Culture, 2006).
- The Measures on the Administration of Business Sites of Internet Access Services (the Ministry of Information Industry, Ministry of Public Security, Ministry of Culture, State Administration for Industry and Commerce, 2001)
- The Administrative Measures of Importing Audio-Video Products (the Ministry of Culture of the People's Republic of China and the General Administration of Customs of the People's Republic of China, 2002)
- The Administrative Measures on Sino-Foreign Cooperative Distribution Company on Audio-video Products (the Ministry of Culture, the Ministry of Commerce, 2004)
- The Measures for the Administration of Foreign-Funded Distribution Enterprises of Books, Newspapers, and Journals (the General Administration of Press and Publication and the Ministry of Foreign Trade and Economic Cooperation, 2003)
- The Supplementary Provisions on the Measures for the Administration of Foreign-funded Distribution Enterprises of Books, Newspapers, and Periodicals (the General Administration of Press and Publication, the Ministry of Commerce 2007)
- The Supplementary Provisions II on the Measures for the Administration of Foreign-funded Distribution Enterprises of Books, Newspapers, and Periodicals (the General Administration of Press and Publication, the Ministry of Commerce 2009) ;
- The Measures for the Administration on Subscribers' Order of Imported Publications (the General Administration of Press and Publications 2004)

(2) Measures relating to provide opportunities including the language

Chinese Constitution Art. 4 provides that all nationalities have the freedom to use and develop their own spoken and written languages and to preserve or reform their own folkways and customs. Art. 119 of the Constitution stipulates further that the organs of self-government of the national autonomous regions independently administer educational, scientific, cultural, public health and physical culture affairs in their respective areas, protect cultural heritage of

the nationalities and work for a vigorous development of their cultures. Accordingly, the Tibet Autonomous Region passed its Regulations on Learning, Using and Developing Tibet Language in Tibet Autonomous Region (2002) and Xinjiang Region passed its Regulations on Language Affairs in the Xinjiang Uygur Autonomous Region (2002).

For the purpose of strengthening protection of minority nationalities cultures, Chinese State Council published in 2009 the Several Opinions Relating to Further Flourish and Develop Minority Nationalities Cultures. Minority nationalities cultures and linguistic diversity have been further protected and promoted.

China's Central Television opened its English channel, and China's Central Radio Station broadcasts in English, French, Spanish, Japanese and Russian.

(3) measures to support domestic independent cultural industries and activities

Chinese government made several decisions concerning the investment of non-public owned capitals into cultural industries in 2005 (published by the State Council). The Decisions encourage and support the independent cultural activities, goods and services.

(4) measures to provide public finance assistance

"the Cultural Guidelines 2006" declares to establish a number of specified national cultural development funds, to increase governmental investment in the cultural affairs, e.g. China Ethnic Minority Foundation (<http://www.cemf.org.cn/>), the Specified Fund for Publicity, the Fund for Cultural Development, the National Social Science Fund, the National Publication Fund, the National Specific Fund for Film Development and the Specific Fund for Top Movies, the Specific Fund for Cultural Development in the Rural Regions, the Specific Fund for Creation and Performance of Excellent Plays, the Refund Tax System or Preferential Policy for Export of Cultural Products and Services (see Article 46(1) of "the Cultural Guidelines 2006").

(5) measures to encourage non-profit organizations, as well as public and private institutions and artists and other cultural professionals

Article 12 of "the Cultural Guidelines 2006" provides that the State will encourage social sources to participate in non-profit cultural activities including to establish libraries, museums, and cultural palaces. The State will grant preferential treatment in the respect of land use and taxation.

(6) measures to establish and support public institutions

Article 8 of "the Cultural Guidelines 2006" calls for market-oriented reform of

Chinese cultural entities, to establish and support public cultural institutions to serve for the people, and provide the public institutions with money, infrastructure, land, office and personnel.

(7) measures to nurture and support artists and others involved in the creation of cultural expressions

Chinese Constitution provides specifically that citizens of the People's Republic of China have the freedom to engage in scientific research, literary and artistic creation and other cultural pursuits. The state encourages and assists creative endeavours conducive to the interests of the people that are made by citizens engaged in education, science, technology, literature, art and other cultural work (Art. 47). The creation of cultural expressions will be protected as copyright under Chinese Copyright Law. Furthermore, Chinese government has committed to provide for some categories of financial support for cultural activities. Finally, artists can organize their professional associations to protect their legal rights and interests.

(8) measures to enhance diversity of the media, including through public service broadcasting

it should be noted that all broadcasting services in China are public (or State) owned, no private broadcasting station, no broadcasting station owned by foreign capital, no sino – foreign joint venture broadcasting station, no sino – foreign cooperative broadcasting station (Article 10 of the Regulations on Administration of Broadcasting and TV).

Within China, the national autonomous regions (where minority nationalities dominate) can independently administer educational, scientific, cultural, public health and physical culture affairs in their respective areas, protect cultural heritage of the nationalities and work for a vigorous development of their cultures (Article 119 of Chinese Constitution), therefore, in these regions, the media is diversity for the purpose of protecting and promoting minority nationalities cultures and linguistic diversity.

Internationally, China starts to liberalise in broadcasting programmes from other countries. Some regulations or provisions have been published for this purpose, e.g. the Provisions on the Administration of Sino-foreign Cooperation in the Production of TV Plays (the State Administration of Radio, Film and Television, 2004), the Provisions on the Administration of Chinese-foreign Cooperative Production of Films (the State Administration of Radio, Film and Television, 2004), the Provisions on Administration of the Import and Broadcasting of Overseas TV Programs (the State Administration of Radio, Film and Television, 2004), the Provisions Regarding the Administration of the Establishment by Overseas Institutions of Administrative Offices for Radio and Television in China (the State Administration of Radio, Film and Television, 2004), the Measures for the Administration of Landing of Foreign Satellite

Television Channels (the State Administration of Radio, Film and Television, 2004).

2. The measures adopted in the sense of article 7 of the 2005 UNESCO Convention

Article 7(1)

Chinese Constitution Art. 4 provides that all nationalities have the freedom to use and develop their own spoken and written languages and to preserve or reform their own folkways and customs. Art. 119 of the Constitution stipulates further that the organs of self-government of the national autonomous regions independently administer educational, scientific, cultural, public health and physical culture affairs in their respective areas, protect cultural heritage of the nationalities and work for a vigorous development of their cultures. The Several Opinions Relating to Further Flourish and Develop Minority Nationalities Cultures published by the State Council in 2009 have further consolidated protection of minority nationalities cultures.

With respect to the women, China has promulgated the Law on the Protection of Women's Rights and Interests (2005). Article 2 of the Law provides that women shall enjoy equal rights with men in all aspects of political, economic, cultural, social and family life. The state shall protect the special rights and interests enjoyed by the women under the law. Article 15 further prescribe that the state shall guarantee that women enjoy equal rights with men with respect to culture and education. Article 21 states that state organs, public organizations, enterprises and institutions shall, by implementing relevant regulations of the state, ensure that women enjoy equal rights with men in their participation in scientific, technological, literary, artistic and other cultural activities.

For the ideological and political purpose, China used to have a tight control over the access to cultural expressions from other countries, in particular western countries. However, with China's accession to the WTO and China's rising in international community, Chinese government is showing more flexible towards other cultures. Numerous international cultural exchange agreements have been ratified; some relevant laws and regulations have been enacted, for instances, the Regulations on Administration of Commercial Performances (the State Council 2005, modified in 2008), the Provisions of the Ministry of Culture on the Administration of Foreign-related Culture and Art Performances and Shows (the Ministry of Culture 2004), the Provisions on the Administration of Sino-foreign Cooperation in the Production of TV Plays (the State Administration of Radio, Film and Television, 2004), the Provisions on the Administration of Chinese-foreign Cooperative Production of Films (the State Administration of Radio, Film and Television, 2004), the Provisions on Administration of the Import and Broadcasting of Overseas TV Programs (the State Administration of Radio, Film and Television, 2004). Chinese people now

have more opportunities for access to foreign cultures.

Article 7(2)

The important contribution of artists is recognized by Chinese Constitution (see Art. 47 of the Constitution). The Copyright Law of China provides further the copyright protection of original cultural expressions. Furthermore, artists can organize their professional associations to protect their legal rights and interests.

3. The measures adopted in the sense of article 8 of the 2005 UNESCO Convention

Article 33 of the Guidelines (2006) calls for to save the cultural heritages at risk of extinction and need urgent safeguarding, in particular cultural relics, folk literature, folklore, folk music and dance, minority people's epic.

4.3 How is article 11 of the 2005 UNESCO Convention ("**participation of civil society**") regulated in the implementing national law?

PLEASE INSERT YOUR ANSWER HERE:

The Art. 34(2) of the Cultural Guidelines 2006 state that China will broaden areas of civil cultural exchanges and cooperation, encourage the people's associations, civil organizations, non-state owned enterprises and individuals to participate in cultural exchanges with other countries. Please also refer to the replies to the questionnaire A(3).

4.4 How are articles 20 and 21 of the 2005 UNESCO Convention ("**relationship to other treaties**" and "**international consultation and coordination**") regulated in the implementing national law?

PLEASE INSERT YOUR ANSWER HERE:

There are no special laws and rules to regulate the relationship between the 2005 UNESCO Convention and other treaties in China. Since China is the Member of VCLT, the relationship between the UNESCO Convention and other treaties will be interpreted and applied in accordance with the provisions under the VCLT.

4.5 How does your country assess and insure the compliance of its efforts to implement the UNESCO Convention with respect to its **human rights obligations**?

PLEASE INSERT YOUR ANSWER HERE:

Chinese Constitution prescribe that "The State respects and protects human rights" (Art. 33(2)). Art. 47 of the Constitution further provides citizens of the People's Republic of China have the freedom to engage in scientific research, literary and artistic creation and other cultural pursuits. The state encourages and assists creative endeavours conducive to the interests of the people that are made by citizens engaged in education, science, technology, literature, art and other cultural work. All

these provisions will insure the compliance of Chinese efforts to implement the Convention with respect to its human rights obligations.

*As a complement to your replies to questions 4.1 to 4.5, please provide a copy of, or references to, your country's implementing **national law**, if any, together with related commentaries and web site addresses where such national law and related documentation may be found.*

5 Does your country intend to ask for a contribution to one or more own projects from the **international fund** for cultural diversity according to article 18 of the UNESCO Convention for the purpose of implementing the UNESCO Convention on the national level?

Yes No

If yes, please describe the project(s) for which your country will ask for funding:

PLEASE INSERT YOUR ANSWER HERE: n.a.

6 Is your country affected by **special situations** contemplated under articles 8, 12 para. 1, 17 and 23, point 1 of the UNESCO Convention ("special situations where cultural expressions on its territory are at risk of extinction, under serious threat, or otherwise in need of urgent safeguarding")?

Yes No

If "Yes", please describe these special situations, and the measures that your country adopts to redress these situations?

PLEASE INSERT YOUR ANSWER HERE:

Article 33 of the Cultural Guidelines 2006 state that effective measures have to be taken to save the cultural heritages at risk of extinction in China, in particular the cultural relics、 the folk literature、 the folklore、 the folk music and dance、 and the minority people's epic.

The measures adopted include:

- (1) to make relevant laws and regulations, for example, the Law of the People's Republic of China on the Protection of Cultural Relics (2002), the Notice of the State Council on Strengthening Protection of Cultural Heritages (2005), the Notice of the General Office of the State Council on Strengthening Protection of World Cultural Heritages of China (2004), the Opinions of the General Office of the State Council on Strengthening the Protection of Intangible Cultural Heritage of Our Country (2005), The Interim Measures for the Protection and Administration of National Intangible Cultural Heritages (the Ministry of Culture, 2006), the Interim Measures Relating to the Special Fund for Protection of National Intangible Cultural Heritages (the Ministry of Finance, the Ministry of Culture, 2006);

(2) to support foundations or to establish special national cultural development funds, for example, China Cultural Heritage Foundation (<http://www.cchfound.org/>), China Fund Intangible Cultural Heritage (<http://www.cfich.org.cn/>), China Ethnic Minority Foundation (<http://www.cemf.org.cn/>). China International Cultural Exchange Foundation (<http://www.cicef.org.cn/>), Chinese Traditional Cultural Protection Fund (<http://ctcpfund.org/index.asp>), Beijing Cultural Development Foundation (<http://www.bcdf.org.cn/>) .

7 What **institutional measures**, if any, does your government take to facilitate dialogue and coordinate action between culture and trade ministries and other relevant ministries (e.g. foreign affairs ministry) on the national level in order to meet the objectives of the UNESCO Convention?

PLEASE INSERT YOUR ANSWER HERE: the multi-ministrial coordination mechanism among the culture and trade ministries and other relevant ministries (e.g. foreign affairs ministry) in China for the purpose of implementation of the UNESCO Convention.

8 How does your country contribute to meet the objectives of the UNESCO Convention on the **regional and international levels** (e.g. coordination and collaboration with regional organizations, promotion of exchanges between National UNESCO Commissions, involvement in negotiating the operational Guidelines of the UNESCO Convention, activities within the Intergovernmental Committee)?

PLEASE INSERT YOUR ANSWER HERE:

1. At the regional level, China's Cooperation in the Context of the Asia-Europe Meeting (ASEM).
2. At the international level, China has actively participated all UNESCO Convention activities, including the Conference of Parties activities, the ordinary and special sessions of the Intergovernmental Committee for the Protection and Promotion of the Diversity of Cultural Expressions. China is the Member of the Intergovernmental Committee for the Protection and Promotion of the Diversity of Cultural Expressions (Group IV 2009 – 2013). China has also participated in negotiating the operational Guidelines of the UNESCO Convention.

C Questions on the further implementation of the UNESCO Convention

To reply to the following questions, you may consult with the competent agency within the Ministry of Culture of your country, or with your national contact point for the UNESCO Convention (articles 9, letter b, and 28) as listed in www.unesco.org/culture/fr/diversity/convention/3igc/3IGC_INF6_Points_de_contact_des_Parties.pdf

9 Which **major problems**, if any, related to the implementation of the UNESCO Convention does your country identify so far?

PLEASE INSERT YOUR ANSWER HERE:

Domestically, institutional coordination and cooperation problems among various relevant Chinese competent authorities at horizontal and vertical levels; the tension relationship between culture protection and economic and social development;

capacity building problems; the fund available to support the implementation of the Convention; Internationally, the interrelationship between the UNESCO Convention and other international treaties, especially the WTO Agreement.

10 Which **best practices** related to the implementation of the UNESCO Convention does your country identify so far?

PLEASE INSERT YOUR ANSWER HERE: There is no specified best practices related to the implementation of the UNESCO Convention China identified so far.

11 What are the **expectations** of your country regarding the further implementation of the UNESCO Convention

11.1 in the best case scenario?

PLEASE INSERT YOUR ANSWER HERE:

1. at international level, to negotiate more favourable guidelines for developing countries to implement the provisions of the "cooperation for development" and the "preferential treatment" under the UNESCO Convention; to strengthen cultural sovereignty and to safeguard cultural security; to keep an harmonious interrelationship between the UNESCO Convention and other international treaties, in particular the WTO Agreement, and to clarify that the UNESCO Convention may be adopted to justify the restrictions of importation of harmful cultural goods and services; to develop Chinese cultural industries and to expand Chinese culture globally, and to reduce trade deficit in cultural goods and services between China and some other countries.
2. at domestic level, to clarify the institutional coordination and cooperation mechanism among various relevant Chinese competent authorities at horizontal and vertical levels; to integrate culture protection into Chinese economic and social development program; to improve capacity building; and to raise more funds to support Chinese cultural protection.

11.2 in the worst case scenario?

PLEASE INSERT YOUR ANSWER HERE: internationally, no favourable treatment realised; cultural sovereignty or cultural security is losing; no harmonious interrelationship established; the trade deficit on Chinese side increased. Domestically, the institutional coordination and cooperation mechanism has not been clarified; conflicts between Chinese cultural protection and the social and economic development; lower capacity building and lack of fund.

11.3 in the most likely scenario?

PLEASE INSERT YOUR ANSWER HERE: mixed results

In principle, China may emphasize on the principle of sovereignty and cultural security, and the principle of sustainable development; developed countries however may stress for the principle of respect for human rights and fundamental freedoms, and principle of openness and balance. In the respect of operational guidelines, China may earn some support for favourable conditions to implement the provisions of "cooperation for development" and "preferential treatment"; developed countries may

ask for more stronger intellectual property protection of cultural expressions.

11 From the perspective of your country, what will be the **priorities** when implementing the UNESCO Convention in the near future?

PLEASE INSERT YOUR ANSWER HERE:

how to negotiate the implementing operational guidelines of the Convention to safeguard the rights and interests enjoyed by Chinese government under the Convention, and to combine the implementation of the UNESCO Convention with Chinese Cultural Guidelines 2006, and to integrate smoothly cultural protection into China's economic and social development program.

13 Which concrete actions in terms of **legal and policy measures** does your country contemplate to take in order to implement the UNESCO Convention in the near future?

PLEASE INSERT YOUR ANSWER HERE:

According to the Cultural Guidelines 2006, the concrete actions in terms of legal and policy measures Chinese government will be taken are to make law on protection of intangible cultural heritage, law on library, law on promotion of cultural industries, law on promotion of films, and to revise the regulations on publication, the regulations on audio-visual products, the regulations on broadcasting and TV.

14 If you have **further comments** on the questions of this survey or **additional information** that is useful for assessing the implementation of the UNESCO Convention in your country, please state them here:

PLEASE INSERT YOUR ANSWER HERE:

Useful websites:

— Governmental websites

1. Ministry of Culture <http://www.ccnt.gov.cn/>
2. Ministry of Commerce <http://www.mofcom.gov.cn/>
3. State Administration of Radio, Film and Television <http://www.chinasarft.gov.cn/index.html>
4. General Administration of Press and Publication <http://www.gapp.gov.cn/cms/html/21/index.html>
5. Ministry of Industry and Information Technologies <http://www.miit.gov.cn/>
6. Ministry of Foreign Affairs <http://www.fmprc.gov.cn/chn/gxh/tyb/>
7. State Intellectual Property Office of the People's Republic of China <http://www.sipo.gov.cn/sipo2008/>
8. Legislative Affairs Office of the State Council of the People's Republic of China <http://www.chinalaw.gov.cn/>
9. State Administration of Cultural Heritage <http://www.sach.gov.cn/>
10. National Copyright Administration of the People's Republic of China <http://www.ncac.gov.cn/cms/html/205/index.html>

二. Non-governmental websites

11. Guo Xue <http://www.guoxue.com/>
12. Centre for Ethnic and Folk Literature and Art Development of the Ministry of Culture <http://www.cefla.org.cn/index.asp>
13. China Folklore Network <http://www.chinesefolklore.org.cn/web/index.php?ChannelID=127>
14. Institute of Ethnic Literature of Chinese Academy of Social Science (<http://iel.cass.cn/>);
15. Chinese National Academy of Arts (<http://www.zgysyzy.org.cn/main.jsp>);
16. The Intangible Cultural Heritage in China (www.ihChina.cn);
17. China Federation of Literary and Art Circles (<http://www.cflac.org.cn>);
18. China Artists Association (<http://www.chinaartist.com.cn>)

三. Commercial websites

19. Beida Fabao <http://www.chinalawinfo.com/>
20. China Network of Knowledge Infrastructure <http://www.cnki.net/index.htm>

D Identification of respondent to this questionnaire

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Date and place: Feb. 25, 2010, Wuhan, China