Of vuvuzelas and caxirolas:
UNESCO’s policies on cultural diversity as expressions of the relationship between globalization and governance

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In this dissertation, I explore the significance of “policy frames” and “policy frameworks”, as mobilized by global governance institutions, in a context of contemporary globalization. The discussion of “framing” policy issues has been widely used in policy analysis and is typically referenced in the context of problem definition, agenda-setting and advocacy and awareness raising. I adopt the notion of “policy frames”, further adding that in the context of global media policy-making, they serve to define norms and are thus established through a set of foundational principles. I explore how such frames get put into “practice” in global governance institutions with a view to developing policy frameworks. Policy frameworks, I suggest, flow from policy frames. They represent the myriad efforts to turn the normative principles of a given policy frame into applied actions with concrete outcomes.

I focus my analysis on the UNESCO policy frame on cultural diversity, and its ensuing policy framework. In particular, I explore the mobilization of the notion of cultural diversity as a central policy issue at UNESCO, examining the key policy and political moments that resulted in the adoption of the 2001 UNESCO Universal Declaration on Cultural Diversity. I then examine how the Declaration was used to develop a policy framework on cultural diversity, most notably characterized by the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions. The case study ultimately suggests that policy frames and their ensuing policy frameworks represent an instance of the tension between globalization and governance and emerge as expressions of the relationship between globalization and governance.

Key words: Policy frame; policy framework; globalization; governance; global media policy; UNESCO; cultural diversity; cultural industries


Mots clés : cadre des politiques ; cadre politique ; la mondialisation ; la gouvernance ; politique médiatique globale ; UNESCO ; la diversité culturelle ; les industries culturelles
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PROLOGUE

Barely two months following the conclusion of the Fédération Internationale de Football Association or FIFA 2010 World Cup – one of the largest global sporting events which was held for the very first time on African soil – the Union of European Football Associations (UEFA) officially announced that it would ban the vuvuzela from the Euro 2012 Champions League competition.

The African horn instrument garnered worldwide attention in just a few short weeks at the beginning of the FIFA 2010 competition. On the one hand, the vuvuzela was condemned by players and broadcasters alike for its distracting buzzing sound, often described as the “drone of a thousand bees or a herd of stampeding elephants” (BBC 2010: np). At the same time, the vuvuzela was celebrated by local fans as the hallmark cultural sound and symbol of African football.

Amidst widespread calls to ban the instrument during the 2010 World Cup, Sepp Blatter, FIFA’s President, stated unequivocally that neither FIFA nor the local World Cup organizing committee would ban the vuvuzela. His Twitter post read: "I have always said that Africa has a different rhythm, a different sound". A year earlier, when the Confederations Cup (which was also held in South Africa), and the vuvuzela first became controversial in football, Blatter was quoted as follows:

It [the vuvuzela] is African culture, we are in Africa and we have to allow them to practice their culture as much as they want to....Vuvuzelas, drums and singing are part of African football culture. It is part of their celebration, it is part of their culture (see Goal.com 2009: np).
UEFA’s decision to ban the vuvuzela from European stadiums in 2012 relied on a similar argument: To permit the use of the vuvuzela would, according to UEFA, ultimately hamper the cultural expression of European football:

UEFA has decided that vuvuzelas...may not be brought into stadiums at matches in UEFA competitions....[UEFA]...has taken the move for reasons related to Europe’s football culture and tradition, saying that the atmosphere at matches would be changed by the sound of the vuvuzela...(UEFA 2010: np).

Further on in the same news release, UEFA states:

The magic of football consists of the two-way exchange of emotions between the pitch and the stands, where the public can transmit a full range of feelings to the players. However, UEFA is of the view that the vuvuzelas would completely change the atmosphere, drowning supporter emotions and detracting from the experience of the game.

To avoid the risk of these negative effects in the stadiums where UEFA competitions are played and to protect the culture and tradition of football in Europe – singing, chanting, etc. – UEFA has decided with immediate effect that vuvuzelas will not be allowed in the stadiums where UEFA competition matches are played (UEFA 2010: np).

Not surprisingly, UEFA’s outright ban of the vuvuzela was criticized by Rich Mkhondo, spokesperson of the South Africa World Cup organizing committee: “They [UEFA] should not be so rigid about the future ways in which people like to express themselves” (Associated Press 2010: np).

The vuvuzela captured the global imagination for a brief moment during the 2010 FIFA World Cup, paradoxically emerging as a meaningful cultural artifact and a means of cultural expression, while at the same time characterized as a risk and a threat to other cultural traditions.
But the story didn’t end there, and in the lead up to the 2014 FIFA World Cup, Brazil, the current host, responded with the introduction of the caxirola…
CHAPTER ONE
POLICY FRAMES, POLICY FRAMEWORKS,
GLOBALIZATION AND GOVERNANCE

I. Introduction

Cultural issues embodied what was so consistently at stake at the beginning of the new millennium. The tragedy of 9-11 left an unprecedented legacy of fear concerning the surge in primordial cultural attachments around the world. The International Criminal Court was established to prosecute individuals for genocide, ethnic cleansing and other crimes against humanity. The French National Assembly voted to ban religious items and clothing from schools and the hijab emerged as a fraught cultural symbol in the public sphere. iTunes became a household name, dramatically altering how we consume the cultural industries, including music, television and film. The Danish cartoon controversy sparked a heated global debate about cultural differences and the limits to freedom of expression. Indigenous populations in various parts of the world seized the opportunity to seek restitution for the systematic loss of language and culture, a consequence of complex historical legacies. Multiculturalism was declared a failed national policy in Germany and Great Britain.

To be sure, the list continues…and all over the world, the manifestations of globalization have given rise to conditions in which cultural encounters and creative expressions emerge at stake, in one way or another, as political as they have ever been.
II. Context

The conditions that we commonly refer to under the umbrella term “globalization”, unduly affect matters of media, culture, communication and their governance. Consider that the conditions of contemporary globalization – including the surge in information and communication technologies – create new avenues and opportunities for creative expression in music, film, art, publishing and television, among other areas. These opportunities, in turn, stand to cultivate conditions of cultural hybridity and cultural diversity, encouraging a range of new cultural encounters between peoples, nations and regions.

At the same time, the promotion of these and other avenues as a means to support cultural expressions remains an on-going challenge in the face of dominant economic drivers such as competition and international trade. These drivers reinforce the production and circulation of leading cultural industries, including the cultural products that constitute these industries, thereby threatening less developed or lesser known cultural expressions (Smiers 2003; Grant and Wood 2004; Goff 2007; McChesney 2008).

The issue appears to be the so-called “paradox” of globalization. This paradox typically gives rise to a set of realities that are deemed as either positive or negative (Hart and Prakash 1999: 317), depending upon one’s position, circumstances and aspirations in the world. They also call attention to the need for governance to help mediate and regulate this set of realities.

To be sure, it is important to note that developments in media, culture and communication have been a constant driver of societal shifts, shaping and
impacting conceptions of time and space – and their expressions in and through cultural products – throughout history (Innis 1950/2007). Thus, they are not unique to the conditions of contemporary globalization. Still, the surge in information and communication technology networks and the emergence of conditions of hyper-connectivity across national borders, among other conditions, impact how we understand, experience and ultimately govern the world in which we now live (Castells 2000).

But whether governance serves to constrain or enable, reinforce or undermine the conditions of contemporary globalization, suggests that it too, may emanate from the same challenge of contradiction (Cameron and Stein 2002). At the very least, governance in a context of contemporary globalization, calls to mind questions about influence and power such as “(w)ho rules, in whose interests, by what means, and for what ends?” (Held and McGrew 2002: 58).

Against this landscape, cultural governance – or the “...sum total of mechanisms, both formal and informal, national and supranational, centralized and dispersed, that aim to organize...” (Freedman 2008: 14) that which pertains to cultural issues in a context of contemporary globalization – has materialized as a definitive “global media policy” (GMP) priority. And the United Nations

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1 Cameron and Stein (2002) reflect upon the challenges and opportunities of state-level governance vis-à-vis globalization. They suggest that whether globalization is characterized as “triumphant” or “in retreat” will affect the scope of the state’s policy and governance choices, as well as its capacity to assert itself in the international arena.

2 Freedman (2008: 40) uses this definition in relation to “media governance” but it is also appropriate for a discussion on cultural governance or the various actions that are adopted in an attempt to direct matters of culture across jurisdictions. Freedman also importantly distinguishes governance from policy. Policy is “...the development of goals and norms leading to the creation of instruments that are designed to shape the structure and behaviour of ...systems”.

3 According to Raboy and Padovani (2010: 16), global media policy or GMP refers to the “…policy-oriented processes in the domain of media and communication...”. This “domain” also
Educational, Scientific and Cultural Organization (UNESCO), a global governance institution that is part of the United Nations family of institutions, made a deliberate effort in the early 2000s to emerge as a policy leader in this regard.

In particular, UNESCO developed policy interventions in the first five years of the 2000s in support of the issue of cultural diversity. Among other objectives, these policies were intended to influence the preferential treatment of the cultural industries in a context of contemporary globalization. These interventions, by and large, were considered counterpoints to economic globalization as they critically underscored the non-commercial value of the cultural industries.

Notably, while the mandate to prioritize culture – as a measure to promote peace and security – was fixed on UNESCO’s agenda at its inception (see UNESCO 1945, Article 1), the turn to deliberately focus on cultural diversity in the early 2000s was rooted in an institutional and documentary history in which UNESCO deliberately considered culture as a dimension of development (Dupuis 1991; UNESCO 1994), cultural development (Girard 1972; Raboy et al. 1994; 1994a), cultural policies and the cultural industries (UNESCO 1982). It was also borne from UNESCO’s long-standing treatment of culture and communication as vehicles to advance participation, inclusion and citizenship in support of the relationship between culture, communication and democracy (see UNESCO 1982a).\footnote{I expand on these historical developments in significant detail in chapter 3.}

\footnote{I take up this concept of GMP in more detail in chapter 2; see also Mansell and Raboy (2011).}
III. Research Focus: Policy Frames and Policy Frameworks

In this dissertation, I explore the significance of “policy frames” and “policy frameworks”, as mobilized by global governance institutions, in a context of contemporary globalization.

The discussion of “framing” policy issues has been widely used in policy analysis and is typically referenced in the context of problem definition, agenda-setting and advocacy and awareness raising (see Daviter 2007). Rein and Schön (1993: 145; see also Schön and Rein 1994), for example, suggest that a “policy frame” is used to convey a complex policy issue or a policy problématique. They suggest that policy issues get “framed” in that they are constructed and defined around a series of “facts, values, theories and interests”. A policy area also gets “named”, a process which serves to brand a given policy issue for use by institutional policy actors and organizations, thereby influencing its use and take up.

I adopt this useful notion of “policy frames”, further adding that in the global public policy-making context, they serve to define norms and are thus established through a set of foundational principles. I apply the concept of policy frames to the notion of global media policy, and explore how such frames get developed and put into “practice” (Prior 2003) with a view to developing policy frameworks. Policy frameworks, I suggest, flow from policy frames. They represent the myriad efforts to turn the normative principles of a given policy frame into applied actions with concrete outcomes. Critically, the policy frame, I maintain, is not a part of the policy framework as it can be taken up and used by
different actors to suit their various interests and agendas. At the same time, while the policy frame stands separate from the policy framework, it clearly emerges as the principle enabler in the development of the framework.

In light of this, I suggest that policy frames are typically manifested in formal policy documents (e.g., a declaration) which involve the formal definition of norms. Policy frameworks, however, include the formal and informal policy documents that are derived from the take up and use of a given policy frame towards an actionable end. Documents that comprise a policy framework thus include standard-setting instruments, procedural texts, meeting deliberations and various other policy inputs (e.g., reports, papers, etc.).

In this dissertation, I ask the following overarching question: How can an understanding of global media policy frames and their ensuing policy frameworks, as developed by global governance institutions, be brought to bear on the relationship between globalization and governance?

In order to unpack this question empirically, I examine the case study of the UNESCO policy frame on cultural diversity, and its ensuing policy framework. In particular, I explore the mobilization of the notion of cultural diversity as a central policy issue at UNESCO and ask the following sub-set of research questions: What were the key policy and political moments that resulted in the adoption of the 2001 UNESCO Universal Declaration on Cultural Diversity (UDCD), which institutionalized the UNESCO policy frame

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5 It is important to note that in this dissertation, I focus on an examination of UNESCO’s interventions on cultural diversity (comprising the policy frame and its ensuing policy framework), rather than the philosophical notion of cultural diversity itself.
on cultural diversity? How did the UDCD get put into “practice”, resulting in a policy framework on cultural diversity?

I suggest that the UDCD\(^6\) – an aspirational, intentional and direction-setting instrument – represented the anchoring document that endowed cultural diversity as a formalized policy issue at UNESCO, granting it both visibility and legitimacy. In so doing, the UDCD institutionalized the UNESCO policy frame on cultural diversity, establishing normative principles and parameters around the scope of what was encompassed around the issue. As the embodiment of this policy frame, the UDCD subsequently catalyzed the development of an ensuing policy framework on cultural diversity at UNESCO. This policy framework is comprised of a number of procedural documents, yet is most notably characterized by the UNESCO (2005) *Convention on the Protection and Promotion of the Diversity of Cultural Expressions*.\(^7\) With a view to understanding how policy frames and their ensuing policy frameworks are developed in a context of contemporary globalization, I thus examine the processes resulting in the formal adoptions of both the UDCD and the CCD.

This case study suggests that the UDCD, and the documents that flowed from it (comprising the policy framework), emerged as institutional and political actors (Prior 2003; Ahmed 2007)\(^8\) influencing policy action in the sphere of global cultural governance and global media policy more generally. Further, the case study illustrates that policy frames and their ensuing policy frameworks serve to

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\(^6\) See Annex A for the complete text of the UDCD.

\(^7\) Throughout this dissertation, this convention will be frequently referred to as the CCD or the Convention on Cultural Diversity, as it is commonly known. See annex B for the main text of the CCD.

\(^8\) I elaborate upon this notion of a “politics of documentation” in chapter 2.
legitimize global governance institutions. At the same time, policy documents that constituted the UNESCO policy framework on cultural diversity may have depoliticized the policy issues that the UDCD, as the embodiment of the frame, attempted to address in the first place. Finally, this case study suggests that policy frames and their ensuing policy frameworks represent an instance of the tension between globalization and governance. In this regard, I conclude by suggesting that global media policy frames and their ensuing policy frameworks emerge as expressions of the relationship between globalization and governance.

Chapter Outline

In the remainder of this chapter, I establish the conceptual basis that underpins this dissertation, focusing on the issues of globalization and governance. While these concepts are often referred to in broad brush strokes in the literature, and can be hard to pin down empirically (Hart and Prakash 1999), their treatment and definition as well as their use in this dissertation will be made clear through a literature review. I critically discuss what is meant by globalization, what are its key attributes and how it relates to governance. This will enable me to leverage these two terms throughout my dissertation.

IV. What is Globalization?

Globalization has been referred to as a “consciousness” (Robertson 1992: 8-9), a degree of “thickness” (Keohane and Nye 2001: 234), and a “syndrome”
While some suggest that globalization represents a new structure (Castells 2000: 367n), others refer to it simply as the process by which internationalization is getting stronger (Gilpin 1987; Hirst and Thompson 1999; Weiss 1998). At the root of much of this debate is whether the nation-state has lost its legitimacy as a sovereign entity in light of globalization. To this end, globalization has further been described as a “rupture in modernity” (Appadurai 1996: 3), a “consequence of modernity” (Giddens 1990), and a “crisis of modernity” (Castells 2004; Hardt and Negri 2000).

Leading globalization scholars, David Held and Anthony McGrew (2002: 1), refer to globalization as:

... a shift or transformation in the scale of human organization that links distant communities and expands the reach of power relations across the world’s regions and continents.

Implicit in this definition is a recognition of the nature and extent to which shrinking distances have changed how we interact, creating a new set of manifested realities. The definition also underscores the expansive role that power plays in this context and in view of the conditions that influence human relations in a context of contemporary globalization.

Underlying this so-called “shift or transformation” is the interplay of what many refer to as a myriad of overlapping “processes” – or a series of inter-related and enmeshed actions that yield tangible outputs – and which have transformed

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9 Robertson (1982: 8-9) suggests that the term globalization refers, in part, to a “global consciousness”, stemming from its widespread proliferation and use. Keohane and Nye (2001: 234) theorize globalization as the degree of “thickness” of globalism, which is characterized by multiple networks of connections across continents. Mittelman (2000: 4) explores globalization as a “syndrome of processes and activities” where the term syndrome suggests a pattern of actions and outputs.
perceptions of time and space and influenced the “movement of peoples, things, information, and places” (Ritzer 2010: 7), thereby affecting social, political and economic relations and the constellation of global power dynamics therein (Giddens 1990; Appadurai 1996; Beck 1999; Held et al. 1999; Prakash and Hart 1999; Tomlinson 1999; Castells 2000; Held and McGrew 2002; Sassen 2006). Examples of such “processes” include the intensification and growing horizontality of communication networks; the trend towards increased mega-urbanization; and the pace at which the cultural industries have penetrated different spaces, both actual and virtual. John Tomlinson refers to the outcome of these processes as the “complex connectivity” (Tomlinson 1999: 2) of human interaction. In this regard, he suggests that globalization is the “...rapidly developing and ever-densening [sic] network of interconnections and inter-dependencies that characterize modern social life”.

The literature on globalization further explains that interconnectivity and interdependence are made possible by “time-space compression” (Harvey 1989; see also Giddens 1990; Appadurai 1996; Beck 1999; Held et al. 1999; Prakash and Hart 1999; Tomlinson 1999; Castells 2000; Held and McGrew 2002; Sassen 2006). “Time-space compression” refers to the “idea of the stretching of social relations across distance” (Tomlinson 1999: 3). Thus, if social relations were once limited by place and confined by local time, globalizing conditions have resulted in shifts in the meaning, mode and scale of human organization and interaction. At issue, is how globalizing processes weave together new realities
of space and time and subsequently reorganize social relations, social structures and social systems.

For example, Ronald Deibert (1997: 31) suggests that “time-space compression” transformed the “social epistemology” or the widespread understandings of time and space. Media and communication systems thus “disembedded” (Giddens 1990: 21) cultural experiences and eliminated the need to be physically present in order to experience social and cultural interaction (Murdock 1993 in Tomlinson 1999: 59). Arjun Appadurai (1996: 3) notes that “time-space compression” reshaped the “work of imagination” – particularly as regards the nation-state (see Anderson 1982/2006) – which was a “constitutive feature of modern subjectivity”. The proliferation of mass media and widespread migration became central interlocutors in this regard and gave rise to new ways of understanding and making sense of one’s reality. In this way, Appadurai theorized that global cultural flows promote “imagination as social practice” (Appadurai 1996: 31). Finally, the move away from a world economy towards a global economy, according to Castells (2010), occurred once the production cycle relied less on traditional valuations of the control of time (i.e., “clock time”) and more “as the rate of turnover of capital” or the “annihilation of time” (Castells 2010: xi), and the customization of products for specific markets emerged as the drivers of capitalism. Ultimately, “space defines the time-frame of social relationships” (Castells 2010: xxi). Perceptions of time and space, therefore, are critically tied to how we act and interact with the world around us (Harvey 1990; Castells 2000; Tomlinson 1999).
At the same time, however, as Saskia Sassen (2006: 23) cautions:

…globalization is not simply growing interdependence – its typical definition – but the actual production of spatial and temporal frames that simultaneously inhabit national structures and are distinct from national spatial and temporal frames as these have been historically constructed.

Thus, changing perceptions of time and space are not merely reflections of discrete and distinct experiences which take place at either the local or the global levels. Such an interpretation erroneously suggests that there is no interaction between the local and the global levels. As Ulrich Beck (1999: 26) explains, this type of “either/or” theorizing (typically manifested within a national context) is short-sighted and does not consider that perceptions of time and space are, at once, both inhabiting the local and the global levels. This “both/and” perspective, he suggests, offers the more nuanced approach to theorizing in a context of contemporary globalization (Beck 1999: 26; see also Sassen 2006). Thus, manifestations of the local and the global are constantly acting upon the other, absorbing time in a myriad of ways (Sassen 2006: 386).¹⁰

Finally, while shifting perceptions of time and space may appear to be neutral manifestations associated with the conditions of contemporary globalization, they affect every aspect of society and emerge as foundations of “social power” (Harvey 1990: 226).

Power relationships are embedded in the social construction of space and time, while being conditioned by the time-space formations that characterize society (Castells 2009: 34).

¹⁰ For example, Sassen (2006: 386) notes that the vendor who sells food at a local street corner functions at a “slow pace” in the global economy, while the Wall Street professional moves at a “fast pace”. Their meeting at a particular point in time and space – where and when the professional buys food from the vendor – calls to mind the many ways in which time and space are actively and continuously constructed in a context of contemporary globalization.
Power itself is thus fundamentally embedded in the very interactions, structures and systems that shape globalizing processes and affect how we experience our world. “Globalization, thus, can be understood as embodying processes of structuration and stratification” (Held et al. 1999: 27). And “…social domination is exercised through the selective inclusion and exclusion of functions and people in different temporal and spatial frames” (Castells 2000: 465; see also Harvey 1990).

So conceived, globalization is neither experienced in the same way and nor does it result in the same universal effects (Held and McGrew 2002). Relatedly, globalization is not a one-dimensional phenomenon (Held and McGrew 2002; Ritzer 2010). In fact, globalizing processes are often described as dialectical actions (Giddens 1990; Appadurai 1996; Reinicke 1998; Beck 1999; Held et al 1999; Tomlinson 1999; Castells 2000; Held and McGrew 2002; Dicken 2003; Sassen 2006) that shape various manifestations in the political, economic and cultural areas of life.

**Economic Globalization**

Throughout the first decade of the 2000s, the global economy was widely considered the driving feature of contemporary globalization (Castells 2000; Hardt and Negri 2000; Stiglitz 2003; Sassen 2006; Bhagwati 2007). While the language used to describe the global economy initially made reference to shifts in the relations of production, the opening up of national markets to international free trade, and the circulation of finance capital, in recent years this has been
more tempered due to sluggish global economic growth. Still, the temptation to dismiss economic globalization as a thing of the past remains premature given it is constantly evolving, adapting and transforming. As Naim notes, “[g]lobalization is such a diverse, broad-based, and potent force that not even today’s massive economic crash will dramatically slow it down or permanently reverse it” (Naim 2009: np).\footnote{While Naim (2009) arguably reifies globalization, referring to it as a “force”, his point about globalization being “diverse” and “broad-based” is notable and speaks to the multiple processes that continue to constitute the phenomenon.}

Still, the integration of the contemporary global economy is often attributed to the ratification of the famous Bretton Woods Agreements. The formalized set-up of Bretton Woods, launched post-World War II and led by the United States and Britain, resulted in an economic and political regulatory order intended to ensure stability in the world economy. The introduction of three international institutions – the International Bank for Reconstruction and Development (known today as the World Bank), the International Monetary Fund, and the International Trade Organization – assumed the role of guiding the international economy.\footnote{Initially, trade liberalization was supposed to fall under the auspices of the International Trade Organization. The ITO never came to fruition but the General Agreement on Tariffs and Trade (GATT) remained in place as a treaty governing international trade. The World Trade Organization succeeded the GATT in 1995.} The system was premised on the idea that markets were imperfect; they needed correction and intervention. Bretton Woods advanced the notion that governments should identify and establish domestic economic policy objectives while at the same time contribute to the development of an international financial and economic system (Gilpin 1987; Cox 1996; Hirst and Thompson 1996; Keohane and Nye 2001; Stiglitz 2003; Sassen 2006). It was theorized that such a
system, premised on the notion of *embedded liberalism* or the balance between domestic responsibilities and the promotion of an international economy (Gilpin 1987: 167; Ruggie 1998: 73; Sassen 2006: 153; Goff 2007), would help mitigate against massive economic crises.

Saskia Sassen (2006: 420) describes Bretton Woods as among one of several “foot soldiers” in the development of the global economy. In particular, she notes that Bretton Woods created the conditions supporting the “capabilities for the neoliberal project”. In this regard, the move towards a globalized economy coincided with the rise of national neoliberal policies.

The neoliberal economy, reinforced through the prescriptive policies of the Washington Consensus in the 1990s, promoted deregulation, privatization and liberalization of markets. Based upon an ideology that promoted the free market, private property and the individual’s capacity to wilfully act in this free market environment, neoliberal policies, in many ways, facilitated the expansion of capitalism to a global scope and scale. Common characteristics of this “knowledge-based” economy included a focus on information and data as resources, and the transnational flows (Appadurai 1996) of capital, goods, people and trade.  

With reference to the scholarship of David Harvey (2005), Des Freedman (2008) importantly distinguishes between the philosophy of *neoliberalism* and the practice of *neoliberalization*. The former, he notes, represents an ideology in which the free market is efficient and productive, free of the need for intervention.

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13 Hopper defines *transnationalism* as part of the dialectic between the local and the global in which globalizing processes are found not only at the global level, but also in the in-between spaces of nation-states (see Hopper 2007: 52).
The latter, which became synonymous with the global economy in the early 2000s, constituted a set of “material practices” deliberately pursued by a handful of world leaders in the 1980s and 90s. These leaders instituted a suite of targeted policies that promoted deregulation, privatization and liberalization of markets in support of neoliberalization as a “political project” (Freedman 2008: 42).

While the push to neoliberalize has often been described as “the master narrative” of contemporary globalization (Kenway and Fahey 2009: 16), it is, in fact, far more complex (Sassen 2006). Like globalization, Freedman (2008) reminds us that neoliberalization is not an “endgame”; rather, it too is a set of historical processes that are constantly evolving with implications for the broader political economy. Similarly, Cerny (2010: 156) notes that neoliberalization, “...far from being a monolithic creed, is a flexible doctrine...It is continually evolving as both old and new actors redefine it and internalize it in their increasingly transnational political projects”.

**Political Globalization**

The political landscape of contemporary globalization is often described as a tapestry in which there exists a diversity of actors, institutions, issues and interests. Together, these compete, clash and cooperate, as appropriate, to further goals and initiatives that typically cut across spatial boundaries. This landscape has given rise to a number of considerations, including most notably
perhaps, those about the enduring role and presence of the nation-state as one such actor.

Stephen Krasner (2000: 124) defines the state as a:

…system of political authority based on territory and autonomy. Territoriality means that political authority is exercised over a defined geographic space…Autonomy means that no external actor enjoys authority within the borders of the state.

Similarly, Ronald Deibert (1997: 9) suggests that political authority has to do with the entity that has the “right to set the rules of the game”. Under the Westphalian framework, the nation-state is typically recognized as the primary agent that holds that authority. It is, thus, a system premised on the “will of states” (Ruggie 1998: 47), in which the nation-state is recognized as a sovereign entity that holds governing authority over its territory and within its own boundaries. Ultimately, state governance and the interactions between states are intrinsically tied to notions of sovereignty, authority and territoriality.14

In his influential treatment on the subject, Reinicke (1998: 54) suggested that globalization challenged the internal sovereignty of the nation-state: “…what are conventionally considered domestic policy issues…are being drawn into or reappear in discussion and deliberations on matters of foreign policy”. In other words, the conditions of contemporary globalization enabled the convergence of both foreign and domestic policy issues; and, more and more, issues began to assume relevance in a cross-border or transnational context (Reinicke 1998: 72). In this regard, the global political domain emerged as a legitimate space that

14 Internal sovereignty is characterized as the state’s capacity for interaction with other stakeholders within its own boundaries (Reinicke 1998: 54). External sovereignty involves the recognition of an inter-state system premised on the basis of the “reciprocal recognition” (Wallerstein 2004: 44) of other states.
influenced the governance of issues that were also relevant to the *national*
political domain (Beck 1999; Held and McGrew 2002; Keohane and Nye 2001;
Ruggie 1998; Stiglitz 2003; Sassen 2006). This urged a rethinking of the capacity
of the state to exercise authority within its boundaries.

Much of this rethinking initially resulted in claims about the diminishing
sovereignty of the nation-state (Appadurai 1996; Reinicke 1998; Castells 2004) in
a context of contemporary globalization. While arguably retaining a degree of
influence as one of among several important actors, the nation-state it was
theorized, struggled to maintain the same degree of legitimacy and authority as it
had previously enjoyed during the height of modernity. “State control over space
and time is increasingly bypassed by global flows of capital, goods, services,
technology, communication, and information” (Castells 2004: 303).

Since the early 2000s, however, these assertions about the state and its
capacity to exercise sovereignty and political authority have been revisited.
Scholars, by and large, now recognize that the nation-state retains significant
authority in the current system of states, even though it is one of among several
competing global actors, including private industry and civil society15 (Morris and
Waisbord 2001; Cameron and Stein 2002; Goldsmith *et al.* 2002; Braman 2004;
Appadurai 2006; Sassen 2006; Raboy 2007; Randeria 2007; Raboy and Mawani
2013; Cerny 2010).

Globalization involves – and is driven by – a growing and evolving
process of the (so far uneven) interaction of actors and groups
stretching across national boundaries and state borders. This does
not imply the demise of the state as an institutional structure, but it

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15 Civil society is broadly defined in this dissertation as “the arena of uncoerced collective action
around shared interests, purposes and values” (LSE Centre for Civil Society 2004).
does mean that states are increasingly “enmeshed” ...in an expanding and increasingly complex web of political, social and economic relationships cutting across the vertical borders between states (Cerny 2010: 7).

The scholarship of Saskia Sassen (2006) takes this even further. The global, according to Sassen, should be considered as part of the national and vice versa, insofar as they both “constitute” and enable each other, institutionalizing a global sphere of activity. In other words, the nation-state remains a powerful institution that actively participates in the materialization of a global domain and reconfigures issues of governance as relevant to both national and global levels. So conceived, one might suggest that the state actually assumes greater power than ever before, influencing its own sovereign territory, reinforcing its authority to define issues, as well as influencing the treatment of these issues in a global governance context. In this regard, and in the current context, “state and state actors have, in effect, become key promoters of globalization...” (Cerny 2010: 159). Still, notwithstanding the state’s role as a primary actor instrumental in globalization’s evolutionary path, it also emerges as its “object”, subject to the effects of globalization (Randeria 2007).

Thus, while traditionally, governance was understood as the degree of cooperation between states, and states were considered the primary actors in an inter-state system, this is no longer exclusively the case. The stage for governance now belongs to a complex web of actors and stakeholders, brought together through or because of their shared interests and intentions to advance,

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16 It is significant to note that even in the earliest days of modern international organization, nation-states typically used the international arena as a measure to fortify their own political authority and legitimacy (Magder 2011).
stall or negotiate activities taking shape in the global domain. These stakeholders function not in isolation of one another, but as competing actors with specific interests and powers that influence the tools of governance and its corresponding outcomes (O Siochru and Girard 2002; Raboy 2002). These actors are, at times, one another's allies; in other instances, they act as each other's adversaries. The opportunity also exists for less developed states to develop strategic and noteworthy alliances with more powerful state actors in order to advance joint interests within supra-state spaces (Raboy and Mawani 2013). Industry and civil society also have a great deal at stake within such spheres of decision-making and may also seek to form such alliances. The result, as Cerny (2010: 190) writes, is that “power...becomes more diffuse, diffracted through an increasingly complex, prismatic structure of socio-economic forces and levels of governance”.

Governance, therefore, emerges as a “….multilayered, multidimensional and multi-actor system in which institutions and politics matter a great deal to the determination of global policy outcomes, that is, to who gets what” (Held and McGrew 2002: 66; emphasis in original). And the constellation of power relations – between actors, institutions, issues and interests – remains a critical point of interrogation where globalization and governance intersect.

**Cultural Globalization**

Cultural globalization, which includes shifts in media and communication, typically refers to the interaction, exchange and take up of cultural products, the development of new or hybrid cultural forms, and the varied pathways used by
individuals and communities to participate in and express themselves through the cultural medium.

A number of issues have catalyzed the turn to focus on cultural globalization including, among others, the diffusion of and expanding access to information and communication technologies; the surge in migration, travel and movement from one country or region to another; and the sheer growth in the availability and commodification of cultural products (Appadurai 1996; Castells 2004; Held et al 1999; Held and McGrew 2002). While these issues play a pivotal role in stimulating processes of interaction and cultural exchange, they also influence the materialization of identity and perceptions of difference (Appadurai 1996; Held et al. 1999; Castells 2004; Sassen 2006). Culture, in this regard, becomes an active influencer of its own transformation rather than simply being affected by globalization:

...globalizing processes do not stand outside of culture or cultures, but are shaped by them...By the same token, cultures will not be immune to the processes of globalization and are, in fact, at least in part, constituted by them (Hopper 2007: 2).

Still, culture remains an elusive and difficult term to define – imbued with multiple interpretations and meanings, each with its own unique set of assumptions. While these meanings often bleed into each other, their varied definitions and use remain an important point of interrogation in the literature on cultural globalization and affect how we come to study where and how culture, governance and globalization intersect and interact (Hopper 2007).

Over half a century ago, sociologist Raymond Williams (1958/1989) provocatively stated that “culture is ordinary”; it is a constant negotiation, he
noted, in the quest to find meaning in everyday life. Nearly two decades later, he would go on to define *culture* as: “(1)...a general process of intellectual, spiritual and aesthetic development,...(2) a particular way of life, whether of a people, a period, a group or humanity in general,...[and] (3) the works and practices of intellectual and especially artistic activity” (Williams 1976: 80). Tomlinson similarly suggests that *culture* is, quite simply, a set of “practices” which give meaning to life. More specifically, he suggests that culture is the:

…constititution of meaning which speaks to the existential condition of human beings….-cultural practices provide resources of meaning through collective symbolization woven into a set of material practices that sustain a viable way of life (Tomlinson 1999: 68).

Drache and Froese (2005) call attention to the challenges and limitations scholars face when they attempt to discuss culture in any kind of meaningful way. “Culture is so complex because it is a tradable commodity, a tool of identity for groups and individuals and a strategic resource for every society” (Drache and Froese 2005: 2). Arjun Appadurai (1996:12) eschews the term *culture*, given its static connotation as some kind of bounded whole. He advocates, instead, for the use of the adjective *cultural*, which he suggests implies that culture is constantly evolving and through which we can more productively talk about difference. Castells speaks of *culture* with reference to identity: identity refers to the “…the process of construction of meaning on the basis of a cultural attribute or a set of cultural attributes…” (Castells 2004: 6). Roland Robertson (1992) steers clear of defining *culture*, acknowledging the difficulty in so doing. And
Homi Bhabha (1994) conceptualizes the “location of culture” through theorizations of a “third space” in which hybridity is imagined.\(^{17}\)

Crucially, several of these definitions or references to culture contrast with those that promote *culture* as simply “an expression of market relations” (Raboy *et al* 1994: 4). These definitions and references treat “cultural practices” as deeply connected to, even imbued in, identity and community creation and cultural expression, such that cultural practices emerge as deeply political. Benedict Anderson (1983/2006) was among the first to theorize imagination as contingent upon “cultural practices”. “Nation-ness” was a “cultural artefact”, actively constructed through narratives of shared history (Anderson 1983/2006: 4). The emergence of communication infrastructure and print capitalism, in particular, altered an understanding of time and space, giving rise to broader notions of a situated and like community with shared experiences (Anderson 1983/2006). The *nation* emerged as an imagined community residing within a sovereign and defined territory (Anderson 1983/2006). The risk, of course, is that with the rise of modernity, “…the nation becomes the only way to imagine community” (Hardt and Negri 2000: 107).\(^{18}\) With the advent of globalization, however, the ideology and discourse of the *nation* as the connective cultural tissue of the state, is turned on its head. Questions of a common, shared identity

\(^{17}\) The reference to that which is imagined is deliberate in order to reinforce, once again, that cultural and social practices are political. In the context of Bhabha’s theorizing, the “third space” is profoundly liberating and deeply political.

\(^{18}\) In this statement, Hardt and Negri allude to the exclusionary practices of nationalism and nation-building. Relatedly, Appadurai (2006: 42) notes that “minorities do not come preformed. They are produced in the specific circumstances of every nation and every nationalism”. To be sure, culture has always been an important vehicle of society. Roland Robertson (1992: 113) also reminds us that the modern national framework, premised on ideals of homogeneity, actually masked the various ways in which culture worked on and through society to generate notions of the local *and* the global domains.
have given way to multiple and, at times, fractured identities across territories and other spaces. And global cultural “flows” have engendered the very dynamism inherent in the cultural, stimulating conditions of diversity and hybridization (Appadurai 1996; Castells 2000).19

Discussions about cultural globalization have routinely revolved around two key trends: the rise of cultural hegemony and a potential monoculture, versus the threat of cultural insecurity. The former, often referred to in the context of the “Americanization of culture” (see Schiller 1992; Barber 1996; Grant and Wood 2004), is often discussed in relation to the surge in global consumerism and the rise of untapped consumer markets; the production, distribution and consumption of dominant cultural goods and services (including films, music, books and periodicals); and the concentration of media ownership.

George Ritzer (2004), for example, theorizes this state of consumerism using the metaphor of “nothing”. Through the widespread proliferation of consumer activity, he suggests that globalization brings about a lack of substance or meaning and the production of “nothingness”. Socio-cultural practices of meaning-making are thus rendered hollow and empty. This calls to mind Horkheimer and Adorno’s (1944/2000) treatment of the “culture industries” in which modern culture, they maintained, was reduced to its widespread commodification as a “mass-produced” phenomenon.20 It is thus “…the making

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19 For example, the diasporic experience has challenged traditional notions of nation and community. It decentred the modern and homogenous cultural sphere and challenged static and exclusive notions of culture within a given space (Appadurai 1996). It also created the potential for new forms of belonging beyond spatial boundaries (Appadurai 1996; Castells 2004; Sassen 2006).

20 The notion of the cultural industries is discussed in much greater detail in subsequent chapters.
of culture...[as] an industry” (Grant and Wood 2004: 20) that threatens to render it void of meaning. At the same time, and more recently, other have suggested that the current environment, which was:

...once predominantly characterized as an arena for cultural homogenization, is today more adequately recognized as a complex space in which culture is not only at risk because of change, but is also subject to, and benefits from that change (Raboy and Mawani 2013: 326).

Still, the manner in which culture circulates in a context of contemporary globalization raises key considerations in the context of who or which population groups have the authority, power and resources to express themselves culturally and to make these expressions visible to the rest of the world, versus those that are vulnerable and lack both the opportunity and the capacity for cultural expression (Castells 2000; 2000a). It is a question of which cultural expressions – such as the use or ban of vuvuzelas in international soccer tournaments – are permitted to dominate and define a given cultural milieu versus those that are not.

Global cultural flows, as with other globalizing processes, can thus be considered to embody a complex set of power relations, engendering the very “processes of structuration and stratification” (Held et al. 1999: 27) that have come to characterize what we understand as “globalization”. To be sure, as Stuart Hall (2010: xi) maintains:

One feature [of globalization] is the way culture has become part and parcel of, harnessed to and mediating economic, geo-political and social relationships; and consequently the way the exercise of creativity, innovation and cultural expression has become intensely related to and caught up with the ‘play’ of power.
In other words, the interplay of the relationship between culture and power has become a key driver that affects not only cultural development, but also the levers to influence and propagate this development towards other ends. UNESCO’s interventions on cultural diversity were introduced as a means to temper this relationship and to reinforce state sovereignty in matters of cultural governance such that the conditions of contemporary globalization remained enablers rather than inhibitors to national cultural development.

**IV. Globalization and Governance**

Following this literature review about some of the key features of contemporary globalization, it is possible to make some key observations about the empirical relationship between globalization and governance. Firstly, each of the three areas of globalization surveyed above (i.e., the economic, the political and the cultural) is fundamentally intertwined with the other. Shifts or effects in one area have corresponding implications in and to the others. Moreover, these shifts are themselves intrinsically related to shifts in other areas. Therefore, the evolution of certain processes in a context of contemporary globalization – whether deemed positive or negative – can be understood to be relative to other processes. They should neither be treated discretely and nor should they be understood in isolation of each other (Prakash and Hart 1999). An attempt to understand the surge in information technology, for example, is fundamentally contingent upon an understanding of the corresponding processes taking shape in the political and economic domains.
At the same time, however, certain manifestations of globalization in the economic, political and/or cultural areas of life can also be considered *absolute*, in certain contexts, in that they advance a new set of social realities. These realities give rise to or shape the material attributes that have come to characterize contemporary globalization.

Taken together, this suggests that globalization can be treated as both an independent and a dependent variable in research (Prakash and Hart 1999). A focus, for example, on the processes (e.g., the acceleration of the global economy, rapid technological change, changes in state relations, etc.) that influence globalization’s development (or the “time-space formations” that result from these), results in the treatment of globalization as a dependent variable (Prakash and Hart 1999). Alternatively, globalization can also be treated as an independent variable in that it is deemed to have specific effects on governance (Prakash and Hart 1999). The evolution of the entire contemporary global governance system over the last twenty-five years offers a case in point.

Taking this one step further, it is possible to also probe at a deeper level, and to uncover a more nuanced and critical understanding of the relationship between globalization and governance. In so doing, globalization emerges as a question of “co-constitution” (Sassen 2006); that is, it is both shaped by a range of phenomena as well as by its own material and immaterial effects. Thus, it is the on-going development of globalization through specific governance measures, for example, and the enduring impacts of globalization on governance – shaping to a large extent, as the case may be, the landscape of actors,
institutions, issues and interests brought to the forefront of the global media policy-making agenda – that emerges as a point of interest. It is through this perspective that I unpack UNESCO’s interventions on cultural diversity in the early 2000’s.

V. Dissertation Outline

The remainder of this dissertation unfolds as follows: In chapter 2, I explain the research design and methodology that underpins my dissertation, expanding upon the treatment of documents and the notion of global media policy. I also discuss the specific method used to undertake this research project and present some methodological reflections for consideration.

In chapter 3, I provide the contextual basis of my dissertation, and develop an historical narrative surrounding UNESCO’s role in the governance of culture and communication during the organization’s first fifty-five years. I outline key standard-setting activities in the realm of culture and communication and present a timeline of the major normative milestones achieved by UNESCO in these areas and which can be brought to bear on UNESCO’s interventions on cultural diversity in the early 2000s. I also discuss the role of the national cultural industries in international free trade debates, which had a significant impact on UNESCO’s policies in support of cultural diversity.

In chapter 4, I discuss the key moments during which the idea of cultural diversity started to take hold as an emerging policy issue in various governance forums, culminating in the adoption of the 2001 UNESCO Universal Declaration
on Cultural Diversity. The UDCD effectively institutionalized the UNESCO policy frame on cultural diversity and established normative parameters around the issue. I analyze the text of the UDCD, examining its main contents and conclude with a discussion of some of the main tensions inherent to the UNESCO policy frame on cultural diversity, relative to globalization.

In chapter 5, I examine efforts to take up the UDCD and put it into “practice” (Prior 2003), resulting in an ensuing policy framework on cultural diversity. In particular, I focus on the process to adopt the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, a benchmark standard-setting instrument that established a new legal basis in the governance of cultural industries.

In the final chapter, chapter 6, I discuss my research findings and bring these to bear on the relationship between globalization and governance.
CHAPTER TWO
RESEARCH DESIGN AND METHODOLOGY

Chapter Outline

In this dissertation, I employ a qualitative case study format (Denzin and Lincoln 2005; Gerring 2006), which enables me to first zero-in on a specific empirical issue for in-depth analysis, and to then situate the findings of this case study more broadly against the constellation of a larger issue, drawing out some implications and observations. More specifically, I rely on documentary analysis to examine the UNESCO policy frame on cultural diversity, as embodied in the UDCD, and explore how it has been taken up, influencing the development of a policy framework at UNESCO. Importantly, my analysis is limited to key UNESCO policy documents on cultural diversity that emerged between the years 2000 and 2005.

In what follows, I first introduce a brief overview of UNESCO, highlighting its priority sectors. I then discuss the specific theme of culture as one of the organization’s main sectoral areas of focus. Following, with reference to Raboy and Padovani (2010) and Mansell and Raboy (2011), I present an overview of “global media policy” or GMP and identify its main components for the purposes of carrying out empirical research. I move to characterize UNESCO’s interventions on cultural diversity as manifestations of global media policy, situating my research within this particular field. I then take up an account of the document, which is the medium of my primary unit of analysis, explaining what it is and how it is treated with reference to interdisciplinary scholarship on
documentation, including from sociologist Lindsay Prior (2003; 2004), cultural studies scholar Sara Ahmed (2007) and legal anthropologist Annalise Riles (2006). I conclude with a description of the data collection techniques employed and present some methodological reflections.

I. UNESCO: A Window into the Organization

The United Nations Educational, Scientific and Cultural Organization, UNESCO, was first established in November 1945 following the end of the Second World War. At the time, a group of 37 countries gathered in London to discuss the establishment of an international organization which would prioritize the “intellectual and moral solidarity of mankind” (UNESCO 1945) – a leader for peace and stability in a fragile post-war environment. The UNESCO Constitution (1945) emerged from this meeting and was subsequently ratified by the requisite twenty countries, entering into force on November 4, 1946.

The UNESCO Constitution established the organization as an international body responsible for advancing education, science and culture as fundamental elements of peace and security (see UNESCO 1945). Since then, and throughout its efforts to establish a suite of standard-setting instruments and corresponding program initiatives, UNESCO has attempted to advance a brand of humanism as foundational to its work.21

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21 The notion of humanism has been a constant thread throughout UNESCO’s history and is an anchor to the institution’s identity (Singh 2010). In its early days, as discussed in chapter 3, UNESCO leveraged the notion of humanism in order to reinforce culture as a force for human good in an attempt to contrast and oppose its treatment as a tool for war and xenophobia during the Second World War (Singh 2010). The influence of humanism has since permeated UN discourse. For example, the UNDP (1999) Human Development Report made famous the notion
UNESCO is governed by the General Conference of Member States and Associate Members, a Secretariat and an Executive Board. The latter consists of 58 Members elected by the General Conference (UNESCO 1945) and which serve for a period of four years. The General Conference meets every two years whereas the Executive Board meets twice a year, although extraordinary sessions can also occur for the Executive Board.

UNESCO’s first General Conference garnered the participation of some thirty countries; today, UNESCO has representation from 195 Member States and eight Associate Members. The organization, which describes itself as a contemporary “laboratory of ideas and a standard-setter...on emerging ethical issues” (see unesco.org) is active in five areas: education, the natural sciences, the social and human sciences, culture, and communication and information. UNESCO also pursues a number of cross-cutting thematic areas of interest, including on climate change, a culture of peace, dialogue among civilizations, and HIV and AIDS.

This dissertation focuses on one sector within the organization: that is, culture. During the first decade of the 2000s, the treatment of culture within UNESCO was broken down into more specific streams, which included cultural diversity, heritage (including tangible, intangible), creativity and dialogue. The

_of “humanizing” globalization, and seventeen years earlier, UNESCO referred to the challenge to “humanize development” (UNESCO 1982a). More recently, Irina Bokova, the current Director General of UNESCO, put forth a vision for a “new humanism” in the world, echoing many of the same normative ideals that had first anchored the notion upon UNESCO’s formation (UNESCO 2010).

Associate Members, including among others, the British Virgin Islands, the Cayman Islands, and Aruba, are identified as such within UNESCO as they are “[t]erritories or groups of territories which are not responsible for the conduct of their international relations” (see UNESCO 1945, Article II).
stream of cultural diversity, the explicit focus of this dissertation was broken down even further to include: the diversity of cultural expressions, culture and development and languages and multilingualism (UNESCO 2007).

Currently, there are seven conventions or treaties on culture that originate from within UNESCO. These instruments are binding legal commitments ratified by willing state parties. In reverse chronological order, they are the:

- Convention on the Protection of the Underwater Cultural Heritage (2001)
- Convention on the Protection of the World Cultural and Natural Heritage (1972)
- Convention on the Protection of Cultural Property in the Event of Armed Conflict (1954), and
- Universal Copyright Convention (1952; revised in 1971)

In UN organizations, a convention is governed by the Conference of Parties (CoP), which comprises State Parties to a given convention. As the main implementation body for a convention, the main role of the CoP is to advance a convention’s objectives, treating each article in a deliberate fashion. Typically, the responsibilities for the CoP include activities such as approving operational guidelines, reviewing reports submitted by the State Parties to the Convention and electing Members to the Inter-Governmental Committee (IGC). The IGC is a smaller governance body that can, for example, be tasked with submitting reports to the CoP, proposing recommendations for consideration at the CoP and
preparing operational guidelines for consideration by the CoP (see UNESCO 2005: Article 23).

In addition to the complement of conventions, there are also declarations (e.g., the UNESCO Universal Declaration on Cultural Diversity, 2001) and recommendations on culture (e.g., UNESCO Recommendation concerning the Promotion and Use of Multilingualism and Universal Access to Cyberspace, 2003). A recommendation, which is not legally binding, is directed at one or more Member State(s) with a view to encourage or recommend action in a particular area. A declaration, on the other hand, is an aspirational and direction-setting document that defines norms and outlines intentions on a given issue.

Together, conventions, declarations and recommendations represent the scope of the kinds of normative instruments designed to establish standards at UNESCO. These standards are, by and large, intended to reflect notions of “...the just, the good, and the ethical” (Singh 2010: 2) and are anchored in a philosophy of humanism. They represent UNESCO’s key public policy contributions.

While UNESCO has been successful in advancing normative instruments on culture – particularly within the first decade of the 2000s – it has also confronted important issues (Singh 2010) that have, invariably, influenced its capacity to advance its priorities. For example, like other UN organizations, UNESCO’s mandate for peace-building has typically come up against shifting geo-political relationships that present barriers to what the organization can actually do. Similarly, notwithstanding the lofty objectives set out in its
Constitution – objectives which are operationally reflected in the organization’s division into the five sectoral areas noted above – there are limited resources available to advance program and policy priorities. While Member States and Associate Members are the only parties that can assume legal participation at UNESCO (Broude 2007), the organization is increasingly expected to balance the inputs and interests of civil society stakeholders (e.g., non-governmental organizations, academia and the private sector) in its decision-making processes. In light of these and other issues, UNESCO faces the key uphill challenge of constantly needing to reinforce itself in order to stay relevant.

II. Global Media Policy: A Conceptual Overview

The field of global media policy or GMP is ultimately focused on who or what influences media, culture and communication, how and to what end. It brings together an interest in communication and cultural governance (O Siochru and Girard 2003; Raboy 2007; Braman 2004; Freedman 2008), political economy (Mosco 1996; Calabrese and Sparks 2004; Benkler 2006) and critical media studies (McChesney and Schiller 2003; McChesney 2008), in concert with an understanding of the social, political and economic realities that have come to characterize contemporary globalization and how these come to bear on the media policy landscape. While the field is still emerging, recent interventions shed light on its conceptual drivers, as well as its empirical and historical basis (Raboy 2007; Raboy and Padovani 2010; Mansell and Raboy 2011).
Raboy and Padovani (2010: 3) explain GMP as a concept by leveraging two key terms: *multiplicity* and *convergence*. While the former refers to the landscape of “issues, actors, venues and processes” involved in the vast scope of the media policy landscape, the latter underscores the inherent “complexities” that emerge through their intersection. The authors dissect the term GMP into its constituent parts – that is, elucidating what is meant by *global*, *media* and *policy* – in order to weave them together into the architecture that is GMP.

Influenced by the broad scope of literature on globalization, they move to define the *global* as encompassing the “multi-layered, multi-spatial and multi-dimensional processes involved in governing media and communication” (Raboy and Padovani 2010: 10). In other words, more than simply reflecting an international scope, a supra-national jurisdictional field, or the global governance domain, the *global* aspect of GMP represents the full spectrum of issues, levels and processes – across a number of axes – that could potentially influence, shape and form global media policy.

The authors similarly embrace an umbrella definition of *media* to include systems and infrastructure, content and services, security and privacy – among other issues - that are affecting, and which are affected by each of these, including for example, trade, competition and cultural diversity. The point here is that *media* – within the field of GMP – can be considered like a prism in which there are a number of still emerging, different, and overlapping angles to further critical analytic work.
The *policy* aspect of GMP refers to “...all processes, formal and informal, where actors with different degrees of power and autonomy intervene” (Raboy and Padovani 2010: 14). Following from this treatment, GMP is defined as:

The multiplicity of configurations of interdependent but operationally autonomous actors that are involved, with different degrees of autonomy and power, in processes of formal or informal character, at different and sometimes overlapping levels – from the local to the supra-national and global – in policy-oriented processes in the domain of media and communication, including infrastructural, content, usage, normative and governing aspects....Ultimately, they [actors] engage in political negotiation while trying to influence or determine the outcome of decision-making (Raboy and Padovani 2010: 16; emphasis removed).

In other words, GMP studies are about the myriad actors and the manner in which they interact and promote their interests on media, communication and cultural policies; the many processes used to determine, advance and confront these perspectives; the documents that emerge as the products of these processes; and the political tools and strategies employed to intervene in an attempt to shape or realize a particular outcome. This definition further suggests that power emerges as instrumental to GMP outcomes; to reveal its work is thus one of the main drivers of GMP analysis. Finally, from an empirical perspective, it means that *actors, documents* and *processes* materialize as critical points of focus in the study of global media policy (Raboy and Padovani 2010).

The architecture of global media policy thus provides the foundation for my examination of the UNESCO policy frame of cultural diversity and its ensuing policy framework. Simply put, based on this discussion on GMP, I consider the formal and informal “inputs and outcomes” (Raboy and Padovani 2010: 26) that constitute UNESCO’s interventions on cultural diversity between 2000 and 2005,
as actualized manifestations of “global media policy”. By and large, these manifestations take their material form as *policy documents* – institutional artifacts that are themselves the results of certain processes, deliberations and negotiations (e.g., meetings, workshops, forums, consultations, etc.).

At the same time, and responding to calls to sharpen the empirical lens with which we approach GMP as an emerging field, I also probe policy documents further, considering them not only as “…inputs and outcomes of formal institutional processes at different levels...” (Raboy and Padovani 2010: 26; emphasis removed), but also as “fields, receptacles and agents” (Prior 2003: 2). In so doing, I introduce a “politics of documentation” approach (Ahmed 2007: 591) to global media policy studies, and this research project in particular.

### III. The “Politics of Documentation”

Lindsay Prior (2003; 2004: 84) suggests that documents are both “produced” and “productive”. In this regard, it becomes necessary to consider not only the content or the textual and discursive elements within a document – as well as the processes that contributed to its production –, but also, and perhaps more importantly, its “function” or how it acts as an “agent” (see Prior 2003; 2004). He calls for researchers to probe how documents influence action and urges us to “follow a document in use” (Prior 2003: 68) in order to understand: which actors use documents, for what purpose, and why? To ask how documents “function” is, therefore, ultimately to consider how they move about and influence action. This perspective critically suggests a dialectical treatment
of documents, recognizing that they are fundamentally connected to social practice, both as they are developed and as they are taken up. Thus, documents, at once, both perform and “structure performance” (Prior 2003: 104), with tangible impacts.23

Policy documents, in this regard, emerge as what I refer to as both sites of production and sites of reproduction.24 As sites of production, policy documents give political currency, legitimacy and capital to a given policy issue. Thus, as sites of production, “[d]ocuments... represent and make things visible” (Prior 2003: 168). That the UDCD formally institutionalized cultural diversity as a legitimate policy issue at UNESCO and defined a set of norms accordingly, makes it the site of production for the policy frame. As sites of reproduction, documents take up other texts, effectively reproducing them and the principles encompassed therein. The documents that comprise the UNESCO policy framework on cultural diversity can thus be considered sites of reproduction of the UDCD as they flow from it, putting it into practice.

Importantly, documents often emerge as both sites of production and sites of reproduction, converging with the other as they can both produce and reproduce all at once. For example, the UDCD is a site of production for the

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23 Prior’s treatment of documents is influenced by studies of technological culture in which documents are themselves considered technologies. For example, Bijker (2006: 3), in his discussion on technological culture, affirms that “...technologies can only function when embedded in societal institutions”. Technology and society thus constitute each other; technological artefacts are designed according to particular interests and agendas. Similarly, Van Loon writes: “Technological culture refers to modes of inhabitation and signification that are not simply using technologies but are also produced by technologies” (Van Loon 2002: 8).

24 In an earlier unpublished paper (Mawani 2007), I referred to these as “sites of resistance” and “sites of representation” respectively. The comments that I received on these notions from my peers at the Canadian Communication Association annual conference in June 2010 helped me refine and develop these further, re-termining them sites of production and sites of reproduction.
UNESCO policy frame on cultural diversity; it is also, however, a site of reproduction for, among others, the conclusions from the World Conference on Cultural Policies (UNESCO 1982a) held in Mexico, as the definition of culture in the UDCD is deliberately referenced and aligned with these conclusions. Similarly, the CCD is a site of reproduction of the UDCD as well as a site of production for the legal treatment of cultural diversity as per cultural policies.

Building on Prior’s work, Sara Ahmed (2007: 591) similarly suggests that documents are “’things’ that circulate” and that “we need to follow documents around” in order to uncover where and how they move, who uses them and why. She further maintains that the mere circulation of a document does not suggest the document’s success. Similarly, just because a document is widely cited does not necessarily mean that it is being appropriately used and taken up. In fact, Ahmed (2007: 594) suggests that the widespread use of a document might even serve to “conceal the failure of the document to do anything”.

For example, in following diversity policies around in a university setting, Ahmed (2007) found that the mere presence of such documents was actually taken as indication by the staff that issues such of racism had been effectively addressed. In reality, however, she found that the documents actually served to mask systemic racism. The documents detracted attention away from the issue of racism and redirected this attention onto itself. “You end up doing the document rather than doing the doing” (Ahmed 2007: 591). In other words, we need to consider whether a document actually addresses that which it sets out to do in the first place.
I leverage this perspective on documents throughout this dissertation as it offers a compelling way to open up an inquiry into policy frames and their ensuing policy frameworks. It also enables us to approach and consider policy documents as actors themselves within the GMP landscape.

**IV. Methodology**

Documentary analysis has been the primary means of study used in this dissertation. While at one point, the possibility of undertaking key informant interviews was also considered in an effort to complement documentary analysis, the expenditure of resources required (both time and cost) was not justified. This decision was reinforced both by the robust selection of documentary texts available for study and the decision to focus on documents themselves. To this end, Prior (2003: 166) maintains that documents themselves are worthy of study on their own:

…[D]ocuments, and especially written documents, can be taken as a field of research in their own right. In particular, the study of the processes of production and consumption (or use) of written materials provides two sturdy pillars around which interesting and essential research programmes can be built and developed.

At the same time, the use of multiple data collection techniques can arguably enrich research outcomes and deepen the level of inquiry undertaken; each approach to data collection, in this regard, “…makes the world visible in a different way” (Denzin and Lincoln 2005: 4). Thus, when presented with an opportunity to visit UNESCO headquarters in Paris – the setting in which most of the documents under examination originated – I seized it. What follows is a brief description of the technique of documentary analysis, as well as a description of
my involvement in a global network interested in the CCD, that contextualized and enriched my study of these documents.

**Documentary Analysis**

Documentary analysis enabled me to deliberately select a sample of relevant documentation from UNESCO on cultural diversity and to then examine these documents accordingly. Documentary analysis is an instructive method for this type of research as policy-making is, importantly, the collective outcome of a complex and often lengthy process involving many different documents, including assessments and studies, meeting reports, draft policy statements, proceedings and papers, among others (Raboy 1995).

The documentary analysis which I undertook can be broken down into two different phases: First, I examined a number of historical documents that shaped UNESCO as an institution and influenced the key issues that came to define the organization’s interventions on culture and communication during its first fifty years. This was an important step in the research process as it provided the contextual basis for subsequent analyses.

Second, I considered the five normative milestones that UNESCO adopted in relation to cultural diversity, between 2000 and 2005. These are the:

- *Universal Declaration on Cultural Diversity* (2001)
I focused my analysis on the 2001 *Universal Declaration on Cultural Diversity*, as it is the normative instrument that formally established cultural diversity as a policy frame at UNESCO. Following, I analysed the 2005 *Convention on the Protection and Promotion of the Diversity of Cultural Expressions*, as well as its coming-into-being, given that it flows directly from the UDCD. The documents on cultural heritage are considered only to the extent that they were also influenced by the take up of cultural diversity at UNESCO.

Specifically, I examined the key documents (e.g., procedural texts, outcome documents), outlining deliberations from various roundtables, workshops and forums held at UNESCO or supported by the organization, leading up to the adoption of the UDCD (discussed in chapter 4) and the CCD (discussed in chapter 5). These documents offer insights into the key political and policy developments that influenced and shaped cultural diversity as a global media policy issue. I also explored some of the main policy documents (e.g., outcome statements), adopted by non-governmental and regional organizations in support of cultural diversity. The majority of the documents reviewed were available online. A snowball approach – where one document typically mentioned or led to others – was used to ensure a rigorous search, and resulted in a thorough analysis of documents.

It is significant to note that I supplemented my study of documents with participation in various activities that yielded additional information about UNESCO, its processes and its documents, as well as created opportunities for observation that served to enhance my understanding of the issues at stake.
These activities added an invaluable dimension of richness and texture to my study of documents, as I was able to also gain some insights about the organizational contexts in which the documents under review were developed (Pickard 2007).

In particular, following a call for applications, I was given an opportunity, along with 60 other experts from 34 countries, to participate as a fellow of the U40 World Forum, “Cultural Diversity 2030” in Paris, on the occasion of the second UNESCO Conference of Parties (June 15-18, 2009) to discuss the CCD.

The U40 World Forum was made up of a dynamic group of researchers, academics, activists, representatives from the third sector, policy-makers and public servants with an interest in contributing to the implementation of the CCD. Participants of the U40 World Forum soon evolved into a network of young professionals that would come to function like a global “community of practice”.

As a participant of the U40 World Forum, I had the unique opportunity to sit in, along with my peers, as a civil society observer during the proceedings of the Conference of Parties. Six months later, I represented the U40 North

25 The call for participation was available at: http://www.unesco.de/3201.html?&L=1 (accessed February 21, 2009) through UNESCO’s Global Alliance for Cultural Diversity. Fifty applicants (under the age of 40) from 34 countries were invited to attend. Applicants were selected based on the work that they had done or were undertaking in relation to the CCD.

26 The U40 World Forum was organized by the German Commission for UNESCO and the International Federation of Coalitions for Cultural Diversity in cooperation with the National Audiovisual Institute (INA) in Paris. Funding partners to the U40 World Forum included the Spanish Ministry for Culture, the Department of Canadian Heritage, the Catalan Government, the Austrian Federal Ministry for Education, Arts and Culture, the Canadian National Commission for UNESCO, the Finnish National Commission for UNESCO and the French Coalition for Cultural Diversity. For more information about the structure, role and methodology behind the U40 World Forum, see Steinkamp 2010.

27 I address this potential bias in my research under methodological reflections.
America region as an observer at the Third Ordinary Meeting of the Intergovernmental Committee for the CCD (December 7-9, 2009) at UNESCO, Paris. Both of these experiences enabled me to gain unusual and privileged access to UNESCO Headquarters in Paris, and to witness first-hand the deliberations by Member States surrounding the CCD’s implementation at two different points in time.

In addition to these two meetings at UNESCO, I was also invited to attend various meetings and/or workshops which enabled me to develop a better understanding of the take up of UNESCO’s interventions on cultural diversity. These meetings and workshops included:

- A workshop of the *U40 World Forum Cultural Diversity* which was held from June 12-14, 2009 at the National Audiovisual Institute in Paris just prior to the second Conference of Parties for the CCD at UNESCO. During the workshop, representatives from UNESCO headquarters and civil society organizations, including the International Federation of Coalitions of Cultural Diversity, delivered presentations on their respective perspectives surrounding the CCD’s implementation to date.

- An informal series of meetings for regional U40 representatives following the IGC meetings at UNESCO Paris on December 7-8, 2009 to discuss updates carried out by fellow U40 peers and ways to galvanize greater civil society interest in the implementation of the CCD.²⁸

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²⁸ As the regional representative of the U40, I was asked to survey my regional U40 colleagues in the North America region about any notable updates or developments regarding the CCD’s implementation and to report this back during the Paris meetings.
• A workshop for the “U40 Americas” participants held in Montreal from May 19-20, 2010. Speakers included Lazaro Israel Rodriguez Oliva from the Cuban Institute for Cultural Research, professor emeritus from Laval University Ivan Bernier and Toronto-based lawyer and author Peter S. Grant. Each of these keynotes shared their respective perspectives on the notion of the “diversity of cultural expressions” which is addressed in the CCD.

• Finally, as the June CoP in Paris came to a close, participants of the U40 were encouraged to develop an online network, using the Google Groups application, in order to maintain contact with one another and to circulate relevant materials and updates surrounding the CCD’s implementation in their respective countries and regions. While I did not actively contribute to the online dialogue of this network, I did use it as a reference point for finding relevant documentation for this dissertation, until 2011.

To summarize, my involvement with the U40 World Forum on Cultural Diversity enriched my research by:

• Providing access, on two separate occasions, to formal UNESCO gatherings reserved for Member States and accredited civil society representatives. In so doing, I was able to contextualize and enhance my understanding of the documents in question, particularly the processes surrounding their negotiation, deliberation and subsequent adoption, which would have unfolded during previous meetings of a similar nature.
• Understanding the take up of the UNESCO documents on cultural diversity in a global civil society network (i.e., the U40 World Forum) that was brought together through and because of these documents.
• Contributing to an understanding of global cultural governance as a practice of global media policy, and the varied ways in which the UNESCO policy frame and its ensuing policy framework on cultural diversity get taken up by different state and civil society actors from different parts of the world.

Methodological Reflections

Some methodological reflections emerged over the course of my research and are important considerations. First, my normative commitments to UNESCO’s interventions of cultural diversity – and the evolution of these commitments as I became more critically aware – forced me to acknowledge my own subject position over time. Indeed, no research is ever bias-free and the very choices that I made in the deliberate construction of this methodology suggest bias at work. At the same time, it is the researcher’s responsibility to constantly challenge his or her own perspectives and viewpoints so as not to influence the research outcomes. These were important considerations that I actively brought to bear on my research and, if anything, forced me to consider in a more fulsome manner, what was at stake in this study through my examination of UNESCO’s interventions on cultural diversity.

Second, while I did not endeavour to study the U40 Network of which I became a part – or its processes of engagement –, and as my participation in the
U40 World Forum was contingent upon a degree of interest in upholding the “spirit” of the CCD, I did not refrain from intervention when called upon during working group sessions in both workshops and meetings. I was, however – calling attention to my first point of reflection – mindful of my own subject position and its evolution over time throughout my involvement with the U40. Further, I believe that the opportunity to participate in such an unique and dynamic global community of practice enhanced my understanding of UNESCO, its processes and the documents under study. In fact, throughout my involvement with the U40, my own perspectives were undeniably enriched and challenged through informal conversations with peers.

Third, and relatedly, throughout my engagement with the U40 Network, I became sensitized to what Annalise Riles (2006: 16) calls “a technique of response” to documents such that they are treated by researchers as ethnographic units of analysis. She suggests that the document has an intended audience that is connected to the culture into which it is already embedded. For example, the documents that encompass UNESCO’s interventions on cultural diversity are written in a particular style and advance a particular discourse in a manner consistent with the environment of which they are already a part. UNESCO documents – like other UN products – are manifestations of their own culture and, as a result, lead us “in” on their own terms.

...I want to suggest that thinking of ethnography as a response to artefacts is a particularly helpful way of understanding ethnographic work in conditions where the artefacts at issue already interpolate us into their practices on their own terms, where they already demand a response, as for example in the case of mission
This notion of “response” was something that I became increasingly aware of through my involvement with the U40 Network. I came to appreciate that I too was structured into a particular context – through the U40 World Forum as a civil society representative – and that there was a kind of “response” that was expected in my engagement with the CCD. This perspective raised my level of awareness surrounding any normative commitments that I initially had to cultural diversity as a global media policy issue, and called attention to that which I set out to examine and deconstruct.

I intentionally leveraged these reflections throughout my research in order to present insights from “an alternative ‘outside’ to the document from the standpoint of the ‘inside’ ” (Riles 2006: 89). In other words, and as per Riles’ suggestion, following my involvement with the U40 Network and my consideration of my own subject position, I have endeavoured to situate myself on the ‘outside’ from the ‘inside’, challenging the documents and the responses they elicit, in order to enrich my analysis. At the same time, I recognize that engaging with these documents from the ‘inside’ is also important as it enables a better understanding of how they operate, why and to what end.
CHAPTER THREE

LOOKING BACK TO MOVE FORWARD:

UNESCO’S POLICY CANON ON CULTURE AND COMMUNICATION

Chapter Outline

In chapter 3, I chart the key standard-setting documents and events – many of which have since been characterized as touchstones of global media policy – that have come to define UNESCO’s treatment of culture and communication over time. Indeed, the historical treatment of culture and communication at UNESCO is an important point of consideration in this dissertation. Not only does it provide the requisite background required in order to situate the object of analysis and its coming-into-being, it also highlights critical moments in the evolution of culture and communication issues within the international sphere – moments which can be brought to bear upon UNESCO’s interventions on cultural diversity in the early 2000s.

Over the course of this chapter, certain critical features of this history shall become clear. For example, the process of introducing and adopting standard-setting instruments at UNESCO, like most institutional policy activity, is not detached from existing standards. Rather, it is often connected to that which materialized beforehand and similarly makes room for that which may ensue. In other words, policy development at UNESCO builds on that which already exists and is often connected or aligned to policy development in related fields. In this regard, policy development typically involves the deliberate reproduction and evolution of existing policy frames. These documents are part of the UNESCO
policy canon that contributes to the cultivation of other policies for the eventual development of new policies. In this context, the foundation for a policy frame on cultural diversity was, as will be discussed, arguably set in motion well before its formal overture in the UNESCO *Universal Declaration on Cultural Diversity* adopted in 2001. Similarly, issues championed by UNESCO at different moments in the organization’s history, either get refined, revisited or renounced over time for various reasons, including a change in leadership.²⁹

As well, the distinct but related policy fields of culture and communication converge and diverge at different moments in UNESCO’s history. Thus, while communication was not explicitly identified in the UNESCO Constitution as a field for pursuit in its own right (as were education, science and culture) (see UNESCO 1945: Article 1.1), it was referenced in both the Preamble and then again in Article 1(2)(a) as one of the three essential actions to be developed in order for the organization to sufficiently carry out its mandate. This is significant as the UNESCO interventions on cultural diversity were ultimately housed under the umbrella of ‘culture’ at UNESCO, rather than under communication and information, even though they arguably hold clear relevance in both areas.

What follows is a retrospective on UNESCO’s high-level treatment of culture and communication, starting with its Constitution in 1945. I examine the

²⁹ Over the course of writing this dissertation, the streams under the theme of the cultural sector changed twice as UNESCO unveiled two new websites, the first in 2011 and the second in 2013. With the first change in 2011, the stream of cultural diversity was replaced with that of culture and development. A subsequent re-organization took place in 2013 in which the UNESCO sectors (i.e., culture, education, science and communication) were no longer explicitly listed. Rather, they are identifiable by action phrases such as “fostering freedom of expression” and “protecting our heritage and fostering creativity”; see www.unesco.org.
key documents that were introduced following the organization’s establishment, focusing on three particular periods: the first includes documents introduced during the 1950s and 60s following the Second World War; the second focuses on the period between the 1970s and 80s; and the third outlines key developments that unfolded during the 1990s. I conclude with an overview of events, circumstances and actors that influenced the path forward into the 2000s.

I. UNESCO in the Beginning

State Parties came together to formally establish UNESCO in the aftermath of the Second World War, following discussions that originated at the Conference of Allied Ministers of Education (CAME), UNESCO’s predecessor, from 1942 to 1945. Prior to this three year period, however, representatives from CAME had signed both the 1941 Atlantic Charter and the 1942 Declaration of the United Nations. The former was drafted by Great Britain and the United States and became a touchstone policy statement for World War II allies, outlining joint goals for the post-War era. The latter, which was also agreed to by allies following the Second World War, upheld the principles captured in the Atlantic Charter, and ultimately emerged as the basis for the introduction of the United Nations, which itself was formally established in October 1945.

State Parties that formed UNESCO, which was established in November 1945 only weeks after the UN formally came into being, affirmed the productive role of culture (along with education and science) in the pursuit of peace and security in post-war international relations. UNESCO’s coming-into-being, much
like that of the UN, followed a period during which time culture, and international relations more generally, had been leveraged as tools for war. The focus for UNESCO was on how to revitalize state interest in the *positive* manifestations of culture in support of peace and security (Singh 2010).\(^{30}\)

The organization’s early days were the subject of intense philosophical debate. On the one hand, its first Director General, Sir Julian Huxley, was keen to steer UNESCO in the direction of his understanding of scientific humanism, a philosophy anchored in universal principles such as reason, ethics and justice. He called for UNESCO to move forward in the spirit of the “...global advancement of knowledge, a universal reform of education and the diffusion of a common spiritual framework” (Pavone 2007: 79).

Others, however, including notable US delegate and theologian Reinhold Niebuhr, criticized this philosophy and argued that scientific humanism fell short of ensuring moral actions. Instead, Neibuhr called for UNESCO to develop a more pragmatic approach driven by tolerance and cooperation. As Pavone (2007) explains, the interaction between these two schools of thought would shape the organization – and even co-exist – as manifested in a number of documents, beginning with the UNESCO Constitution (1949).

UNESCO’s Constitution was adopted in London in 1945. The document’s Preamble, which reflects the organization’s origins in scientific humanism (Pavone 2007; Singh 2010), begins with the now well-know phrase that has defined UNESCO since its inception: “...since wars begin in the minds of men, it

\(^{30}\) It is significant that UNESCO was established alongside the United Nations and effectively placed under it. The policy trajectory pursued by UNESCO was ultimately influenced by the need to remain aligned with and complementary to its parent organization.
is in the minds of men that the defences of peace must be constructed” (UNESCO 1945). Following, Article 1 upholds the more pragmatic approach promoted by Niebuhr:

1. The purpose of the organization is to contribute to peace and security by promoting collaboration among the nations through education, science and culture in order to further universal respect for justice, for the rule of law and for the human rights and fundamental freedoms which are affirmed for the peoples of the world, without distinction of race, sex, language or religion, by the Charter of the United Nations.

2. To realize this purpose the Organization will:

   (a) Collaborate in the work of advancing the mutual knowledge and understanding of peoples, through all means of mass communication and to that end recommend such international agreements as may be necessary to promote the free flow of ideas by word and image (UNESCO 1945: Articles 1 and 2).

Culture, along with education and science were identified as instruments or paths through which to forge these “defences of peace”. The “free flow of ideas by word and image” was underscored as the primary vehicle through which to build the knowledge and understanding deemed essential in pursuit of the organization’s objectives. The Constitution goes on to make assertions about the relationship between humanity and justice with both the “wide diffusion of culture” (UNESCO 1945: Preamble) and the “spread of culture” (UNESCO 1945: Article 1(2)(b)). And with a view to safeguard the “fruitful diversity of cultures and education systems” (UNESCO 1945: Article 1(3)), there is even a clause that reinforces culture and education as matters of “domestic jurisdiction”, thereby reinforcing sovereign control over these sectors.\(^{31}\)

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\(^{31}\) In a parallel development, the *Universal Declaration of Human Rights* (UDHR) (1948) was first discussed in 1946 – the same year that UNESCO’s Constitution came into force. The UDHR still
There is, however, no definition in the Constitution outlining the what of culture, or how it could be leveraged as an instrument of peace. In fact, it was only decades later in 1982 at the World Conference on Cultural Policies in Mexico City, that culture was actually formally defined at UNESCO. But even before that, other important developments crystallized culture’s early treatment within the organization.

Among the first of these developments was the second General Conference held in Mexico in 1947 at which a program on “cultural interchange” was established for the first time (see UNESCO 1948). The program included, among others, support for a theatre institute, exchanges between museum exhibitions and the translation of classic texts. UNESCO’s orientation towards culture was anchored in the promotion of the “arts and letters”. What was most interesting about this General Conference session, however, was the debate which ensued around the notion of the “free flow of ideas”. In the face of opposition, primarily from Eastern European delegates who denounced corporate control of the mass media, noting the potential to crowd out less competitive sources and thereby threaten certain cultures over others, the American delegate, ironically named Lloyd Free, outright rejected the suggestion that the US had any interest in “cultural imperialism” (UNESCO 1948). This debate marked the beginning of a half century struggle at UNESCO and one which remains the foundation of international human rights law and forms part of the International Bill of Human Rights, along with the International Covenant on Civil and Political Rights (UN 1966) and the International Covenant on Economic, Social and Cultural Rights (UN 1966). In particular, Article 19 of the UDHR defends the right to freedom of information and expression and Article 27 upholds the right to “...participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits” (UDHR 1948: Article 27 (1)). Copyright protection is also affirmed in Article 27(2) through the rights of “moral and material interests resulting from any scientific, literary or artistic production of which he is the author”.

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culminated with the formal adoption of the foundational document for UNESCO’s policy frame on cultural diversity – the UDCD, followed by the adoption of the CCD in 2005.

In the meantime, however, in June 1950 at the General Conference session held in Florence, Italy, the cultural program at UNESCO was starting to take shape. In fact, the Records of the General Conference described the cultural program at UNESCO as follows:

Historical monuments, folk traditions, a national style of art – in such things a people shows its individuality. But a world culture comes from intermingling. Unesco’s first task is to foster international relations by arranging for thinkers, writers, artists and their ideas to move freely across national frontiers. Unesco forms a meeting ground for the cultures of the world. It stimulates nations to develop their literature, art and science and see them as parts of a world heritage. It helps Member States to protect works of art from neglect or violence and from the ravages of time, and it assists in bringing artists and writers before the world. It uses every means to ensure that all people, regardless of social condition, shall have access to the best works of every land and every age.

Unesco therefore organizes international action by urging Member States to apply technical and legal measures which will protect monuments and works of art. It recommends the adoption of measures whereby conditions of freedom and independence will be guaranteed to artists and writers (UNESCO 1950: 20).

UNESCO placed clear emphasis on affirming the sovereignty of nation-states to exercise policy measures for cultural protection – specifying, in this instance, that these be in support of cultural artifacts or in order to protect writers and artists. The document goes on to describe the three areas of focus for culture at UNESCO: international cooperation, the protection of creators and authors, and the dissemination of culture (see UNESCO 1950: 20-21).
UNESCO Member States, during this same session in Florence, also introduced the *Florence Agreement on the Importation of Educational, Scientific and Cultural Materials* (UNESCO 1950a). The Florence Agreement, which entered into force in 1952 and on which the *General Agreement on Tariffs and Trade* (GATT) authorities were consulted, reinforced the free flow of cultural products through, among other measures, the elimination of tariffs and the granting of necessary licenses to facilitate their importation. It was premised on, among other considerations, the “free exchange of ideas and knowledge”, which was characterized as primarily taking place through the circulation of “books, publications and educational, scientific and cultural materials” (UNESCO 1950a: Preamble).

Incidentally, fifty years later, UNESCO would suggest that the Florence Agreement was a kind of entry point that cemented the organization as being within its scope in expressing concern for developments in international trade as related to the cultural industries (UNESCO 2003b).

Also in 1952, UNESCO adopted the *Universal Copyright Convention* (UCC) (UNESCO 1952/1971) in Geneva. To this day, the UCC is considered one of the seven binding instruments that define UNESCO’s standards on culture. The instrument was revised in 1971 in Paris to make explicit reference to the needs of developing countries vis-à-vis copyright protection (Okediji 2007). The UCC supported the universal application of copyright protection to cultural artifacts – that is “literary, scientific and artistic works”. It did so in a way that, as Okediji (2007) explains, enabled Member States to calibrate their respective
domestic policy decisions on copyright to suit their unique aspirations, circumstances and needs. This was particularly significant for developing countries. The UCC, in this regard, offered an alternative to the *Berne Convention for the Protection of Literary and Artistic Works* (1886) and made it possible for two different copyright regimes to develop simultaneously.\(^{32}\) This was of particular interest to the US which would have had to have made significant changes to its copyright regime if it became a signatory to the Berne Convention.\(^{33}\) Most importantly, the UCC established the relationship between culture and copyright and reinforced copyright as a measure to safeguard artists and the “public domain” (Okediji 2007: 119). To this end, the Preamble states:

The Contracting States,

**Moved** by the desire to ensure in all countries copyright protection of literary, scientific and artistic works,

**Convinced** that a system of copyright protection appropriate to all nations of the world and expressed in a universal convention, additional to, and without impairing international systems already in force, will, ensure respect for the rights of the individual and encourage the development of literature, the sciences and the arts,

**Persuaded** that such a universal copyright system will facilitate a wider dissemination of works of the human mind and increase international understanding... (UNESCO 1952/1971: Preamble; emphasis in original).

The *Copyright Convention* was eventually rendered obsolete over time and was replaced by the *Agreement on Trade Related Aspects of Intellectual Property*

\(^{32}\) Today, the administration of the Berne Convention and the governance of copyright more generally, fall under the purview of the World Intellectual Property Organization (WIPO), another specialized agency of the UN with a mandate to develop and implement a global intellectual property rights regime.

\(^{33}\) The United States ultimately became a signatory to the Berne Convention, introducing the *Berne Convention Implementation Act* in 1988.
Rights (TRIPS), administered by the World Trade Organization (WTO), and which incorporates many aspects of the Berne Convention.

The next major normative milestone introduced by UNESCO, in 1966, was the UNESCO Declaration of Principles of International Cultural Cooperation (1966), which commemorated UNESCO's twentieth anniversary. The 1966 Declaration contained eleven articles with principles on cultural cooperation. Perhaps the most often cited of these is Article 1:

1. Each culture has a dignity and value which must be respected and preserved.
2. Every people has the right and the duty to develop its culture.
3. In their rich variety and diversity, and in the reciprocal influences they exert on one another, all cultures form part of the common heritage belonging to all mankind (UNESCO 1966: Article 1).

The 1966 Declaration importantly marked the first time that UNESCO captured the notion of the diversity of cultures as important (Wouters and Vidal 2007: 152), since the adoption of its Constitution which recognized the “fruitful diversity of cultures” (UNESCO 1945: Article 1(3)). However, the sequencing of Article 1 of the 1966 Declaration risked promoting the view that one’s own culture takes precedence over the mosaic of other cultures. In other words, Articles 1.1 and 1.2 on individual cultures preceded affirmations on the diversity of cultures (Article 1.3). Significantly, through subsequent instruments, UNESCO would try to emphasize diversity as a goal in and of itself (UNESCO 2009: 26-7).

Still, the 1966 Declaration admittedly marked a significant step towards underscoring international cooperation as a measure to promote the development of culture at UNESCO (see for example Article 4). In particular, as one of the principal aims of international cooperation, the Declaration called for
“rais[ing] the level of the spiritual and material life of man in all parts of the world” (UNESCO 1966: Article 4(5); emphasis added). Wouters and Vidal (2007: 153) suggest that this phrase established an important link between culture and development as it emphasized the whole world, including developed and developing countries. Indeed, the dynamic relationship between culture and development would continue to evolve and materialize at UNESCO as a priority in subsequent decades, manifesting in a range of documents that had, at this point, yet to be introduced.

Other notable standard-setting instruments on culture introduced in and around this period included the 1954 UNESCO Convention for the Protection of Cultural Properties in the Event of Armed Conflict, which was adopted at The Hague. The 1970 UNESCO Convention on Prohibiting the Illicit Import, Export and Transfer of Cultural Property and the 1972 UNESCO Convention Concerning the Protection of the Cultural and Natural Heritage of the World followed. In addition to the 1966 Declaration, these were also important precursors to the mobilization of the notion of “a common heritage” (UNESCO 2009: 29), which was further developed in subsequent instruments including the UNESCO Convention on the Protection of the Underwater Cultural Heritage (2001), the UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage (2003), as well as the UNESCO Universal Declaration on Cultural Diversity (2001), and the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005).
II. Culture and Communication at Stake: The Debates of the 1970s and 80s

In some ways, UNESCO’s interventions on cultural diversity represent a throwback to a series of international debates that originated in the 1970s and 80s in the realm of culture and communication. During this time, culture was revisited in terms of its definition and scope, with respect to its function as a dimension of development, and in regards to cultural policies which were increasingly considered as a vehicle for cultural development. The evolving notion of the cultural industries emerged as a catalyst for much of this change. Similarly, debates within UNESCO surrounding a New World Information and Communication Order (NWICO) had a profound impact on the organization and its subsequent treatment of notions of culture, communication and development. In what follows, I unpack these debates, highlighting where they took place within the structure of UNESCO, the key issues at stake and the main actors involved.

The Cultural Industries and Cultural Development

In the late 1970s and early 1980s, UNESCO set out to explore the notion of the “cultural industries”. The notion originated from the work of Max Horkheimer and Theodor Adorno of the Frankfurt School in the post-War period. In their seminal piece Dialektik der Aufklärung or Dialectic of Enlightenment, Horkheimer and Adorno (1944/2000) critically introduced kulturindustrie or “culture industries” in order to draw attention to modern culture, and its widespread commodification as a “mass-produced” and mass-standardized phenomenon. The provocation, of course, was the coupling of culture with
industry, the critical positioning of culture as an industry subsumed under a capitalist logic, and in which the proliferation of media and communication technologies was taking shape in new ways.

Debates about what was meant by the “culture industries” would follow, and the term evolved to reflect the “cultural industries”, yet its precise meaning and definition remained unclear (see Cunningham 2002; Garnham 2005; Hesmondhalgh and Pratt 2005). Today, the cultural industries, frequently referred to as the creative industries, are broadly understood to include book and periodical publishing, radio and television broadcasting, film production and audio recordings, as well as theatre, performance and the visual arts, among other cultural expressions. As Stuart Cunningham (2002) described, some actively pursued the cultural industries in the “direction of culture” while others developed an understanding of them from the perspective of industry, each giving rise to a particular set of considerations.

UNESCO contributed to these debates (Girard 1972; UNESCO 1982), with a view to inform policy development surrounding the treatment of the cultural industries as a vehicle for promoting cultural development. At a 1980 conference held in Montreal, UNESCO sought to explore what connection the cultural industries could have on cultural development, calling together a meeting of experts to discuss “The Place and Role of Cultural Industries in the Cultural Development of Societies” (UNESCO 1982). UNESCO posed the following question:

How might it be possible to harness the power of cultural industries to the promotion of cultural development and, generally speaking,
foster the mutual enhancement of cultures and the current process of universalization, while safeguarding the cultural identity of individual peoples and giving them the means of controlling their own development? (UNESCO 1982: 11).

Augustin Girard (1982: 229), a representative from the French Ministry of Culture at the time, affirmed the need to “broaden access to culture; democratizing, decentralizing and stimulating the cultural life of the people” while at the same time “[e]nsuring a country’s influence abroad and safeguarding its cultural independence”.

Among other issues, at stake was how the cultural industries could become a vehicle for cultural development. To this end, UNESCO and Girard were interested in the distinction between “local” and “foreign” cultural products – foreign products could be seen to have the potential to dampen local “access and participation”, resulting in the development of limited forms of cultural expressions that embody local ways of being and living. In other words, they were concerned about the impact on local markets which could potentially become saturated with foreign cultural products (e.g., television programming), and the effect this could have on public participation in cultural development: “The result for the public is greater access to programmes of foreign origin, and hence dwindling participation at the local level in the production of messages” (UNESCO 1982: 13).

In response to this perceived threat, Girard proposed that the cultural industries – through the vehicle of public policy – could be further developed with a view to promote access to, improve the quality of and stimulate creativity in local media and cultural activities. Doing so could conceivably support cultural
development that was locally derived and defined. Culture was, in this regard, being explicitly considered as a condition of, as well as a catalyst for, development.

UNESCO echoed these same concerns:

A cultural industry is held to exist when cultural goods and services are produced, reproduced, stored or distributed on industrial and commercial lines, that is to say on a large scale and in accordance with a strategy based on economic considerations rather than any concern for cultural development (UNESCO 1982: 21).

This characterization was reminiscent of Horkheimer and Adorno’s (1944/2000) initial treatment of the “culture industries”, but also incorporated Girard’s concern for cultural development. Moreover, what was becoming clear was that there were both economic and socio-cultural considerations at stake within the cultural industries. Indeed, the stakes of this tension increased over time as technological and economic developments quickly changed the production, distribution and consumption of cultural products. These developments, in effect, deepened the nature and extent of the relationship between communication and culture, and by extension, of cultural development itself.

In addition, this tension – that is, between economics and culture – was starting to get branded in ways that would later influence the UNESCO policy frame on cultural diversity, as well as its ensuing policy framework. Over time, UNESCO would critically establish the cultural industries “in the direction of culture” (recalling Cunningham’s 2002 characterization) – as a matter of standard-setting policy. In so doing, UNESCO adopted the perspective that the cultural industries hold important value that extends beyond simply their
commercial orientation (O’Connor 2000; Garnham 2005; Throsby 2001). Crucially, for UNESCO, the cultural industries were recognized as serving a public value function which was deemed essential for development. This theme would be repeated and reinforced over the coming years and decades and was, in many ways, one of the driving assumptions behind the normative principles set out in the UDCD.

Similar to the early treatment of the cultural industries, the working definition of “cultural development” would remain unclear, given that the notion of culture itself was left undefined.

For some, the emphasis is placed on the economic development of the cultural sector, and cultural development implies the development of cultural industries. For others, cultural development would consist of the promotion of classical, as opposed to popular, culture. Cultural development is also seen, by some, as the instilling of national cultural identity. Finally, cultural development can be conceived of in sociocultural terms, in conjunction with social development (Raboy et al 1994: np).

Notwithstanding these various interpretations, the emergence of cultural development as a political and policy priority for UNESCO had important consequences. Namely, it marked a definitive turning point in cultural policy development, including a broadening of the scope of issues that would eventually come to fall under the purview of cultural policy. In other words, the positioning of culture – both as a distinct vehicle of or in development, and as a prospect for development itself – served to reinforce the prominent role of cultural capital, cultural resources and cultural practice in an increasingly interdependent and decolonized world. Further, it would highlight the increasingly prominent role that cultural policies would assume over the coming years in public policy circles.
more generally (Raboy et al 1994).

In 1982, the UNESCO *Mexico City Declaration on Cultural Policies* or MONDICAULT defined culture in “its widest sense” to include:

...the whole complex of distinctive spiritual, material, intellectual and emotional features that characterize a society or social group. It includes not only the arts and letters, but also modes of life, the fundamental rights of the human being, value systems, traditions and beliefs (UNESCO 1982a: Preamble).   

The 1982 Declaration importantly went on to:

- Affirm the value of cultural identity (Articles 1-9)
- Reinforce the relationships between culture and international development (Articles 10-16) and culture and democracy (Articles 17-22)
- Proclaim the significance of cultural heritage (Articles 23-26)
- Reinforce the value of artistic and intellectual expressions as essential for culture (Articles 27-29)
- Affirm the relationship between culture with education, science and communication (UNESCO’s other thematic areas) (Articles 30-40), and
- Reinforce the role of international cultural cooperation (Articles 43-50), making explicit reference to the 1966 Declaration.

The majority of these themes would be reinforced again more forcefully in the 1990s with the release of the UN-UNESCO report *Our Creative Diversity* (UNESCO 1995), during the *International Conference on Cultural Policies for Development* in 1998, and then again in the 2000s. Yet before then, there was another parallel narrative taking shape within the field of communication at

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34 This is, to an extent, reminiscent of Raymond Williams’ (1976: 80) definition of culture discussed in chapter 1.
UNESCO during the 1970s and 80s. This narrative was anchored in calls for a new world information and communication order, and completely consumed the organization. In fact, the NWICO debates would have a lasting impact on UNESCO – institutionally and politically –, affecting its subsequent standard-setting in the fields of culture and communication.

**In Pursuit of a New World Information and Communication Order**

While cultural development was not the overt focus of a New World Information and Communication Order, it was a strong undercurrent that, along with Cold War politics, influenced the tenor of the debates that would ensue, as well as the outcome. A group of countries, known as the Non-Aligned Movement (NAM) and which consisted of states originating primarily from the developing South and the Communist Bloc, called for a *New International Economic Order* (NIEO) at the United Nations Conference on Trade and Development (UNCTAD) in 1974. It was no coincidence that this followed the Organization of the Petroleum Exporting Countries (OPEC) Crisis in 1973 during which time Arab states boycotted oil-exports to the West in protest of US policies, including US military support of Israel.

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35 The Non-Aligned Movement represented an attempt to carve out a distinct group of countries – both ideologically and geopolitically – that was different from the *First World* where capitalism dominated, and the *Second World* where socialism flourished. Carlsson explains that the Movement originated at the 1955 Bandung Conference in Indonesia where 29 Heads of State from recently decolonized countries in Africa and Asia convened for the first time. The NAM was “a movement of non-aligned countries that aspired to be ‘a third force to act as a buffer between capitalism and communism’” (Sing and Gross 1984:446 in Carlsson 2003: 39). The NAM still exists today. However, since the end of the Cold War, the organization has been rendered somewhat impotent.
The NAM pursued a series of economic and political reforms on a host of regulatory issues, including trade, development financing and access to technologies. Countries put forth proposals to decolonize, stimulate development and establish a greater balance between the industrialized and the non-industrialized worlds, with a view to safeguard developing country interests and strengthen cooperation in the international arena.

The international calls for economic and political reforms, organized under the leadership of the NAM, stimulated a parallel appeal: to combat mounting trends of cultural imperialism (Nordenstreng 1984; Carlsson 2003; Padovani and Nordenstreng 2005; Mansell and Nordenstreng 2006; and Singh 2010). Supporters of the New International Economic Order began to focus on the limitations of information flows from the West to the rest of the world in 1976, giving rise to calls for a New International Information Order. These calls took shape over a period of several years through both inter-governmental and non-governmental meetings. For example, at the Non-Aligned Symposium on Information in Tunis in 1976, states affirmed the following:

Since information in the world shows a disequilibrium favouring some and ignoring others, it is the duty of the non-aligned countries and the other developing countries to change this situation and obtain the decolonization of information and initiate a new international order in information... (Non-Aligned Symposium on Information, Tunis, March 1976 in UNESCO 1988: 5).

Similarly, a few months after the 1976 Tunis meeting, participants at a non-governmental seminar organized in Mexico City declared that:

The development of a new international information order is an integral part in the establishment of a new international order. This is as much a necessity for the peoples and societies of dependent
nations as for those of the industrialized world. The affirmation of political sovereignty and the struggle for economic liberation involve a reformulation of the present transnational information structure.

...International information is dominated by a reduced number of media which observe, evaluate, select and transmit the news as a function of the political and commercial interests of their home countries....

Information is a social and not a commercial product (ILET and Dag Hammarskjold Foundation Seminar 1976 in UNESCO 1988: 23).

Parties to the NAM targeted what they believed was the development of an unjust media and communication system that systemically marginalized and dehumanized developing world voices and cultures. The persistence of structural barriers meant that access to the means to create local messages was obstructed. The circulation of local messages, if created, would be extremely limited, at best.

More specifically, the calls for a New International Information Order focused on the imbalanced flows of information or the “one-way flow” that became characteristic between developed and developing countries, resulting in implications for the development of cultural identities, technology transfer and the emergence of media monopolies dominated by Western interests (Nordenstreng 1984; Carlsson 2003). What emerged was a fraught, ideological and geopolitical minefield that ultimately politicized UNESCO as never before, generating debates in four areas that polarized countries: democratization, decolonization, demonopolization and development (Nordenstreng 1984; see also Carlsson 2003: 40-41).
For example, competing views on international development resulted in some states being interested in advancing Western values while others focused on addressing underdevelopment and dependence. The start and end point for both views on development was exceedingly different. For powerful and developed countries, such as the US and the UK, UNESCO represented an ideal international venue in which norms and standards surrounding the “free flow of ideas” could be firmly put in place, reflecting their respective interests. Developing countries and the Eastern Bloc, however, regarded UNESCO as a forum through which to level out the playing field and introduce policies sensitive to the interests of less powerful and non-industrialized countries.

Against this landscape, the notion of the “free flow”, which was at the core of UNESCO’s raison d’être, was again at stake. Recall that the UNESCO Constitution (1945) had identified the “free flow of ideas” as the primary vehicle through which to advance knowledge and understanding. Nordenstreng (2011) thoughtfully dissects UNESCO’s notion of the “free flow” to mean “freedom for” the pursuit of the organization’s higher level strategic objectives: that is, to advance peace and security. However, since UNESCO’s inception, Western State Parties to UNESCO, and largely the US, have strongly pushed for a different interpretation of the “free flow” to mean “freedom from” control (Nordenstreng 2011). This was applied to the notion of the freedom of the press. In fact, during the NWICO debates and even prior to these debates, states suggested that the US was actively manipulating the notion of the “free flow” to suit its own domestic interests (Nordenstreng 2011; see also Schiller 1992).
In 1982, at the sixth meeting of the Inter-Governmental Council for the Coordination of Information among Non-Aligned Countries, the final report included the following statement:

After warning against monopolistic control over Computerized Telecommunication Network Systems, and calling for further awareness in defence of cultural identity, autonomous development and self-sustaining efforts, the Cuban Minister proposed the approval of a resolution stating the need to enrich and safeguard the basic principles and concepts of the New International Order of Information and Communication, threatened by Transnational Imperialist Corporations through open intents to impose the so-called “Free Flow” doctrine, on behalf of free market and consumerism ideology (Inter-Governmental Council for the Coordination of Information among Non-Aligned Countries 1982 in UNESCO 1988: 149).

The NWICO debates ultimately revealed that the “...free flow of information has never been a neutral and ecumenical concept but rather a tactical argument in socioeconomic and ideological struggles” (Nordenstreng 2011: 84). Moreover, the debates raised awareness about the inextricable link between communication and development:

The issue of a new international information order is bound up with ideas about the role of communication in the development of societies, on the one hand, and the relations between developed and developing countries, on the other (Carlsson 2003: 32).

The height of the NWICO debates culminated with the release of the now well-known report Many Voices, One World (UNESCO 1980) adopted at the UNESCO General Conference in 1980. Spearheaded by the International Commission for the Study of Communication Problems – with 16 experts from

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36 It is significant to note that Nordenstreng (2011) goes on to write that UNESCO was perhaps best aligned with its mandate and its Constitution during the NWICO debates when the meaning of the notion of the “free flow of ideas” was neither assumed nor interpreted as the “free flow doctrine” as advocated by the US.
around the world –, and chaired by Nobel laureate Sean MacBride, the MacBride Report, as it is commonly known, was mandated to “study the totality of communication problems in modern societies” (UNESCO 1980: xvii). The three hundred page report addressed the importance of communication for all societies. The report’s eighty-two recommendations called for an assortment of measures to strengthen communication capacity, build policy infrastructure to support communication, protect journalists and eliminate information disparities in developing countries (Carlsson 2003; Padovani and Nordenstreng 2005). It advocated for development, in general, as well as the development of media and communication systems. And throughout, the report stressed the theme of a “right to communicate” as a central democratizing tool (UNESCO 1980; see also Recommendation 54), a concept which led to further debates about a NWICO.37

Recommendations that flowed from the MacBride Report’s main findings, by and large, pushed for a more profound understanding of communication that embraced the following:

1. Notwithstanding the many ways in which societies embrace and use communication, there is a need to ground it in universal values such as democracy and equality.

2. Disparities in communication structures and “information flows” – particularly from, to and within developing countries – need to be remedied.

37 For more information on a “right to communicate” see Raboy and Shtern (2010).
3. Communication is a fundamental right, for both individuals and communities, and has a clear role to play in promoting and upholding democratic ideals.

4. Communication policy is a critical means to support development objectives.

5. The development and implementation of a new information and communication order needs to be an “ongoing process of change in the nature of relations between and within nations…” (UNESCO 1980: 254).

Influential western Member States, however, including the US and the UK, expressed dissenting views on the report and deployed tremendous amounts of influence and power in the interests of ensuring that the institutionalization of a New World Information and Communication Order failed. Divergent views on the meaning and scope of the notion of the “free flow of information”, as well as the licensing of journalists sparked heated debates that were further amplified in the negotiations leading up to the UNESCO (1978) Declaration on the Mass Media, as it came to be known.\(^{38}\)

Crucially, the US resisted any barriers to information flows (reinforcing the notion of “freedom from”) and additionally maintained that support for a NWICO would risk alienating the private sector (Roach 1987; McChesney 2008). Attacks

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\(^{38}\) Initially, the draft instrument was titled the “Draft Declaration on Fundamental Principles Governing the Use of the Mass Media”. However, softer and more descriptive language was ultimately adopted for the final document so as not to target the mass media. Thus, the new document was much narrower in focus and the title changed to the UNESCO Declaration on Fundamental Principles concerning the Contribution of the Mass Media to Strengthening Peace and International Understanding, to the Promotion of Human Rights and to Countering Racism, Apartheid and Incitement to War (see UNESCO 1978).
on the notion of the freedom of the press became the defining issue that ultimately thwarted the pleas for a NWICO. Citing a number of issues, including its staunch opposition to a new world information and communication order, the US withdrew itself (and its funding) as a Member of UNESCO in 1984 under the Reagan Administration. The UK and Singapore would soon do the same. It was only in 2003, nearly twenty years later, that the US would reinstate its membership at UNESCO.\textsuperscript{39}

The NWICO debates and their genesis, signified some of the deeper fissures within UNESCO between the developed and the developing worlds, through Cold War politics and with the rush of newly decolonized countries in Africa and Asia. However, they also underscored UNESCO's emergence as an international policy venue in which deliberations on media, communication and cultural issues were actively taking place and ideas were being deliberately shaped, negotiated and framed. These developments – now part of UNESCO's institutional and documentary history – constitute a key part of the context of this study and continue to have an impact on the organization and its output.

Moving forward, the scope and depth of the tensions characteristic of this period would diminish in subsequent decades, particularly as the conditions characterizing contemporary globalization began to intensify and accelerate. In fact, what followed in the next period during the 1990s proved to be a game changer for UNESCO, turning its attention to culture and development. This

\textsuperscript{39} Mansell and Nordenstreng (2006: 22) thoughtfully point out that the departure of both the US and the UK from UNESCO signified something more than opposition to NWICO or the MacBride Report or even the organization's leadership at the time. Rather, it represented a definitive turn away, by Regan and Thatcher respectively, from multilateralism, and sent a very clear message about the supremacy of the state and the tenor of international relations at the time.
move would help crystallize culture and communication as two distinct areas under the organization’s structural ambit, notwithstanding their substantive areas of overlap. This is apparent today with communication at UNESCO largely treated from the perspective of “freedom from” while culture remains governed by a “freedom for” lens.

III. A New Era: The 1990s and the Push for Culture and Development

Following a tumultuous decade where culture and communication were the subject of protracted debates and exchanges, the 1990s marked the beginning of a new era for UNESCO. In fact, the coupling of culture and development in international public policy was, in many ways, cemented with the release of the report of the World Commission on Culture and Development (WCCD), *Our Creative Diversity* (1995), and the *Action Plan on Cultural Policies for Development* (1998) adopted by the Intergovernmental Conference on Cultural Policies for Development in Stockholm. It signalled a new era in the treatment of culture and recognition that all cultures of the world – not just those of modern societies – should be valued and upheld (Neilsen 2011).

*Our Creative Diversity* honoured the legacy of the MacBride Report but also moved to squarely affirm the role of culture as part and parcel of sustainable development, marking a departure from the past. In so doing, the Commission “…proposed bringing culture in from the periphery of development thinking and placing it in centre stage” (Throsby 2008: 2). The focus was no longer exclusively on the development of culture but rather on how culture was, itself,
constitutive of, and even primordial to and for development, affecting issues such as gender equity, access to social justice, health and education.

Several key developments contributed to this turn of events to focus on culture and development. First, in December 1986, the United Nations General Assembly proclaimed the decade from 1988 to 1997 as the World Decade for Cultural Development through Resolution 41/187 (United Nations 1986).

The Decade, celebrated under the joint auspices of UNESCO and the United Nations, was proclaimed in response to the dual need for a radical review of conceptions of development and for a reshaping of practices that, in the view of many experts, had made the 1980s a ‘lost decade’ for development (UNESCO 1993: Article 1(5)).

The four main objectives of the World Decade were to:

- Acknowledge the cultural dimension of development
- Affirm and enrich cultural identities
- Broaden participation in culture, and
- Promote international cultural cooperation (see United Nations 1986: Article 2).

UNESCO was recognized as the lead UN agency responsible for organizing and implementing activities in support to these objectives. Accordingly, in 1991, the UNESCO General Conference requested the Director General, in cooperation with the UN Secretary General, to establish a World Commission on Culture and Development (UNESCO 1991: Article 3(4)(1)(a)). The high-level Commission was formally established in 1992 and Javier Peréz de Cuéllar, who had just recently completed his second term as UN Secretary General, was nominated as President of the Commission. Honorary Members included the Crown Prince
of Jordan El Hassan Bin Talal, Aung San Suu Kyi of Myanmar, Claude Levi-Strauss of France, Derek Walcott of Saint Lucia and Elie Weisel of the United States. The Commission’s core membership included representatives from thirteen different countries including Mexico, Senegal, Switzerland, Brazil, the Russian Federation, Japan and Egypt. Finally, the Commission included two observers and one executive secretary, Yudhishthir Raj Isar.

The main task of the WCCD was to produce a World Report on culture and development, what was at the time recognized as “one of the main undertakings” of the World Decade for Cultural Development. The report, *Our Creative Diversity* (UNESCO 1995) would come to be known as a touchstone document advancing an inclusive notion of sustainable development in which culture and communication were deemed essential components. 40

Described as a “call to action”, *Our Creative Diversity* set out an international agenda to bridge the divide between culture and development. The report affirmed that culture, writ large, was not an after-thought in human development; rather it was the very fabric of development. This positioning of culture in respect of development called for a commitment to a set of “shared values” that advanced human rights, democracy, civil society participation, the protection of minorities, conflict resolution and equity across generations. The

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40 *Our Creative Diversity* (1995) was, in many ways, developed on the heels of the report prepared by the World Commission on Environment and Development, *Our Common Future* (United Nations 1987), and that of the Commission on Global Governance *Our Global Neighbourhood* (1995). *Our Common Future* or the Brundtland Report, as it was chaired by Gro Harlem Brundtland, introduced sustainability as one of the key dimensions of human development. It bridged the divide between the environment and responsible development in both the developed and the developing world. The report by the Commission on Global Governance (1995) advocated for a new way of doing business that recognized the unequivocal role of civil society actors as key partners to address the world’s most pressing and persistent problems.
report cast a broad net on the relationship between culture and development to “…include cultural growth, the fostering of respect for all cultures and...the principle of cultural freedom” (UNESCO 1995: 15). In so doing, *Our Creative Diversity* called attention to the following:

- Ensuring cultural pluralism has a definitive place in a context of contemporary globalization such that diversity is recognized as a priority within rather than simply between cultures
- Supporting creativity in all its forms – that is, artistic, technological and political – in order to support human development
- Encouraging media competition and diversity so as to ensure a broader spectrum of voices in the public arena
- Cultivating a broader view of cultural heritage, accounting for its diverse manifestations and interpretations
- Considering in a more substantive manner, the relationship between culture and environment, and
- Revisiting cultural policies in order to account for the myriad public policy challenges surrounding the remit of culture and development that may emerge in globalizing contexts (UNESCO 1995).

The treatment of media and communication was particularly notable in the report. In particular, the case was made about the need to bridge economic development with cultural imperatives. In this context, the report raised a similar set of issues as those that had been previously discussed during the UNESCO debates in the early 1980s (with Augustin Girard) and similarly during the
NWICO. Yet the focus was now on addressing the concentration of media ownership and the diversity of content; considering the introduction of content standards; and ensuring access and equity issues were not peripheral matters or sidelined issues within the “media-rich environment” that was taking shape.

The world has transcended the mindsets that spawned the strident debate over a ‘New World Information and Communication Order’ over a decade ago. Yet the questions that set off that debate are still valid. What is to be done when information flows from and within the developing world are so meagre and the concentration of power so strong? And in the industrialized and information-sated nations, transnational concentrations of ownership impel many people to demand a balance between market freedom and the public interest, to expect government to define public policy to attain social goals the market fails to achieve (UNESCO 1995: np).

Crucially, Our Creative Diversity did not provide a blueprint for action on moving forward on any of the issues mentioned. Indeed, that was not the intention of the report. Rather, it aimed to initiate a discussion on democracy, dialogue, participation, peace and justice as drivers of diversity and creativity within an increasingly interdependent world. These drivers, it was believed, could in turn engender more productive and fulfilling pathways to human development.

Meanwhile, around this same time, the 1996-2001 UNESCO Medium Term Strategy (MTS) (UNESCO 1996: Forward) called for advancing a culture of peace by addressing the seeds of conflict, including “economic poverty, social injustice, political oppression, discrimination and exclusion”.41 Building on the themes first developed in Our Creative Diversity (UNESCO 1995) released one

41 The UNESCO General Conference adopts a new medium term strategy every six years. The MTS, which is a highly influential document, sets out the organization’s strategic objectives across all areas of competence and outlines expected outcomes.
year earlier, the MTS called for UNESCO to focus on peace and development, with particular reference to two overarching strategies: those in support of development and those contributing to peace-building (UNESCO 1996).

In this regard, the MTS outlined four areas in support of UNESCO’s proposed approach to development: education, knowledge transfer, culture and communication. Under culture, two themes were discussed: the first called for “enhancing our heritage”, appealing to UNESCO’s capacity to shore up its activities in an effort to encourage Member States to adopt measures to protect cultural heritage – including natural, cultural, tangible and intangible heritage (UNESCO 1996: 29-32). The second theme, “promoting living cultures”, recognized the rapidly changing economic and technological landscapes as well as their potential impacts on creativity, the cultural industries and development. This theme called for measures in support of promoting culture and development. More specifically, the MTS directed UNESCO to create opportunities that would enable Member States to develop national and regional policies that would enhance the development of their national cultural industries with a view to better reflect the “plurality of cultures” around the world (UNESCO 1996: 32-33).

As far as communication was concerned, the MTS reinforced the significance of the “free flow” of information in terms of “spreading news or ideas”, “transmitting...data”, “making people aware of matters essential to democratic life” and “providing a medium for...cultural expression” (UNESCO 1996: 34). The MTS also cautioned that the “globalization of communication”, and advances in technology could render cultural and linguistic diversity at risk –
something that would be particularly relevant for developing countries where media and communication systems were considered weak and inadequate.

One of the key areas identified in the MTS in support of peace-building (the second overarching strategy area identified in the document) was “encouraging cultural pluralism and dialogue between cultures” with a view to quelling divisions based on national, religious, ethno-cultural and linguistic identities (UNESCO 1996: 43).42

...UNESCO will, over the period covered by the Medium-Term Strategy, endeavour to seek ways of achieving genuine cultural pluralism in societies that encompass communities with highly diversified identities. This endeavour will go hand in hand with UNESCO’s work to preserve and revitalize the variety of forms of cultural expression and particularly endangered cultural heritage (UNESCO 1996: 44).

The MTS leveraged the notion of a *culture of peace*, actively defining and aligning it with other activities that had started to galvanize attention on cultural diversity. To this end, the MTS, in many ways, provided the strategic direction necessary for the organization to support the emerging policy issue of cultural diversity.

Interestingly, Pavone (2007) suggests that the turn to prioritize the notion of a *culture of peace* coincided with UNESCO’s maturation into a *globally*-oriented organization. He suggests that this was a deliberate move to align UNESCO with its traditions in scientific humanism (recalling the Preamble of the UNESCO Constitution). By the same token, however, it also marked a departure from the pragmatic “intergovernmental” approach (embodied in Article 1 of the

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42 The others included focusing on education, human rights, democratic processes, and conflict prevention and reconstruction in post-conflict societies (see UNESCO 1996).
UNESCO Constitution) that had, up until this point, previously guided UNESCO’s activities (Pavone 2007). Frederico Mayor, then Director General of UNESCO, was an instrumental steward who strongly advocated for such a shift:

In the face of the multitude of problems induced by this kind of globalization - the growing contradiction between wealth and impoverishment, social marginalization, the commodification of culture, xenophobia, exclusion, poverty, misery and violence - the universal ideals of democracy and human rights have a special role to play. They form the foundation of a culture of peace and tolerance which, in our culturally diverse and “globalized” world, has become an absolute necessity (UNESCO 1998a: np; emphasis added).\(^{43}\)

Attempts to initiate a meaningful discussion on culture and development further continued in other ways, following the release of Our Creativity Diversity, with the publication of UNESCO’s World Culture Reports. In 1998, UNESCO published the first World Culture Report, *Culture, Creativity and Markets* (UNESCO 1998b) which focused on recent discussions taking place in the realm of cultural policy, including the development of cultural indicators.

These discussions reached a turning point at the *Intergovernmental Conference on Cultural Policies for Development*, which was organized by

\(^{43}\) UNESCO’s move towards developing a *culture of peace* philosophy was importantly influenced by shifts taking place within the broader corridors of the United Nations under the leadership of then UN Secretary General, Boutros Boutros-Ghali. In his response to a post-Cold War environment, Boutros-Ghali released *Agenda for Peace: Preventive diplomacy, peacemaking and peace-keeping* (United Nations 1992). *Agenda for Peace* was considered a significant contribution to the United Nations agenda. It deliberately recognized the various sources of instability, “beyond military threats”, to include regard for the economic, social and political triggers of war and conflict (United Nations 1992: 13). *Agenda for Peace* was followed by a resolution entitled *A Declaration on a Culture of Peace* which was passed in 1999 by the United Nations General Assembly. The UN Resolution explained a *culture of peace* as “...a set of values, attitudes, traditions and modes of behaviour and ways of life” that promote, among others, non-violence, state sovereignty, human rights, and tolerance through such avenues including education, freedom of expression and development (United Nations 1999). The focus on peace and development during the 1990s was a turning point for the United Nations as an institution, which, much like UNESCO, sought to reinvent itself and carve out a new place in a post-Cold War environment as well as in the context of the evolving context of globalization.
UNESCO and held in Stockholm from March 30 to April 2, 1998. The conference was intended to follow up from *Our Creative Diversity* and to precede the release of the second World Culture Report. With representation from close to 150 countries and approximately 2,500 participants – including artists, scholars, media practitioners and senior government officials, including Ministers – the Conference focused on how to bring cultural policies into the fold of human development. Specifically, the objectives of the Conference were as follows:

1. “To contribute to the integration of cultural policies in human development strategies at international and national levels; and

2. To help strengthen UNESCO’s contributions to cultural policy formulation and international cultural cooperation” (UNESCO 1998c).

Against these objectives, participants deliberated on the following themes: the first focused on how to address challenges related to cultural diversity and the second explored options to reframe cultural policies. Both themes were further developed in two background papers (UNESCO 1998d; 1998e) that drew extensively from *Our Creative Diversity*. For example, the background paper on cultural policies reaffirmed the strong interconnection between culture and media that was highlighted in *Our Creative Diversity*:

The World Commission on Culture and Development has emphasized the transformations in the world of the media, characterized today by a broader range of choices, the opening of new horizons leading to greater diversity and enhanced information flow. At the same time we are witnessing a concentration in control of media ownership homogenization of content and limitation of access....Culture and the media are inextricably bound together: the media reflect images of ourselves and our acts. We are bombarded by images and word every day, and we possess a myriad of tools which allow us to communicate. In much of the world television has become the primary vehicle for culture.
cultural policies must accordingly take into account the impact and importance of the media (UNESCO 1998d: Article 2.3).

Similarly, the background paper on cultural diversity focused on, among other issues, cultural expressions and creativity as vehicles through which to cultivate tolerance, acceptance and belonging both among and between cultures, communities and societies.

Many forms of cultural expression have long been used in development programmes to strengthen group identity and a sense of community, to raise awareness of social injustice and other challenges, to foster democratic discourse and social mediation. Today, as the forces of exclusion and intolerance are once again on the rise, creativity is ever more essential if individuals and communities are to reconstruct the ways they live together and search for a new convivencia, both locally and globally, as a key challenge of sustainable human development for the twenty-first century (UNESCO 1998e: Article 1.3b).

The 1998 conference was deemed a huge success. At the conclusion of the three-day affair in Stockholm, an Action Plan intended for UNESCO Member States was adopted (UNESCO 1998). The Action Plan was a kind of charter on cultural policies that outlined general affirmations and principles – recognizing the Mexico City Declaration on Cultural Policies of 1982, the efforts stemming from the World Decade on Cultural Development and the WCCD report Our Creative Diversity – and presented key objectives for Member States and recommendations for UNESCO.

Critically, the Action Plan recognized that “in a democratic framework civil society will become increasingly important in the field of culture” (UNESCO 1998: Preamble, 6) and affirmed the partnership required between government and civil society to advance cultural policies. What is more, the Action Plan was “centred on the general philosophical position that communication resources constitute
part of the global commons” (Raboy and Mawani 2013: 353). To this end, the

*Action Plan* called for five actions by Member States:

- Integrate cultural policy as a central dimension of development strategies
- Encourage creativity and participation
- Protect and promote cultural industries and cultural heritage
- Advance and foster cultural and linguistic diversity, and
- Allocate more resources to cultural development activities (UNESCO 1998).

The *Action Plan* called for the deliberate recognition of the inextricable link between culture, communication and cultural policy with the “information society”. It recognized the responsibility of Member States to leverage resources and capacities to build up their respective national policy infrastructure in support of culture as a fundamental aspect of human development. Finally, it importantly reaffirmed UNESCO’s role as a key standard-setter on culture, noting its various normative instruments on cultural issues (UNESCO 1998).

The *Action Plan* was a strategic and directional document that galvanized global momentum on cultural policies and cultural industries, and rekindled

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44 Both Castells (2000) and Barney (2004) discuss the notion of the Information Society in the context of the Network Society. According to Castells (2000), the Network Society is derived from his theorization of the *informational society*. The informational society is a form of societal organization where technology is pervasive. The informational society is comprised of complex networks consisting of nodes or integrated points that form the supporting structures for information technologies to transmit in a context of contemporary globalization (Castells 2000). Barney (2004: 25) suggests that the Network Society is made manifest by the pervasiveness of information technologies that influence human activity. The net effect is that networks and network structures, in effect, govern human relationships. In both conceptualizations, information – including its production, distribution, circulation and consumption – emerges as political, with implications for economy, culture, identity and society.
interest in the issue of cultural sovereignty (Raboy and Mawani 2013). It marked
the first time that an international outcome document had established a way
forward on cultural policies, to the extent that it did, to address issues such as
creativity, participation and the role of civil society. Finally, the *Action Plan* was
developed at a time when the economic and political manifestations of
contemporary globalization – including the proliferation of deregulation, trade
liberalization and privatization; the increased commodification and circulation of
cultural products; the growing trend towards the transnational movement of
people; and the significance of information technology, among others; — were
increasingly recognized as creating both enabling and constraining conditions for
culture’s development.

Two years following the Stockholm conference, in 2000, another World
Culture Report was released: *Cultural Diversity, Conflict and Pluralism* (UNESCO
2000). This report was significant for a number of reasons. First, it made a
deliberate attempt to redefine the lens through which culture was typically
understood. In this regard, the report (UNESCO 2000: 15) proposed treating
“...culture as a process rather than as a finished product” or an end in itself and
marked a departure from UNESCO’s earlier treatment of culture.45 Second, it
provided an exploratory terrain for many of the ideas and issues that would
eventually come to be associated with the UNESCO interventions on cultural
diversity released in the early 2000s.

45 This was reminiscent of Arjun Appadurai’s treatment of culture, and his preference for the term
*cultural*, as discussed in chapter 1 (see Appadurai 1996: 12).
Of particular interest, was the emphasis placed on the different starting points and considerations involved in the international trade of the cultural industries. While some countries had chosen to protect their national cultural industries, others sought to gain access to new and ever-expanding markets. The intersection of cultural diversity and cultural identity were also addressed, as were the issues of cultural heritage, cultural knowledge and measuring culture (e.g., through statistics and indicators). Ultimately, the 2000 World Report outlined a series of “current debates” around the issue of cultural diversity in a context of contemporary globalization.

Most notably, perhaps, the 2000 World Culture Report featured a preface from the new UNESCO Director General, Koïchiro Matsuura. Matsuura, who held this position from 1999 until 2009, assumed a prominent leadership role in the development of UNESCO’s interventions on cultural diversity in the early 2000s. In fact, it is no coincidence that a number of standard-setting instruments in the field of culture were introduced under Matsuura’s reign, after a lengthy period during the 1980s and 90s at which point standard-setting activity in the cultural sector had come to a standstill, notwithstanding the important cultural policy discussions underway.

IV. The Free Trade in Cultural Products Reaches a Turning Point

At this juncture, it is useful to consider parallel developments that were taking place at the national level in cultural policy development during the 1990s. These developments are important to consider in the context of this dissertation
as they eventually dovetail with UNESCO’s subsequent treatment of the issue of cultural diversity in the early 2000s.

Among other countries, in the 1990s, Canada and France were particularly concerned about the impact of global trade on their respective national cultural industries. Both countries had a lengthy history encouraging the development of national cultural expressions as a means to promote national identity, belonging, participation and language. According to these countries, the propensity to include cultural industries in trade agreements posed a number of risks, which could be summarized as follows:

1. These trade agreements threatened to undermine the fact that some states, as a matter of domestic cultural policy, considered the cultural industries as embodying value beyond simply that which stems from commercial gains.

2. These agreements also gave rise to concerns about whether a state retained its sovereign right to introduce cultural policies in support of the development of national cultural expressions, in the face of expanding global markets.

3. Finally, these agreements risked jeopardizing access to national cultural industries that were locally developed and which were intended to reflect shared values, experiences and norms.

To summarize, it was the “…the making of culture…[as] an industry” (Grant and Wood 2004: 20), which was subject to international trade regulations that preoccupied these and other states. From this perspective, cultural products
were distinct and unique and cultural industries necessitated protection and promotion.

At the heart of the matter was, on the one hand, whether states had sufficient power, authority and influence to limit the inflow of cultural products from dominant cultural producers, namely the US. On the other, it was an issue of whether states could govern in such a way that would ensure that the conditions of contemporary globalization remained *enablers* rather than *inhibitors* to national cultural development.

Two radically opposed views regarding cultural products underpin this debate. On the one hand, cultural products are seen to be entertainment products which are similar, in commercial terms, to any other products and therefore entirely subject to the rules of international trade. On the other hand, cultural products are seen as assets which convey values, ideas and meaning, or in other words, instruments of social communication which contribute to fashioning the cultural identity of a given community (Bernier in UNESCO 2000: 70).

Said differently, it was a question regarding “…[H]ow should countries promote cultural freedom while defending cultural pluralism?” (Drache and Froese 2005: 38). These issues proved to be a major impetus for UNESCO’s treatment of the issue of cultural diversity in the early 2000s and reflected many of the same considerations raised by French Ministry official Augustin Girard in 1982 during earlier debates surrounding the cultural industries and cultural development, as well as in *Our Creative Diversity*, the UNESCO World Culture Reports, and during the 1998 Stockholm Conference.

One specific example involving Canada and the US underscored the significance of what was at stake. In 1988, Canadian negotiators insisted on
attaining a cultural exemption in the Canada-USA *Free Trade Agreement* (CUSFTA) (1988). “During the CUSFTA talks, the Canadian government declared that culture industries – film, television, and radio broadcasting; periodical and book publishing; video and sound recording – were not on the negotiating table” (Goff 2007: 2). While Canada was successful in securing this exemption, the issue was raised again during negotiations for the *North America Free Trade Agreement* (NAFTA) – between Canada, the US and Mexico – which superseded CUSFTA in 1994.

Around this same time, European countries, led by France, sought a similar exemption for audiovisual products in the deliberations of the Uruguay Round of Multilateral Trade Negotiations, launched by Ministers responsible for the *General Agreement on Tariffs and Trade* (GATT) in September 1986. The negotiations continued for over seven years, culminating in the “Final Act” of the Marrakesh Agreement signed in April 1994, and ultimately resulted in the establishment of the World Trade Organization in 1995 and the *General Agreement on Trade in Services* (GATS).

During GATT negotiations, the EU maintained that audiovisual industries – namely film and television – were vital cultural channels for European countries. To safeguard this position, the EU wanted to exclude culture – “l’exception culturelle” – as a condition for successful trade negotiations (Beat Graber 2006; Goff 2007; Grant and Wood 2004; Grant 2011). “Proponents invoked it in order to argue that culture must not be subject to the laws of free trade” (Beat Graber 2006: 554). Specifically, the EU called for ongoing quotas and subsidies for
European audiovisual products. An existing quota system was already in place with the 1989 broadcasting directive Television Without Frontiers which set out a specific percentage of television programming that would need to originate from within European states (Goff 2007; Pauwels and Donders 2011). The EU and the US reached a standoff on the issues of the cultural industries exemption. With a view to moving forward in other areas, they agreed to disagree and revisit the issue at a later point.

However, the General Agreement on Trade in Services reignited debates on trade and culture. In GATS deliberations on audiovisual services, Members rejected the possibility of a cultural exemption clause but agreed to establish an opt-out measure such that Members could determine whether to participate in negotiated commitments in trade in audiovisual industries.

During these trade negotiations, Canada and the European Union faced strong opposition from the United States. American negotiators claimed that excluding culture industries from the agreements would have the effect of limiting US access to the Canadian and European markets for filmed entertainment, publishing, and recording industries. In addition, the US negotiators objected to actions that they claimed would contravene prevailing norms favoring the free flow of information and open trade (Goff 2007: 3).

It is significant that the notion of the “free flow of information” emerged at stake, once again, during these negotiations. The European Union, however, did not back down and instead, insisted that Member States possess the sovereign right to choose how to treat the cultural industries within the context of their own territorial borders. The EU wanted to ensure that their Member States had enough teeth to stand up against World Trade Organization regulations which

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46 For a more detailed exposition of the Television Without Frontiers policy, and its subsequent iterations, see Pauwels and Donders 2011.
increasingly reflected the prevailing view that culture was a product and an industry like others.

Appeals for cultural exemption also played a role in halting the adoption of the proposed Multilateral Agreement on Investment (MAI), which was negotiated from 1996 to 1998 by Members of the OECD. France, which was the main driver behind EU concerns regarding the cultural industries, had sought an exemption for trade in cultural industries noting the potential impacts on national sovereignty.

The EU’s actions, including those of France, were consistent with Canada’s position during the CUSFTA negotiations. However, in the case of Canada, and even with provisions in place that exempted the Canadian cultural industries from free trade, the US accused Canada, in 1996, of being in violation of its trade agreements over the issue of split-run magazines (Grant and Wood 2004; Magder 2004; Goff 2007; Grant 2011; Raboy and Mawani 2013). It was no coincidence that this claim against Canada was issued on the heels of the US negotiations with the EU regarding the GATS.

The issue of split-run magazines was particularly sensitive for Canada. In 1960, the Canadian Royal Commission on Publications, set up by the Government of Canada at the time, concluded that 80 percent of the Canadian periodical industry was controlled by foreign companies. The Commission raised

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47 Split-run magazines such as Sports Illustrated, Time and Reader’s Digest, are foreign magazines from other countries (but which originate mostly from the US) that have a Canadian edition. While they generally have little to no Canadian content, they are advantageous for advertisers who buy advertising space at prices well below competitive rates or rates demanded in a parent edition. Thus, split-runs recycle existing content from the parent edition and capitalize on domestic advertising.
concerns about the viability and sustainability of a Canadian periodical industry in light of this. As a result, the Commission developed a series of recommendations to curtail this control. In fact, the Commission proposed an outright ban on the import of split-run magazines that advertised directly to Canadian readers. However, the advent of new technologies in the 1990s changed the publishing landscape and foreign periodical companies were now able to manoeuvre around existing laws in order to avoid Canadian customs tariffs. In response to such strategic manoeuvring, Canada introduced a hefty tax penalty on the proceeds of Canadian advertising revenue acquired from split-run magazines (Grant and Wood 2004; Magder 2004; Goff 2007; Raboy and Mawani 2013).

The US responded in kind. Notwithstanding the exemption of Canadian cultural industries from the NAFTA accord, the US claimed, in 1996, that Canada was in violation of measures outlined in the GATT (1947). These measures pertained to the tariff code, the excise tax on advertising in foreign periodicals, the postal subsidy for domestic periodicals and the commercial publication mail rates which were higher for foreign periodicals (Lemieux and Jackson 1999).

The case was formally brought to the WTO Dispute Settlement Body (DSB) by the US and a formal process was launched. Importantly, the WTO’s DSB held the capacity to enforce provisions of trade agreements, mediate between parties that disagree and/or enforce rules in instances where they had been broken and subsequently brought to the attention of the WTO. This was an
important capacity as it provided a formal mechanism through which to review grievances and settle disputes.

In the case of the US and Canada, in 1997, the WTO Dispute Resolution Panel (which is established by the DSB) ruled in favour of the US, finding Canada liable. Crucially, the WTO classified magazines as “goods” even though they were not explicitly mentioned in the GATT. In fact, Grant (2011: 342) explains that the GATT (1947), which did not include a cultural exemption clause, referred to the treatment of goods – such as “books, newspapers, magazines, sound recordings, and film” – rather than services which included “film production, the performing arts, broadcasting, or the dissemination of cultural works by satellite or cable”. Notwithstanding the GATT’s characterization of cultural goods versus cultural services, Canada was forced to comply under its commitments under the GATT agreement (Grant and Wood 2004; Magder 2004; Goff 2007; Raboy and Mawani 2013).

The outcome of the WTO decision on split-run magazines increased the stakes of the discussion for Canada regarding the cultural industries in the context of growing free trade, as it became clear that “[t]he WTO structure seemed to be biased against the kind of analysis that distinguished cultural products from other trade products” (Grant 2011: 344; see also Goff 2007). In other words, the cultural industries were being treated as all other types of industry in the global public policy domain; yet, this treatment was fundamentally at odds with Canada’s domestic cultural policy.
The issue for both Europe (especially France) and Canada was anchored in a wider concern about the impacts that global trade could have on culture and the cultural industries. Thus, as Nina Obuljen (2006: 19) notes:

The concerns have been not so much about the trade agreements per se, but more about the fact that the changing legal framework and the trends of global exchanges, even when not dealing directly with culture, often indirectly have a corrosive affect on cultural diversity.

It was an issue that also had a negative effect on cultural sovereignty.

These concerns were not lost on a group of Canadian cultural industry leaders that came together at the invitation of the Canadian Government, in the wake of growing international interest in the trade of cultural products, to discuss relevant issues with Canadian government officials.

Peter Grant (2011: 343), a Toronto communications lawyer who was a member of the Cultural Industries Sectoral Advisory Group on International Trade (SAGIT), as it was known, notes that in its early days, the group was largely considered ineffectual given that its membership consisted of individuals who opposed free trade as a matter of principle. However, once the membership changed to attract Canadian business leaders who had a stake in the national cultural industries and who recognized the importance of free trade for Canada, the policy advisory group was able to adopt a more robust, purposive and pragmatic approach to protecting Canada’s cultural interests.

In particular, the Cultural Industries SAGIT expressed concern over the increasing liberalization of trade in respect of the cultural industries and cautioned against this trend with a view to maintain Canada’s cultural sovereignty.
and uphold its existing suite of cultural policies (e.g., on broadcasting) introduced over the years in order to protect the Canadian cultural industries. The intangible benefits of the cultural industries were an important anchor for the SAGIT:

> Canadian books, magazines, songs, films, new media, radio and television programs reflect who we are as a people. Cultural industries shape our society, develop our understanding of one another and give us a sense of pride in who we are as a nation. Canada’s cultural industries fulfill an essential and vital role in Canadian society.

In their effort to reach audiences, our cultural industries have always risen to the challenge of competition from foreign cultural producers. Their ability to create an enduring place in our lives is dependent on the creativity and talent of Canada’s artists, creators and producers. It also depends, in part, on government policies and programs that aim to promote Canadian culture.

The Canadian government uses a combination of financial incentives, Canadian content requirements, tax measures, rules on foreign investments and intellectual property tools to promote Canadian culture. Working together, government and the cultural sector have been able to develop a policy and regulatory environment that ensures that Canadians have access to the best the world has to offer while preserving a space for Canadian culture (Cultural Industries SAGIT February 1999: np).

While the SAGIT recognized that l’exception culturelle was a good starting point, in theory, it made for a weak policy rationale in the face of the growing free trade imperative and resonated strongly as a protectionist measure that alienated parties (including the US) to its support. The group was also concerned that future grievances brought forward to the WTO would be dealt with by those who had little if any appreciation for issues relating to national cultural sovereignty (Grant 2011). In light of these considerations, the group was forced to ask: what options exist to protect Canada’s cultural industries, both globally and nationally?
In response to this, the SAGIT tabled four “possible approaches” in its 1999 report, *New Strategies for Culture and Trade: Canadian Culture in a Global World*. These were as follows:

1. Seek out a cultural exemption in trade negotiations
2. Refuse to make a commitment on trade in cultural industries
3. Push for the development of a new international instrument on cultural diversity, or
4. Develop agreements on trade in cultural industries (see Cultural Industries SAGIT 1999: np).

In light of these options, the SAGIT recommended that the Canadian government advocate for an international convention on cultural diversity. It was believed that such an instrument should:

...be as broad as possible and provide global coverage; embrace cultural goods as well as cultural services; include all financial and tax support measures, regulations and controls over foreign investments; make references to competition policy to address market dominance problems that can adversely affect the vitality of indigenous cultural industry; and include references to copyright policy, which are not inconsistent with Canada's other intellectual property obligations (Cultural Industries SAGIT 1999: np).

Crucially, the SAGIT recommended a shift in policy framing and proposed a move towards *cultural diversity* rather than the continued use of the contentious term *cultural exception*. The SAGIT also advised that such an instrument be pursued in an organization other than the World Trade Organization so as to make a bold statement about culture and its role and place in a context of contemporary globalization. Together, these recommendations launched an international effort through which France and Canada, among others (including
civil society), would eventually pursue the development of the UDCD and the CCD.⁴⁸

To this end, not long after the Stockholm conference, in June 1998, Canadian Heritage Minister, Sheila Copps convened a meeting of twenty-two Ministers of Culture for the first International Meeting on Cultural Policy. At issue was the question of national cultural sovereignty. The meeting importantly launched the creation of an International Network on Cultural Policy (INCP) which consisted of cultural policy ministers from a number of different countries. What is more, following recognition of the need to galvanize civil society on cultural policy issues (recall the recognition of the need for a partnership between government and civil society in the Action Plan), and with the support of the Canadian government and other prominent Canadian non-governmental organizations, another meeting was convened. This time, it sought the participation of non-governmental organizations to form the International Network for Cultural Diversity (INCD).

Both the INCP and the INCD proved to be key actors that would strategize over the coming years in support of an international instrument on cultural diversity. Further to the SAGIT’s recommendations, they pushed for a legally binding convention to be adopted internationally. Such an instrument, it was believed, would enable nation-states to promote and protect cultural expressions and underscore the public value function of cultural products. Both networks wanted to

⁴⁸ These efforts were even reinforced at the domestic level, including in the Government of Canada’s October 1999 Speech from the Throne which included a commitment to “develop a new approach internationally to support the diversity of cultural expression in countries around the world” (Government of Canada 1999).
ensure that the unique place and role of culture was recognized in existing trade agreements such as the WTO’s General Agreement on Trade in Services (1995) and the Agreement on Trade Related Aspects of Intellectual Property Rights (1994).

V. Looking to the Future

This chapter placed the UNESCO policy canon on culture and communication, as well as the developments taking place in the broader policy landscape, within the scope of this dissertation. It set the stage for the next chapter’s discussion, which picks up starting in the late 1990s and focuses on the emergence of the issue of cultural diversity.

UNESCO was about to embark upon an ambitious period, introducing no less than five standard-setting instruments on culture in five years. By all accounts, this was a remarkable accomplishment. In fact, at no other point in the organization’s history (except perhaps shortly after its establishment following World War II) had there been such a deliberate turn to focus on standard-setting in the realm of culture. In total, a Declaration, three Conventions, and a Recommendation – all on culture – were adopted between the years 2000 and 2005 under the leadership of then UNESCO Director General, Koïchiro Matsuura. These normative instruments flowed from earlier actions, including the WCCD (1995) report Our Creative Diversity and the Stockholm Action Plan on Cultural Policies for Development (1998). What is more, these instruments deliberately began to embrace a more fluid and encompassing notion of culture,
increasingly in line with the definition found in the Mexico City Declaration on Cultural Policies (UNESCO 1982a). This turn brought renewed purpose to the future of UNESCO as a global governance institution and helped carve out a focus on cultural policy in the early 2000s. The issue of cultural diversity was at the forefront of this focus.
CHAPTER FOUR

FROM POLICY ISSUE TO POLICY FRAME:

THE IDEA OF CULTURAL DIVERSITY TAKES HOLD

Chapter Outline

Chapter 4 builds upon the narrative established in chapter 3 and focuses on the developments leading up to the 2000s and which resulted in UNESCO introducing targeted interventions on cultural diversity. Following the release of Our Creative Diversity (UNESCO 1995) and the two World Culture Reports (UNESCO 1998b; 2000), the adoption of the Stockholm Action Plan (1998) and the direction established in the 1996-2001 UNESCO Medium Term Strategy (MTS) (UNESCO 1996), UNESCO had signalled a clear commitment towards further understanding the nature and extent to which culture could be leveraged in the public’s interest in a globalizing world.

In what follows, I discuss the key moments that influenced the development of the UNESCO policy frame on cultural diversity, embodied in the UDCD. While this policy frame was not formally endorsed by the organization until 2001, the idea for it started to take hold in international circles over the course of a number of meetings, roundtables and workshops on the subject of culture in a globalizing world. I examine the deliberations and outcomes flowing from these various forums. Critically, these outcomes constituted the main sites through which cultural diversity would start to gain recognition as an emerging global media policy issue.
Following, I examine the UDCD, which formally recognized cultural diversity as legitimate policy frame at UNESCO and subsequently catalysed the development of an ensuing policy framework. As will be discussed, the UDCD outlined the key principles and normative parameters of cultural diversity as espoused by UNESCO, and encouraged future actions in this regard. I conclude with a discussion about some of the key tensions inherent in the policy frame in relation to globalization.

I. Galvanizing Momentum for the Idea of Cultural Diversity

In the late 1990s, UNESCO undertook a deliberate and concerted effort to bring together key stakeholders in an effort to understand the impacts of globalization on culture. For example, UNESCO, in collaboration with the French National Commission for UNESCO, and with support from both the Canadian and French Governments, convened a symposium in June 1999 entitled “Culture: A Form of Merchandise Like No Other?”. The symposium, which was held largely in response to the Stockholm Action Plan (1998), was one of several meetings that would cement cultural diversity as an emerging issue.

During the symposium, three roundtables took place. The first was entitled “economic and creative criteria: how to assess cultural goods?”. The main objective was to consider cultural goods in an increasingly integrated global economic context focused on international trade, with a view to “look for common ground between art and industry” (UNESCO 1999: 2). The second addressed the growing calls to promote cultural diversity as foundational to communication.
This roundtable focused on “develop[ing] an open economy and permit[ing] all cultures to benefit from the development of communication” (UNESCO 1999: 3). In so doing, it alluded to some of the points raised during the NWICO debates insofar as it emphasized broadening access of communication to all cultures of the world. The discussion also centred on the impacts of contemporary globalization on diversity, and identified possible avenues to ensure that culture could thrive and diversity could be enhanced. The final roundtable addressed the need to intervene politically, mobilizing civil society and public officials with a view to developing public policies in support of cultural issues. Participants affirmed culture as a dimension of development, the importance of cultural identities, the value of international cultural cooperation and the significance of cultural policies (UNESCO 1999: 7). All three roundtables considered, in some form or another, how the conditions of contemporary globalization could be brought to bear on the relationship between culture and industry, resulting in calls for policy and political intervention. Importantly, the conclusions from these roundtables were formally recognized at the October 1999 UNESCO General Conference.

Following, in November 1999, Member States convened another roundtable in Paris, entitled “Culture and Creativity in a Globalized World” for Ministers of Culture. The outcomes from this roundtable established key Ministerial guidance that would directly influence UNESCO’s interventions on cultural diversity in the early 2000s. To this end, Ministers at the roundtable recognized the challenges posed by contemporary globalization for the
In a globalized world, cultural diversity must be upheld in order to preserve human dignity. Culture is nourished by the heritage, but also by the creativity of human beings. Diversity is nourished by creativity. The priority is to support creativity and creators. Pluralism is the key to the future. Democracy is also as necessary at the international level as it is at the national level.

Culture should not take second place to the economy. At the same time, it must be acknowledged that the cultural industries are the industries of the future and that both technology and exchanges among countries can encourage their development (UNESCO 1999a: 1).

In addition, the roundtable signaled that momentum was clearly building for cultural diversity as an emerging policy issue in which audiovisual goods and services were recognized as deserving “special treatment, in the context of international commercial negotiations, because they are the reflection of different cultural identities” (UNESCO 1999a: 2).

The deliberations during this roundtable further indicated that the idea of cultural diversity was being deliberately and strategically linked to notions of human dignity, heritage and creativity. These linkages would continue to be leveraged in subsequent policy discussions and made it possible to characterize culture as having both a past (heritage) and a present/future (creativity), thereby suggesting that a future-oriented vision” of heritage was necessary in order to allow for the inclusion of “contemporary cultural creation” (UNESCO 1999a: 2).

In this regard:

Cultural diversity presupposes the existence of a process of exchange that is open to renewal and innovation but also committed to tradition, and does not aim at the preservation of a static set of behaviours, values and expressions. It is a concept premised on the belief that different forms of inspiration are
generated from within distinctive cultural heritages and that their maintenance as sources for ongoing creativity constitutes a public good (Coombe 2005: 17).

The emerging relationship between heritage and diversity foreshadowed UNESCO’s eventual treatment of intangible cultural heritage as the “mirror” of cultural diversity (UNESCO 2002). It also coincided with Member States inviting the UNESCO Director General to undertake a preliminary study on the feasibility of moving forward with an international normative instrument on “traditional culture and folklore” (see UNESCO 2002: 7).

Finally, Ministers at the 1999 roundtable importantly affirmed their support for the development of international “rules” and norms on culture:

In support of the Stockholm Action Plan and in view of the challenges that globalization represents, the ministers are determined to join forces in order to encourage the adoption of rules promoting the diversity of cultures, which is the heritage of humanity and of future generations (UNESCO 1999a: 2; emphasis added).

Thus, Ministers called on UNESCO to act as a leader in matters of global cultural governance, urging the organization to “…reinforce its decisive role as regards the affirmation and promotion of cultural diversity in the context of a world in transition” (UNESCO 1999a: 2).

The UN General Assembly was not idle amidst all of this activity taking shape around the idea of cultural diversity at UNESCO. In fact, the UN (2000) made a significant overture in support of these discussions through UN Resolution 54/160 in December 1999. Through Resolution 54/160, the UN moved to carve out and recognize the various linkages between human rights and cultural diversity. Specifically, the Resolution recognized the role that
diversity and rights have in fostering cultural pluralism and called on states to affirm cultural diversity with a view to promote tolerance and dialogue. The Resolution further invited the UN Secretary-General to submit a report considering the linkages between diversity and rights (United Nations 2000). 49

These developments signaled a growing momentum in the international community in support of the idea of cultural diversity. As well, it suggested that cultural diversity appeared to resonate as an emerging policy issue in the global public policy landscape and the basis for this was being steadily mobilized. Finally, UNESCO was on the leading-edge of something significant; interest in the idea of cultural diversity served to precipitate a chain of events in support of further exposition of the issue.

To this end, in May 2000, UNESCO, along with the European Commission, organized a forum in Valencia, Spain entitled “Globalization and Cultural Diversity – Challenges to the Audiovisual Industry”. Peter Grant (2011), who was nominated rapporteur for the meeting and who was also a leading member of the Canadian SAGIT that had initially proposed the idea of a new international instrument in support of cultural diversity, notes that participants to the forum included representatives from the audiovisual sector from no less than six different continents. It was during this forum that the notion of a legal instrument on cultural diversity, addressing trade in cultural products specifically, was first discussed internationally. Critically, this meant that there was growing

49 Interestingly, as Nina Obuljen (2006: 27) notes, UN Resolution 54/160 was repeatedly raised by UNESCO Member States during negotiations leading up to the adoption of the CCD, particularly in the context of ensuring that guarantees to cultural diversity would not translate into abuses of human rights (e.g., against minority groups).
recognition of the fact that an international legal vacuum existed regarding trade in cultural products. If left unaddressed, cultural products would continue to be treated as any other.

With the conclusions of the Spain meeting at the forefront of the push for cultural diversity, the International Network on Cultural Policy met in Santorini, Greece in September 2000. It proved to be a milestone event that cemented the growing inclination towards the legal recognition of cultural diversity. In Santorini, a Canadian delegation shared a paper with participants on the preliminary considerations regarding the development of an international instrument on cultural diversity (see Grant 2011). It was also in Santorini where the International Network of Cultural Diversity (the consortium of artists, creators, writers, NGOs, among others) was officially launched with support from the Canadian Conference of the Arts. The official report from the INCD meeting reads as follows:

The conference began with a series of passionate statements from artists struggling to connect with their audiences in the face of an onslaught of commercial American culture. Speakers called for their governments to support local cultural production and distribution, but cautioned against programs which revert to outdated notions of national identity, or effectively shut out all foreign producers. Adamant that both exposure to a wide variety of new influences and connection with tradition are vital to artistic creation, the speakers vowed to work together with other artists around the world to promote cultural diversity (INCD 2000: np).

The report went on to affirm the following:

...that the network should endorse the creation of a new international treaty on cultural diversity with some form of enforceability

that it should ask governments not to make any new commitments
on cultural goods or services in trade negotiations

that it should be explicitly stated that each cultural community should have the inherent right to protect itself from, or control and regulate unwanted external interventions from outside economic or political forces

that it be mentioned that traditional and aboriginal communities require particular attention

that the link between cultural diversity and sustainable development be explicitly stated

that the essential role of the individual creator be mentioned

that the network support exchanges between cultures

that national or regional members be selected, as well as the steering committee, to carry out the work of the network (INCD 2000: np).

It was a powerful statement from civil society – which emerged as a key ally galvanizing global support for cultural diversity (Raboy and Mawani 2013) – that, to a large extent, reinforced the INCP’s efforts in formal governance settings.

Meanwhile, back at UNESCO, that same month (September 2000), the Meeting of the Experts Committee on the “strengthening of UNESCO’s role in the promotion of cultural diversity in the context of globalization” produced a lengthy document that set out a number of considerations in respect of cultural diversity. Critically, the experts agreed to specific parameters around what was meant by cultural diversity, something that had yet to be done. They maintained the following:

‘Cultural diversity’ is defined as the positive expression of the following general objective to be attained: the promotion and protection of cultures of the world, which are faced with the danger of uniformisation. Similar to the concepts of ‘cultural pluralism’, ‘cultural ecosystems’, or ‘cultural identity’, it covers a wide range of
sociocultural areas (traditions, ways of life, languages, religions, etc.) (UNESCO 2000a: 4; paragraph 7).

This definition was notable in that it was intentionally specific and broad all at the same time and influenced how the issue of cultural diversity would come to be defined in subsequent years in formalized policy documents. The definition, by outlining a specific objective in relation to cultural diversity (i.e., the promotion and protection of cultures in the context of growing international trade in cultural products), was direction-setting and, in effect, outlined what UNESCO had hoped to achieve by focusing on cultural diversity as a global media policy issue.

However, the definition also recognized the ambiguity inherent in the term cultural diversity, and forged attempts to address the concept as broadly as possible, aligning diversity with like issues and/or related themes such as cultural pluralism, cultural ecosystems and cultural identities. These broader issues and themes were intended to reflect the “material realities” of diversity – or the “…multiplicity of ethnicities, ideologies, cultures, mentalities, religions, languages, as well as economic and social conditions” (Parés i Maicas 2008: 324) – that were steadily emerging as at stake in a context of contemporary globalization.50 So conceived, the proposed definition of cultural diversity left considerable space to further define it in relation to other policy issues and dimensions (e.g., cultural heritage) that would also materialize as relevant. It further made it possible to

50 For example, conditions of contemporary globalization rekindled, in some instances, a focus on the nationalist impulse in which barriers are erected between notions of “us” and “them”, creating new standards of intolerance, marginalization and exclusion (Appadurai 2006; Ahmed 2004). Routine reference to Samuel Huntington’s provocative “civilizational paradigm” in the aftermath of 9/11, where civilization was defined as a “a culture writ large” (Huntington 1996: 41), provides a case in point. To be sure, this paradigm became part of the dominant narrative used to explain the events of 9/11.
encourage buy-in into the policy issue of cultural diversity from the widest possible range of Member States. Thus, those states that were less interested in cultural diversity as a justification for promoting the national cultural industries, could hopefully find something else encompassed within its broad definition that would resonate.

The experts at this meeting concluded by suggesting various avenues forward, among which included UNESCO “[e]laborating a Draft Declaration on cultural diversity”. They further maintained that it would “…be important to specify the extent to which this instrument could contribute to advancing the international debate on trade liberalization” (UNESCO 2000a: 11; paragraph 33(i)). Clearly, the relationship between trade and culture was becoming the main preoccupation in discussions on cultural diversity.

In light of this recommendation, the following month, in October 2000, the UNESCO Executive Board invited the Director General “to identify the preliminary considerations for a UNESCO draft declaration on cultural diversity…” (UNESCO 2000b: 13). The invitation was made while also urging the Director General to consider, in particular, the conclusions from the November 1999 roundtable, “Culture and Creativity in a Globalized World”; the conclusions from the Meeting of the Experts Committee held in September 2000 on the “strengthening of UNESCO’s role in the promotion of cultural diversity in the context of globalization”; and the 1998 Stockholm Action Plan on Cultural Policies for Development. Objective three from the 1998 Action Plan was singled out, signaling a further attempt to reinforce the linkages between diversity and
heritage:

Reinforce policy and practice to safeguard and enhance the cultural heritage, tangible and intangible, moveable and immovable, and to promote cultural industries (UNESCO 1998: 4).

The Executive Board further asked that the considerations prepared under the leadership of the Director General be shared with Ministers of Culture at a second roundtable, which was scheduled for December 2000.

This second roundtable of Ministers of Culture, which was once again held in Paris, was entitled “Cultural Diversity: Challenges of the Marketplace”. The roundtable convened representatives from over fifty Ministries of Culture, including their delegations, Ministers of other portfolios, as well as representatives from international and non-governmental organizations. Participants used the opportunity to reflect upon the idea of cultural diversity, in light of earlier discussions, and to flesh out its meaning in relation to four key areas:

- Culture and commerce
- Equity and balance in the flow of international cultural products
- Strengthening and developing national cultural industries, and

Participants discussed many of the same issues that had been previously discussed and a familiar story was starting to emerge: Globalizing conditions created opportunities for reciprocity and exchange, stimulating new cultural encounters and fostering cultural diversity. At the same time, globalization and the acceleration of the global economy in particular, also engendered conditions
of cultural homogenization, which threatened and undermined the production and
distribution of locally-derived expressions of creativity, thereby jeopardizing
cultural diversity (UNESCO 2000c). In order to ensure that globalization had a
positive impact on societies – promoting cultural exchange –, cultural goods and
services deserved unique recognition. This was especially relevant in light of
intensifying trade arrangements that threatened the viability and output of weak
national cultural industries – particularly those of developing countries – and
risked marginalizing some cultures in favour of more dominant ones. The
governance of national cultural industries through national cultural policies was
deemed an essential measure to safeguard and promote cultural diversity; civil
society and the international community were vital partners in this regard.

It is significant that the issue of cultural diversity was referred to less in
terms of promoting diversity from the perspective of identity politics, or of a
“politics of recognition” (Taylor 1994). Instead, it was steadily being mobilized as
referring to the promotion and protection of the cultural industries, recognizing
the unique nature of cultural products – including both cultural goods and cultural
services. Critically, the idea of cultural diversity was also materializing as a policy
counterpoint to economic globalization and was consistently being deployed in
international forums in the interests of “humanizing globalization”.

UNESCO was also widely considered within its field of competence to
pursue the development of international norms and standards on culture that
could help target, among other issues, state capacity to develop national cultural
policies (particularly in developing countries). In fact, there was a growing
consensus that UNESCO (as the only international body responsible for culture), would be the best-suited global governance organization to carry out further and more substantive work on the normative implications of cultural diversity, particularly as related to its relationship to international trade.

Many stressed that UNESCO should, at the same time, take a political and legal role, contributing to the development of a normative framework or a legal international instrument intended to enforce and promote cultural diversity within the context of free trade. In this light, UNESCO must act as "leader" and as a "facilitator of negotiations", in order to help find a balance between the promotion of cultural diversity and market forces which are dictated solely by globalization (UNESCO 2000d: 17, paragraph 80).\(^{51}\)

Meanwhile, in other jurisdictions, the idea of cultural diversity was also starting to catch on in other forums, regions and contexts. In fact, at a time when discussions on cultural diversity were reaching a head at UNESCO in December 2000, the Council of Europe Committee of Ministers moved to adopt a regional Declaration on Cultural Diversity. The European Declaration called attention to the linkages between cultural diversity and democratic societies (Preamble), and referred to cultural diversity as a central tenet of cultural exchange, requiring “free creative expression, and freedom of information...notably with respect to audiovisual services” (Council of Europe Committee of Ministers 2000: Article 1.2). The European Declaration was, not surprisingly, intended to help reinforce the linkages between cultural diversity and the audiovisual sector, as well as to

\(^{51}\) Author’s translation; the original text reads as follows: “Beaucoup ont souligné que l’UNESCO devait assumer en même temps un rôle politique et juridique, contribuant à l’élaboration d’un cadre normatif ou d’un instrument juridique international destiné à faire respecter et à promouvoir la diversité culturelle dans le cadre des échanges commerciaux. Dans cette perspective, l’UNESCO doit agir comme "chef de file" et comme "facilitateur des négociations", afin d’aider à trouver un équilibre entre la promotion de la diversité culturelle et les lois du marché dictées uniquement par la mondialisation” (UNESCO 2000d: 17, paragraph 80).
bolster efforts at UNESCO. In fact, the *European Declaration* was identified as a source document in the original UNESCO draft declaration on cultural diversity, as submitted by the Director General in his April 2001 report to the UNESCO Executive Board (see UNESCO 2001b: 9).

Lending further support to the issue of cultural diversity, in June 2001, the International Organization of the Francophonie (OIF) (to which Canada and France were and continue to be Members), adopted its own declaration on cultural diversity at the Third Ministerial Conference on Culture in Cotonou (OIF 2001). The *Cotonou Declaration*, like the *European Declaration*, recognized the significance of cultural diversity in a context of contemporary globalization, and leveraged the notion to affirm the distinct nature of cultural goods and services (Article 6) and to express support for states to adopt cultural policies in support of national cultural expressions. The *Cotonou Declaration* was developed in the aftermath of the Regional Consultation on Cultural Industries in Africa, held in Cotonou in September 2000 (OIF 2000). It also followed the OIF meeting in Moncton, New Brunswick, which took place in September 1999, at which Francophonie members released a declaration affirming their support for cultural diversity:

**Cultural diversity:** convinced that cultural goods are in no way reducible to solely their economic dimension, we affirm the right of our states and governments to define broadly their cultural policies and policy instruments that will contribute to cultural diversity; we intend to foster the emergence of the widest possible gathering in support of this diversity and work to mobilize all levels of government accordingly. The issue of diversity and all others who raise international debates in this regard, will be the subject of consultations within the Francophonie with a view to mobilizing all
states and governments (OIF 1999: 2, paragraph 19).52

Civil society also took an active role advocating for cultural diversity, and created a global movement of sorts around the issues at stake, and in particular the conditions for cultural creation. The Canadian Coalition for Cultural Diversity (CCCD), for example, was established in 1998 as a civil society organization of cultural professionals following the Stockholm Action Plan. The Coalition would play an important role under the umbrella of the International Federation of Coalitions for Cultural Diversity (IFCCD), galvanizing support for the process about to get under way at UNESCO towards adopting an international instrument on cultural diversity.53

So what did all these meetings, roundtables and declarations on cultural diversity mean for UNESCO? Simply stated, it meant that policy support and momentum for the idea of cultural diversity – as an emerging global media policy issue – was building at an accelerating rate. It also signalled that cultural diversity was clearly becoming a universal phenomenon as a number of states, regional organizations and civil society groups were actively expressing a commitment to

52 Author’s translation; the original text reads as follows: “Diversité culturelle : convaincus que les biens culturels ne sont en aucune façon réductibles à leur seule dimension économique, nous affirmons le droit pour nos États et gouvernements de définir librement leur politique culturelle et les instruments d’intervention qui y concourent; nous entendons favoriser l’émergence d’un rassemblement le plus large possible à l’appui de cette diversité et œuvrer à la mobilisation de l’ensemble des gouvernements en sa faveur. Cette question de la diversité et toutes autres qui suscitent des débats internationaux auxquels la Francophonie doit apporter sa contribution originale, feront l’objet de concertations au sein de la Francophonie mobilisant l’ensemble des États et gouvernements membres” (OIF 1999: 2, paragraph 19).

53 The IFCCD, formerly the International Liaison Committee of Coalitions for Cultural Diversity, was set up in 2003 by various national Coalitions for Cultural Diversity to facilitate cooperation in support of a UNESCO convention on cultural diversity. The IFCCD participated as an observer in all the major negotiations regarding the CCD and continues to galvanize support for cultural diversity. It is funded, in part, by the OIF and the Quebec Government.
the idea in various international and regional forums, validating for many the
direction being pursued by UNESCO.

Against this landscape of activity, at the UNESCO Executive Board
meeting, held in April 2001, UNESCO Director General Koïchiro Matsuura, in his
report, noted that UNESCO had undertaken a stock-taking exercise, scanning
existing standard-setting instruments on culture – including the European
Declaration and the Cotonou Declaration – as well as reports from committees
and expert meetings on the same theme, including those originating from civil
society. The organization had also undertaken consultations with Member States,
civil society and other partners that could potentially have a role to play in
promoting cultural diversity (see UNESCO 2001b). Flowing from these efforts,
Matsuura identified two key considerations regarding a draft declaration on
cultural diversity. First, he proposed that the declaration address the need for
“inclusiveness” among all democratic states and across all cultural identities;
second, he suggested that the declaration promote “empowerment”, ensuring an
environment in which the conditions for cultural creativity could flourish and
become an engine for sustainable development.

To achieve these two requirements [i.e., inclusiveness and
empowerment], we should base ourselves on the fundamental
principles that give meaning to all action in support of cultural
diversity: the need to respect and ensure respect for human rights
and democracy, the principle of free circulation of ideas and of
pluralistic media, and the link between cultural diversity and
development (UNESCO 2001b: 2, paragraph 4).

The Director General went on to suggest that the idea of cultural diversity, if
deployed in an international normative instrument, must incorporate not only the
elements raised in the context of discussions surrounding the cultural industries, but also all other conceivable dimensions inherent in the meaning of the term, (UNESCO 2001b: 2, paragraph 5). In other words, the term “cultural diversity” would, at once, need to be defined in sufficiently broad terms as well as make explicit reference to the emerging policy issues (e.g., surrounding the unique nature of cultural products) that were increasingly deemed important.

Such an approach will also make it possible to cover the role of the media and of the NICTs [new information and communication technologies], the status of cultural goods and services in the context of global markets, the particular needs of developing countries, and the respective roles of the different actors that could contribute to the promotion of cultural diversity (States, civil society, private sector) (UNESCO 2001b: 2, paragraph 5).

While the terms inclusiveness and empowerment were initially included in the draft declaration attached to the Director General’s April 2001 report (see UNESCO 2001b: Article 2), the final document adopted by the General Conference did not include either of these, although it did capture their essence (see UNESCO 2001: Article 2).

A number of other changes were also proposed when the draft declaration was first discussed, although the spirit of the document remained similar to the initial draft. For example, during formal negotiations over the draft text, Canada, the European Union and the European Commission (led by France) each made comments about the draft declaration (which by definition carries no legal weight), asking that consideration also be given to the development of a “legal instrument” in support of (cultural) policies that promote cultural diversity (UNESCO 2001c: 11-12). The French Community of Belgium stopped short of
asking for the development of a legal instrument but did support the spirit of this position, articulating the “need to preserve cultural diversity in international negotiations...with regard to the World Trade Organization” (UNESCO 2001c: 12). This was a crucial and enterprising move. It formally called attention to the fact that the draft declaration on cultural diversity was set up as an aspirational document rather than as a text imbued with legal currency that could be used as a tool by states in international trade negotiations. Further, it created an opportunity to bookmark the widespread and growing interest in the development of a legal instrument intended to fill the existing vacuum in regards to the cultural industries.

Thus, while Canada, the European Union and the European Commission were staunch supporters of UNESCO’s efforts in the context of the draft declaration on cultural diversity – in fact leading efforts to ensure its development (Singh 2010) – they also wanted to secure a commitment for further normative action and recognized that UNESCO was the best organization in which to pursue such action. In particular, they wanted UNESCO to consider options to develop a legal counter-weight to other institutions (namely the WTO) that would assist them in negotiations where national cultural industries, domestic cultural policies and cultural diversity were deemed at risk. Doing so would normatively and practically enrich the legal options available to states in the context of such negotiations. These comments also suggested recognition for the fact that proponents of cultural diversity recognized that in order to develop a legal instrument on the issue, a policy frame was first required and could enable the
development of such an instrument.

Of course, the position of France and Canada was not surprising given that countries had each encountered challenges in the 1990s (as discussed in chapter 3) regarding trade negotiations pertaining to the cultural industries. Furthermore, the focus of the several roundtables and meetings involving Ministers of Culture and other key stakeholders such as the INCD, which had taken place after the 1998 Stockholm conference, had focused almost exclusively on how to safeguard cultural products and by extension cultural industries from a growing international trade regime.

In October 2001, UNESCO adopted the *Universal Declaration on Cultural Diversity* at its thirty-first General Conference session. In so doing, the organization had formally established cultural diversity as an official global media policy frame, endowing the issue with policy legitimacy and visibility, and enabling the development of further, more concrete actions. The formal recognition of *cultural diversity* critically marked a definitive shift in global media policy framing, effectively politicizing *diversity* in new and novel ways, and attributing new meaning to terms such as *creativity* and *exchange*, which now emerged as pivotal to the idea of cultural diversity. In this regard, the UDCD was the site of production for the *normative* definition of cultural diversity at UNESCO.

The UDCD also brought together key moments in the organization’s history – including the Mexico City Declaration (1982), the WCCD report *Our Creative Diversity* (1995), and the outcomes from the 1998 Stockholm
conference – in effect consolidating the organization’s past with its present and its future.

Finally, the UDCD serendipitously captured a particular moment of globalization, given its adoption almost immediately following the events of September 11th, 2001. The UDCD provided a compelling rationale to move forward on the issue of cultural diversity (writ large), in light of 9-11, giving further weight to UNESCO’s actions as a timely and strategic move in which there was recognition of the importance of promoting global encounters across cultures and civilizations through a democratic framework. Thus, as Koïchiro Matsuura, then Director General of UNESCO stated:

It was an opportunity for States to reaffirm their conviction that intercultural dialogue is the best guarantee of peace and to reject outright the theory of the inevitable clash of cultures and civilizations (UNESCO 2001).

II. Examining the UDCD’s Contents

UNESCO’s 2001 Universal Declaration on Cultural Diversity is a non-binding or “soft law” instrument (recall that Declarations, different from Conventions or treaties, are aspirational in nature). The structure of the UDCD is similar to other such documents. It begins with a Preamble that explicitly recognizes the UN Universal Declaration of Human Rights (1948) as well as the UNESCO Constitution (1945). It recognizes earlier UNESCO instruments (many of which were discussed in chapter 3), “relating to cultural diversity and the exercise of cultural rights” and in so doing, acts as a site of reproduction for a selection of UNESCO’s earlier policies on culture.
The Preamble embraces a sufficiently broad definition of culture – one that is recognized in the UDCD as being consistent with conclusions stemming from the 1982 *World Conference on Cultural Policies* (MONDICAULT), the 1998 Stockholm Action Plan, as well as the 1995 report *Our Creative Diversity*.

Reaffirming that culture should be regarded as the set of distinctive spiritual, material, intellectual and emotional features of society or a social group, and that it encompasses, in addition to art and literature, lifestyles, ways of living together, value systems, traditions and beliefs (UNESCO 2001: Preamble).

Unlike the term *culture*, however, the notion of *cultural diversity* is never explicitly defined in the UDCD. This is not surprising given that the recommendations during the meetings leading up to the UDCD suggested that cultural diversity referred not only to a specific policy issue (i.e., trade in cultural products), but also to the broader scope of issues that had come to be associated with it (e.g., cultural identity, cultural pluralism, etc.). In light of this, the UDCD strategically recognizes culture as “...at the heart of contemporary debates about identity, social cohesion, and the development of a knowledge-based economy” (UNESCO 2001: Preamble). This suggests recognition for the broader notions associated with cultural diversity, as well as the role of such notions in instigating debates on cultural identity and cultural difference.

The UDCD goes on to recognize the “knowledge-based economy” – in which cultural products are produced, consumed and distributed – as one of the main attributes of contemporary globalization. In this regard, the Preamble identifies the “process of globalization” as a “challenge for cultural diversity”. At the same time, it also recognizes that this “process”, which is made possible by
the spread of information and communication technologies, triggers opportunities for “renewed dialogue among cultures and civilizations” (UNESCO 2001: Preamble), casting the relationship between globalization and cultural diversity in a productive and optimistic light.

The Preamble concludes with a statement affirming that UNESCO holds a “specific mandate” within the UN family of institutions; that is, “to ensure the preservation and promotion of the fruitful diversity of cultures” (UNESCO 2001: Preamble). The latter part of this phrase speaks directly to UNESCO’s origins, and its Constitution in particular (see UNESCO 1945: Article 1(3)).

The UDCD contains twelve articles which are grouped under four distinct themes:

- Identity, diversity and pluralism (Articles 1-3)
- Cultural diversity and human rights (Articles 4-6)
- Cultural diversity and creativity (Articles 7-9), and
- Cultural diversity and international solidarity (Articles 10-12).

Throughout each thematic grouping, the sub-themes of cultural exchange, cultural expression and creativity emerge repeatedly, suggesting their significance in UNESCO’s normative definition of cultural diversity.

Article 1 (UNESCO 2001) begins with the recognition of cultural diversity as “a source of exchange, innovation and creativity” that “is as necessary for humankind as biodiversity is for nature”. This Article serves to sketch cultural diversity in broad terms, establishing a relationship between diversity and creativity, and forging linkages with the notion of biodiversity and the United
This Article thus notionally supports the idea that both cultural diversity and biodiversity are mutually beneficial: biodiversity thrives in areas where cultural diversity is protected and promoted and vice versa.

David Heyd (2010: 60) suggests that calls to advance biodiversity and cultural diversity, while clearly distinct from each other and growing out of a different set of conditions, stem from “a common underlying structure, which is the deep value of diversity” as an end or objective in itself. This presupposes the main normative assumption found in the UDCD; that is, that an appreciation for difference or the fact of being diverse, is something to which humanity should aspire and nurture. In this regard, Heyd (2010) notes that diversity emerges as a principle of a “new universal ethics” in a context of contemporary globalization.

Article 1 goes on to describe cultural diversity as “the common heritage of humanity”. The play between notions of diversity and heritage as flip sides of the same coin would continue to intensify following the adoption of the UDCD. Thus, while cultural diversity was characterized as “the common heritage of humanity” in the UDCD, UNESCO’s 2003 Convention on Intangible Cultural Heritage would later refer to heritage as a “mainspring of cultural diversity”.

Article 2 (UNESCO 2001) of the UDCD speaks to the realities of cultural diversity as manifested by cultural identities and differences. It begins as follows:

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54 The Convention on Biological Diversity was adopted at the United Nations Conference on Environment and Development in 1992 and entered into force in December 1993. The notion that cultural diversity and biodiversity are mutually supportive proved a recurrent theme following the adoption of the UDCD and was, in fact, the very premise behind a roundtable held in 2002. The association between both kinds of diversity has also become somewhat of an accepted truism in international circles.
“In our increasingly diverse societies, it is essential to ensure harmonious interaction among people and groups with plural, varied and dynamic cultural identities as well as their willingness to live together.” Article 2 goes on to link cultural pluralism to cultural diversity noting that the former “gives policy expression” to the latter. It then suggests that cultural pluralism is “[i]ndissociable from a democratic framework” and, in so doing, suggests that values such as tolerance, cooperation, dialogue and participation are essential drivers for the realization of cultural diversity. Thus, cultural pluralism stems from cultural diversity; cultural pluralism creates the necessary conditions for productive “cultural exchange” and the “flourishing of creative capacities that sustain public life”. Once again, creativity is linked to cultural diversity, yet in this instance, through cultural pluralism.

Article 3 (UNESCO 2001) importantly reinforces the role that culture plays in development, noting that cultural diversity “widens the range of options open to everyone”. From a development perspective, this phrase suggests that cultural diversity creates an array of pathways (within a democratic framework as per Article 2) from which all individuals can choose to exercise a preferred set of practices in support of oneself, one’s community and one’s culture. Cultural practices deemed exploitative, abusive or which run counter to a democratic framework would not qualify as part of the appropriate range of options (Neilsen 2007). In addition, the phrase calls to mind the NWICO debates and reminds us that culture must be considered “not simply in terms of economic growth”, but also in light of the desire to advance the various other and equally important
aspects of life (e.g., emotional, moral, spiritual and intellectual) that are nourished by culture.

It is worth reiterating at this point that while cultural diversity is no where explicitly defined in the UDCD, the broad brush-strokes of the normative definition of cultural diversity were established by the suggestions and associations presented in Articles 1 to 3, the first thematic grouping. The rest of the groupings expand on these broad brush-strokes, teasing out specific applications or meanings of cultural diversity that focus on two broad areas of intersection: the first focuses on the relationship between cultural diversity with human rights (Article 4), cultural rights (Article 5) and issues of access (Article 6); and the second on cultural goods (Article 8) and cultural policies (Article 9).

Article 4 (UNESCO 2001) begins the sub-section on “cultural diversity and human rights”, and suggests that “the defence of cultural diversity is an ethical imperative” that calls for rights and freedoms, especially among those “belonging to minorities and...indigenous peoples”. Article 4 further prohibits the use of cultural diversity as a measure to justify the violation of human rights, further to UN Resolution 54/160 (United Nations 2000) which linked human rights and cultural diversity together. Finally, Article 4 reinforces the stakes of identity politics in the broader manifestations of cultural diversity which are connected to fundamental rights and freedoms.

Article 5 (UNESCO 2001) focuses on the centrality of cultural rights and their implementation and makes explicit reference to two other touchstone policy documents:
- Article 27 of the *Universal Declaration of Human Rights* (1948), which affirms the rights of individuals to “participate in the cultural life of the community” and upholds the rights of authors to protect their own “moral and material interests” over that which they produce.

- Articles 13 and 15 of the *International Covenant on Economic, Social and Cultural Rights* (UN 1966) which supports the right to education (Article 13) and the right to “take part in cultural life” (Article 15(a)); to “enjoy the benefits of scientific progress and its applications (Article 15(b)); and, as in the UDHR, to have one’s “moral and material interests” protected in regards to that which s/he produces (Article 15 (c)).

Thus, Article 5 importantly affirms the precondition of rights as creating an “enabling environment” for cultural creativity and cultural diversity.

Article 6 of the UDCD (UNESCO 2001) focuses on the right of all to access the means and tools available to express and disseminate their respective culture. It begins with the following statement: “While ensuring the free flow of ideas by word and image care should be exercised so that all cultures can express themselves and make themselves known”. Reference to the “free flow of ideas” recalls the phrase as used in the UNESCO (1945) Constitution. However, it also re-appropriates the notion, following the NWICO debates of the 1980s, and contextualizes the “free flow” as serving the interests of “all cultures” in their efforts to be creative and visible in a context of contemporary globalization, reinforcing issues of access. One might suggest that Article 5 presented a subtle reproach to those who did not support a NWICO.
Article 6 (UNESCO 2001) also identifies the various “guarantees of cultural diversity” including “freedom of expression, media pluralism, multilingualism and equal access to art and to scientific and technical knowledge”. These “guarantees” reinforced culture, communication and the conditions for creative expression as foundational to one another.

The following three articles constitute some of the most important within the scope of the UDCD, establishing, for the very first time in the document, the discrete nature of cultural goods and services and the significance of cultural policies in support of creativity. This grouping of articles provide, in many respects, a blueprint for what would become the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions. In particular, Article 7 (UNESCO 2001) suggests a mutually beneficial relationship between cultural diversity and cultural heritage, affirming the latter “as the wellspring of creativity”, and insisting that “creation draws on the roots of cultural tradition”. Once again, this intimates the ways in which diversity and heritage would become increasingly intertwined in the coming years, treated as inextricable dimensions of each other.

Article 8 (UNESCO 2001) is situated in the context of rapid “present-day economic and technological change” which is said to create opportunities for “creation and innovation”. However, it also stipulates that consideration must be given to the “diversity of the supply of creative work”, the “rights of authors and artists” and the “specificity of cultural goods and services”. It characterizes these as “vectors of identity, values and meaning”. Critically, these so-called “vectors”,

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according to the UDCD – and specifically cultural goods and services – are distinct from other “commodities or consumer goods” and must be treated preferentially given the special role they play in both fostering creativity and supporting cultural development.

Article 9 (UNESCO 2001) recognizes cultural policies as “creating conditions conducive to the production and dissemination of diversified cultural goods and services through cultural industries that have the means to assert themselves at the local and the global level”. Article 9 reinforces cultural policies, as introduced by states, as central towards ensuring that cultural industries have an opportunity to thrive. In this regard, Article 9 supports the role and responsibility of each state to “define” the scope of and “implement”, as necessary and appropriate, its respective cultural policies. Article 9 provides the basis to support the development of national cultural industries and reinforces state sovereignty in regards to cultural policy development.

The last theme in the UDCD underscores the issue of international cooperation with a view to strengthening capacities and building partnerships in support of the development of national cultural industries. More specifically, Article 10 (UNESCO 2001) positions the need for international cooperation “in the face of current imbalances in flows and exchanges of cultural goods at the global level” (once again reminiscent of the NWICO debates) and calls for “enabling all countries, especially developing countries and countries in transition, to establish cultural industries” that can thrive at both the national and international levels. The aim here is to encourage “solidarity” in support of
cultural diversity such that less developed cultural industries are able to compete with those that are more powerful in an attempt to mitigate the risks posed to the less developed cultural industries.

Article 11 (UNESCO 2001) maintains that “market forces alone” cannot be left to act as the sole guarantor of cultural diversity. Rather, in order for cultural diversity to thrive, public policy interventions, along with meaningful partnerships with the private sector and civil society, are essential. This article crucially marks the foundation for and recognizes the contributions of civil society as an active stakeholder, with an on-going interest and stake in cultural diversity.

The last article, Article 12 (UNESCO 2001), outlines the role of UNESCO in four different areas in the context of the UDCD’s application. The most significant of these are parts (b), (c) and (d). Article 12 (b) recognizes UNESCO’s role as a “reference point and a forum” for a diversity of stakeholders – including states, NGOs, civil society and the private sector – to “join together in elaborating concepts, objectives and policies in favour of cultural diversity”, thereby suggesting that additional action is required. Part (c) acknowledges UNESCO’s role with respect to advancing “activities in standard-setting, awareness raising and capacity building”, as per the UDCD. This phrase paves the way for the pursuit of additional activity and provides an indication of future actions in support of cultural diversity. Finally, part (d) supports UNESCO’s role in the implementation of a twenty-point Action Plan associated with the UDCD.

The twenty-point Action Plan, which accompanies the UDCD, provides a map to implement the UDCD and creates practical options for UNESCO and
signatory states to advance the many different facets of cultural diversity captured therein. The Action Plan was intended to help operationalize the principles set forth in the Declaration and to put into practice concrete policies in support of cultural diversity, including catalyzing national cultural industries, respecting copyright protection, and encouraging a multi-sectoral effort for the preservation and promotion of cultural diversity (see UNESCO 2001). The first point of the Action Plan is most notable as it calls for “deepening international debate on questions relating to cultural diversity and taking forward...consideration of...an international legal instrument on cultural diversity,” (UNESCO 2001: Action Plan; emphasis added). With this statement, UNESCO signalled a clear interest in developing further work in the area of cultural diversity, and even suggested its intentions to consider the possibility of moving forward with a convention on the issues raised by Member States at the meetings leading up to the UDCD’s adoption. At the very least, UNESCO was committed to ensuring that the UDCD attained high levels of visibility and use in subsequent years in the global media policy environment.

III. The UDCD: Exposing the Tensions

While the previous section examined the contents of the UDCD, a deeper analysis of the document reveals some interesting tensions embedded in the policy frame concerning the relationship between the national and the global, as discussed in chapter 1.

As the embodiment of the global media policy frame on cultural diversity,
the UDCD focuses on, among other issues, the importance of national cultural policy development in support of cultural goods and services. In this context, cultural diversity notably emerges as a global media policy frame relevant to the pursuit of national interests, and enables national states to reaffirm and possibly even reclaim their national sovereignty regarding cultural policy development. At the same time, the UDCD, as a global media policy document, also legitimizes the global context for policy-making notwithstanding the fact that it is at the national level where the activation of the UDCD becomes especially meaningful.

Still, the notion of the nation is widely recognized as being premised on ideals of homogeneity and exclusivity such that the community of the nation is defined and even fortified by perceptions of likeness (see Anderson1983/2006; Appadurai 1996; 2006; Castells 2004; Hardt and Negri 2000; Sassen 2006). The idea of cultural diversity, thus, potentially runs counter to the notion or the “imaginary” of the modern nation-state (Appadurai 1996; 2006; Isar 2006).

Interestingly, the UDCD enables cultural diversity to emerge as policy relevant at both the national and the global levels. At the national level, cultural diversity, as treated in the UDCD, is intended to influence decision-making in the area of national cultural policy development. At the global level, cultural diversity is leveraged as a normative policy issue that advances a particular set of values and ethics in democratic societies, including the value of diversity in and of itself (see Heyd 2010).

Thus, for UNESCO and its Member States, the very issue of cultural diversity, as defined through the UDCD, is contingent upon an understanding of
diversity as both state-derived, and globally-situated. As well, the conditions of contemporary globalization, marked by cross-border cultural encounters, make it desirable to promote notions of diversity:

...in a world without borders, cultural diversity cannot be confined to national or local limitations but must profit from cross-border dialogue. Such dialogue not only increases the chances of international and intercultural cooperation, it also multiplies the resources available to any particular community, in its search for cultural futures. Dialogue brings globalization down to earth (UNESCO 2002: 11).

However, this notion of cultural diversity is also derived from traditional and modern definitions of culture that suggest that culture is unchanging and static (Magder 2004; Isar 2006). UNESCO attempts to mediate this tension by promoting cultural diversity as inherently tied to a democratic framework in which dialogue, tolerance and cooperation foster exchange, innovation and creativity.

Yet as Anthony Appiah (2006: np) cautions, there is a risk in so doing:

If we want to preserve a wide range of human conditions because it allows free people the best chance to make their own lives, we can't enforce diversity by trapping people within differences they long to escape.

Furthermore, the UDCD promotes the aspirations and intentions of nation-states to affirm and protect their national cultural sovereignty in a context of contemporary globalization. Yet the notion of cultural sovereignty, like cultural diversity, is also rooted in exclusivity and premised on the idea of difference.

Most critically, while the UDCD marks a normative global effort to confront dominant expressions of culture in a context of contemporary globalization, particularly those that threaten creativity, the cultural industries and marginalize minorities, it is also set within a national context that ironically reinforces that
which it sets out to challenge.

Said differently, it is the national state that has the sovereign authority to operationalize the nature and extent of cultural diversity, be it in the context of its minority population(s), its cultural industries, its cultural policies or other such cultural vectors. The act of erecting policies in support of cultural diversity, in effect, legitimizes affirmations of state sovereignty and, at the same time, reinforces notions of the nation as an exclusive and distinct cultural landscape requiring protection in a context of contemporary globalization. Similarly, globalization provides a context which theoretically threatens the cultural fabric of the nation-state with a global culture that is itself, homogenous and hegemonic.

The call for cultural diversity has its roots in the sense of crisis of the traditional, homogeneous nation-state and in the fear of globalization as a potential threat to domestic distinctions (Heyd 2010: 160).

Seen through such a lens, the UNESCO policy frame on cultural diversity, as embodied through the UDCD, emerges as a political manifestation of the national and the global working, at the same time, both together and through each other (Sassen 2006). It emerges as a representation of the national within the global and to this end, reflects the on-going pre-eminence of the nation-state in a context of contemporary globalization. Importantly, these tensions embedded within the UDCD, will continue to get played out as a policy framework on cultural diversity starts to take shape.

IV. Summary

This chapter set out to outline the major developments resulting in the
adoption of the UDCD, the embodiment of the UNESCO policy frame on cultural diversity. The analysis captured the main assumptions and associations underlying cultural diversity as a policy issue, many of which were introduced and refined over the course of a number of meetings, roundtables and workshops at which the idea of cultural diversity started to take shape. Indeed, the adoption of the UDCD marked a pivotal moment for UNESCO as it established the basis for future and more concrete actions in support of cultural diversity. In the years to follow, not only would UNESCO aggressively mobilize the UDCD in efforts to galvanize further policy interest in cultural diversity, it would also take up the UDCD as the basis for moving forward in other areas of global cultural governance that it deemed important, namely cultural heritage. In chapter 5, I explore how the UDCD was taken up to advance a policy framework for the global governance of culture.
CHAPTER FIVE
PUTTING CULTURAL DIVERSITY INTO PRACTICE:
A POLICY FRAMEWORK TAKES SHAPE

Chapter Outline

While the UCDP outlines the normative principles that underpin cultural diversity as a global media policy issues, the ensuing policy framework was composed of various efforts to operationalize these principles in order to develop concrete and tangible outcomes, in particular towards the adoption of the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions. The manner in which the UCDP was put into practice in support of a policy framework is the main focus of chapter 5.

I begin by briefly highlighting a parallel development within UNESCO following the adoption of the UCDP: the emergence of the notion of cultural heritage. While in chapter 3 I discussed the emergence of parallel policy developments surrounding the notion of l’exception culturelle at both the domestic and international levels, in this chapter I consider the critical points of convergence between instruments on cultural diversity and those on cultural heritage – parallel issues that were arguably mobilized alongside each other and used as political and policy levers to reinforce and garner support for one another (Singh 2010). This is an important part of the story as it shows how diversity and heritage reinforced one another emerging as flip sides of the same coin.

Following, I explore the key developments that resulted in the adoption of the CCD, a benchmark standard-setting instrument on the preferential treatment
of cultural goods and services. The story around the CCD’s development shows how the UNESCO policy frame on cultural diversity, as embodied in the UDCD, gets deployed in support of a particular set of policy objectives and interests, thereby highlighting key actor-interest struggles that influenced the CCD’s development. It also highlights instances in which the UDCD emerged as an institutional and political actor in the sphere of global media policy, effectively influencing policy action both within the context of UNESCO, and externally, all in support of the CCD.

1. Cultural Diversity and Cultural Heritage: Flip Sides of the Same Coin

Following the adoption of the UDCD, UNESCO’s efforts were, perhaps surprisingly, focused on the mobilization of the issue of cultural heritage rather than cultural diversity. This was motivated by a deliberate concern to tease out the ties between diversity and heritage, as well as a strategic interest to formally embrace the diverse kinds of heritage.

In November 2001, just one month following the adoption of the UDCD, UNESCO adopted the Convention on the Protection of the Underwater Cultural Heritage (UNESCO 2001a). This new convention signaled a shifting landscape in its treatment of cultural heritage, foreshadowing other major policy developments in this area.

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55 The 2001 Convention on the Protection of the Underwater Cultural Heritage has a lengthy history, with the exploratory phase dating back to 1976 when the Council of Europe initiated a study on the protection of underwater cultural heritage. Following, in the mid-1990s, momentum for such an instrument continued to grow. In 1997, the UNESCO General Conference affirmed that underwater cultural heritage should be regulated and invited the Director General to assemble a group of experts to consider the issue further. A draft Convention was subsequently developed. Following a series of consultations with governmental experts, the Convention was finally adopted in 2001 and entered into force eight years later in 2009.
Soon after the adoption of the underwater heritage convention, UNESCO’s 2002-2007 Medium Term Strategy (MTS) was released (UNESCO 2002a). The MTS was one of the first examples wherein UNESCO would make good on its commitment, as outlined in the UDCD’s Action Plan, to propel efforts in support of cultural diversity. The MTS critically outlined three objectives in regards to culture:

1. “Promoting the drafting and implementation of standard-setting instruments in the cultural field
2. Safeguarding cultural diversity and encouraging dialogue among cultures and civilizations
3. Enhancing the linkages between culture and development through capacity-building and sharing of knowledge” (UNESCO 2002a: 37-43).

The first objective spoke directly to UNESCO’s ambitions to develop a set of cultural standards that recognized the scope of cultural heritage as inclusive of both tangible and intangible heritage. The second objective flowed directly from discussions launched following the release of the WCCD report Our Creative Diversity (UNESCO 1995), the Stockholm Action Plan on Cultural Policies for Development (1998), and now the UDCD. Among other issues, the focus was on implementing the UDCD’s Action Plan, building on discussions regarding the perceived implications of globalization on cultural products and cultural capacities, fostering opportunities for dialogue and interaction across cultures, and protecting and safeguarding intangible cultural heritage. Crucially, in line with the UDCD (UNESCO 2001: Article 8), the MTS reinforced the need to recognize the “special status of cultural goods and services” and, by extension, the cultural industries, as a measure to protect cultural diversity in a context of
contemporary globalization (UNESCO 2002a: 41, paragraph 46). The MTS indicated that UNESCO would offer support to those Members interested in developing:

...cultural policies aimed at promoting the free flow and exchange of ideas and works and to promote a framework for free and diversified cultural expressions by enabling cultural industries to be represented at the global level (UNESCO 2002a: 41, paragraph 46).

A number of options were listed in order to support Member States in this regard. Chief among these included supporting “enhanced political will in favour of cultural diversity at global level” and “global mobilization in favour of cultural diversity, facilitating trade negotiations in the field of cultural goods and services” (UNESCO 2002a: 41, paragraph 46). In so doing, the MTS recognized that further political work was required in order to move the issue of diversity forward.

The MTS additionally recognized UNESCO’s intentions to create a new international mechanism called the Global Alliance for Cultural Diversity, the main role of which would be to foster partnerships between public and private sectors and civil society in the interests of developing local and regional capacities in support of cultural production. In particular, the Global Alliance was designed to “promote and defend cultural diversity, focusing on the development and circulation of cultural goods on a global scale” (UNESCO 2002a: 41, paragraph 46). The emphasis was clearly on building capacities and supporting the transfer of local cultural goods – especially from developing countries – to a global scale (recalling UNESCO 2001: Article 9) so as to enlarge the scope of their circulation and to enable such goods to compete with more dominant
cultural products already circulating at that level. The final objective focused on the theme of culture and development, with a view to promoting cultural heritage and building partnerships with and among developing countries. Significantly, the three objectives, either implicitly or explicitly, supported culture as a vehicle of and for development.

It is significant to note that while the MTS was released shortly after the adoption of the UDCD, the UDCD was mentioned only four times in the entire strategy document and mostly in the context of the second objective under culture. In fact, while the notion of cultural diversity was referred to in the MTS only sparingly, there was significant mention of the notion of cultural heritage. Indeed, this may have had something to do with the fact that 2002 was proclaimed the _United Nations Year for Cultural Heritage_ by the United Nations General Assembly and for which UNESCO was identified as the lead organization responsible. It was starting to appear that the notions of diversity and heritage were beginning to eclipse one other – despite their obvious ties. In fact, however, this was not the case and over the following year, both issues would continuously get enmeshed together.

Flowing from commitments outlined in the 2002-2007 MTS, UNESCO subsequently convened a third roundtable of Ministers of Culture in September 2002 entitled “_Intangible Cultural Heritage – a Mirror of Cultural Diversity_” (UNESCO 2002). The roundtable flowed from the thirty-first UNESCO General Conference session in October 2001, when the UDCD was adopted, and at which time Members proposed that a draft convention on intangible heritage be
shared at the following session.\footnote{The roundtable also followed several important meetings on intangible cultural heritage which had also taken place following the Stockholm Conference in 1998, and suggested that international momentum was building around the notion of cultural heritage during the same time as it was for cultural diversity. Among these meetings was an international conference held in Washington, D.C. in June 1999 at which participants proposed that intangible heritage include not only folkloric expressions (e.g., songs, tales, stories, etc.), but also the local knowledge required to produce and apply such expressions in a meaningful way, as part of cultural practice (see UNESCO 1999). Following, in March 2001, a meeting of experts was held in Turin, Italy at which participants established a definition of “intangible cultural heritage”. It was also in Turin that experts recommended that UNESCO move forward with the development of an international normative instrument on intangible cultural heritage".}

The main purpose of the roundtable was to provide a forum to share ideas on national public policies on cultural heritage and to discuss opportunities for international cooperation in support of intangible heritage. The report (2002; see also Singh 2010) noted that the very notion “intangible cultural heritage” was derived from Japanese legislation. In fact, Japan was the first country in the world to introduce comprehensive legislation covering both tangible and intangible heritage in 1950. In Japanese and Korean, heritage is characterized as either having a “physical form” (tangible) or being “without physical form” (intangible) (see UNESCO 2002). Thus, according to UNESCO, the notion of intangible heritage referred to the myriad ways of living and being, accounting for local knowledge, values, traditions and customs that are “without physical form” and which are deemed important to preserve and uphold (see UNESCO 2002). Tangible heritage, on the other hand, referred to the structures, landmarks and cultural artefacts found both on land and underwater.

Crucially, the roundtable’s final report (2002) teased out the notional linkages between diversity, development and heritage:

...cultural diversity, if it is to be a reality, must first be assured and then renewable. It cannot be seen as the fixed result today of a
centuries-old and now past process of change. Diversity is the product of on-going dialogue. Heritage is assured by making that heritage a renewable one.

Hence the unique value of cultural diversity, both in terms of its contribution to identity and its enabling power for creative expression, lies in that diversity provides an assurance that development is sustainable. To put it another way, cultural diversity can ensure that the values of creativity, dignity and tolerance become partners in the establishment of a viable model of sustainable development — and not simply the victims of a model of sustainable development based solely on an economic approach.

The intangible cultural heritage is the guarantor of this process. Its defence and promotion are not an act of conservatism directed against modernity. On the contrary, this is a means to conceptualise the relationships of communication, the links between time and space, between generations, between geocultural areas separated by distance, and between societies separated by systems deemed to be incompatible (UNESCO 2002: 3; emphasis added).

Diversity and heritage were presented as mutually supportive of and necessary for the other. Both notions were also considered essential tenets of sustainable development and their treatment through a solely economic lens was considered untenable. Simply stated, they were increasingly addressed as flip sides of the same coin. Most interesting, perhaps, was the recognition that intangible cultural heritage offered an entry point into how we understand communication and notions of time and space in contemporary globalization. By extension, cultural diversity offered an opportunity to locate, derive and produce cultural expressions based on this understanding.

Ministers of Culture concluded the third roundtable by adopting the Istanbul Declaration (2002b). Among other points raised, the Istanbul Declaration reinforced a commitment to the principles outlined in the UDCD (UNESCO
2002b: Article 7(i)), and noted that “an appropriate international Convention, which should be developed in close cooperation with relevant international organizations and take into full account the complexity of defining intangible cultural heritage, could be a positive step” (UNESCO 2002b: Article 7 (viii)).

A year after the introduction of the 2002-2007 MTS and two years following the adoption of the UDCD in 2001, UNESCO Member States adopted the Convention for the Safeguarding for the Intangible Cultural Heritage at the thirty-second General Conference session, held in September and October 2003. The Convention affirmed “intangible cultural heritage as a mainspring of cultural diversity and a guarantee of sustainable development” (UNESCO 2003: Preamble). The 2003 Convention reads as follows:

This intangible cultural heritage, transmitted from generation to generation, is constantly recreated by communities and groups in response to their environment, their interaction with nature and their history, and provides them with a sense of identity and continuity, thus promoting respect for cultural diversity and human creativity (UNESCO 2003: Article 2).

Cultural heritage was described as an underwriter of cultural diversity and creativity, reinforcing the links that were previously teased out. Crucially, the new convention, in addition to the UDCD, was recognized by the organization (2003b: 3, paragraph 14) as providing “a sound conceptual basis for a new instrument on

57 Crucially, UNESCO’s treatment of intangible heritage, as reflected in the report of Ministers of Culture following the roundtable, marked a departure from the organization’s previous efforts on the issue in which cultural heritage was considered a matter of intellectual property (Singh 2010). Prior to the adoption of the UNESCO (1989) Recommendation on the Safeguarding of Traditional Culture and Folklore, UNESCO collaborated with the World Intellectual Property Organization in the 1970s and 1980s and treated the issue of cultural heritage mainly from an intellectual property perspective. However, with the adoption of the 1989 Recommendation, UNESCO acknowledged that “this work [with WIPO] relates to only one aspect of folklore protection” (UNESCO 1989: Article F(a)) and, effectively, initiated a new era in which the organization would begin to consider, with greater breadth and expanse, the other dimensions or aspects of cultural heritage.
cultural diversity” (i.e., a convention on cultural diversity).

One final comment on the relationship between heritage and diversity: Efforts to strengthen UNESCO’s interest on intangible cultural heritage increased following the election of Matsuura (a Japanese national) to the position of UNESCO Director General in 1999. Japan was very interested in matters pertaining to cultural heritage (recall that Japan was the first country in the world to introduce a legislative framework addressing both tangible and intangible heritage in 1950) and Matsuura’s election arguably catapulted the issue to UNESCO’s list of priority activities.

Thus, there is some suggestion that “Japanese presence and clout is widely believed to have consolidated support for the ICH [intangible cultural heritage] Convention” (Singh 2010: 96). What is more, there is further suggestion that some trade-offs were made between those UNESCO Member States interested in pursuing culture in the direction of heritage, versus those committed to furthering cultural diversity. In fact, the Japanese refused to support the CCD until the Europeans agreed to support the intangible heritage convention (Singh 2010: 96). Japan actually lobbied with the US and other countries to discourage the treatment of audiovisual services as distinct from other goods and services. Peter Grant (2011: 347) even suggests that Japan remained “‘cranky’ til the end”, when the CCD was finally adopted.

To this day, the European Union and Canada, among others that were uniquely interested in advancing a legal instrument on cultural diversity, still have not ratified the 2003 Convention on Intangible Heritage (although France has).
Similarly, Japan, among other countries, has not ratified the CCD. The US has ratified neither of the two Conventions. This suggests some deep fissures about the respective interests between and among UNESCO Member States surrounding national cultural policies and the treatment of culture, diversity and heritage in a context of contemporary globalization, notwithstanding the strategic linkages that were deliberately fleshed out between them by the organization.

II. Momentum Builds for a Legal Instrument on Cultural Diversity

The adoption of the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions marked a watershed moment for the organization and for global cultural governance. The trajectory leading up to its adoption is widely described as the most politicized action at UNESCO since the NWICO debates. Indeed, the lead up to the CCD’s adoption in 2005 proved a major impetus for the US, which was adamantly opposed to it, to rejoin UNESCO in 2003. Yet it also proved the result of a remarkable global effort, in which states, national and regional bodies, civil society groups and artists and professionals from or interested in the cultural milieu, galvanized world-wide momentum to influence the Convention’s eventual adoption. What was fascinating about this effort was how much the UDCD was steadily mobilized by different interests as an enabling policy frame for the CCD.

One of the early efforts in which the UDCD was used in this regard came from Heads of State at a high-level roundtable convened in Johannesburg, South Africa in September 2002 on the occasion of the World Summit on Sustainable
Development. This roundtable, organized by UNESCO and the UN Environmental Programme (UNEP), was entitled “Cultural Diversity and Biodiversity for Sustainable Development”. During the roundtable, which also included academics and organizational leaders, a number of interventions were made in support of the relationship between cultural diversity and biodiversity (further to the UDCD). For example, well-known scholar Arjun Appadurai (UNESCO-UNEP 2002: 16) spoke of cultural diversity as a value for sustainable development; Matsuura of UNESCO declared cultural diversity and biodiversity as the keys to a “viable future for humanity” (UNESCO-UNEP 2002: 22); and Jacques Chirac, former President of France, made an impassioned plea to control and “regulate globalization with laws” (reminiscent of similar calls made to govern globalization during the UN Millennium Summit in 2000). Former President Chirac went on to suggest the following:

One response which France proposes is for the international community to adopt a world convention on cultural diversity. This would be the counterpart to the Convention on Biological Diversity. It would lend the weight of international law to the principles couched in the declaration [the UDCD] just adopted by UNESCO.

A convention of this sort would reflect the universal values which form our common heritage. These values are well-known - those of the Universal Declaration of Human Rights and the covenants and treaties derived from it; those recognizing the sacred nature of humankind and of life, which all human activity has a categorical imperative to respect (UNESCO-UNEP 2002: 25).

Jacques Chirac’s comments made it clear, in no uncertain terms, the interest held by France with respect to regulating the globalization of culture. His comments also importantly appealed to the necessity of developing concrete actions that held legal weight in order to complement the normative principles
captured in the UDCD. It was the first instance in which an actual convention on cultural diversity was formally proposed in a UN setting, following the adoption of the UDCD. Chirac’s comments launched a frenzy of activity in international circles surrounding support for a cultural diversity instrument.

To this end, the following month, in October 2002 in Cape Town, South Africa, the INCD, which was formed in the aftermath of the 1998 Stockholm Conference, came together to discuss the current state of affairs on cultural diversity, attracting widespread civil society participation, including from artists, writers and performers, primarily from the global South. In their report to the governmental International Network of Cultural Policy (also established in the aftermath of the 1998 Stockholm Conference), the INCD reiterated its concerns about the globalization of culture. In particular, the INCD expressed an on-going commitment to the principle of cultural diversity as defined in the UDCD and demonstrated support for a convention on cultural diversity. The civil society organization emphasized the need to bring developing countries into the fold of cultural diversity, ensuring that the appropriate cultural capacities and the conditions for cultural creation were adequately fostered in less developed countries so that lesser known cultural industries could thrive and attain visibility at a global scope and scale (INCD 2002).

That same month, at the Francophonie Summit held in Beirut, Lebanon, Heads of State (recalling earlier declarations on the issue), expressed unequivocal support for cultural policies and the recently adopted UDCD. In particular, the Organisation Internationale de la Francophonie made an
organizational commitment to back an instrument on cultural diversity as advanced by UNESCO, declaring the following:

We salute the adoption of the UNESCO Declaration on Cultural Diversity. We support the principle of developing a universal regulatory framework and we have therefore committed to actively contribute to the adoption, by UNESCO, of an international convention on cultural diversity, recognizing the right of states and of governments to maintain, establish and develop policies in support of culture and cultural diversity. Its purpose must be to define an appropriate law on cultural diversity. This convention must also underscore the openness to other cultures and their expressions (OIF 2002: 5).

It was a significant gesture as it suggested that a coalition of countries was committed to cultural diversity as a matter of international law. The statement by la Francophonie further reinforced calls to strengthen cultural sovereignty and to create a legal framework that leveraged cultural diversity as a norm in support of national cultural policy development.

These and other actions in support of the UDCD, which embodied the UNESCO policy frame on cultural diversity, did not go unnoticed. In fact, in December 2002, the United Nations General Assembly adopted resolution A/RES/57/249 (United Nations 2003), recognizing the UDCD and its companion Action Plan, and proclaimed May 21 as the World Day for Cultural Diversity for Dialogue and Development. Among other recommendations, and in accordance with the UDCD, the resolution invited UN Member States to “establish cultural

Author’s translation; original text reads as follows: “Nous saluons l’adoption de la Déclaration de l’UNESCO sur la diversité culturelle. Nous appuyons le principe de l’élaboration d’un cadre réglementaire universel et nous sommes en conséquence décidés à contribuer activement à l’adoption par l’UNESCO d’une convention internationale sur la diversité culturelle, consacrant le droit des États et des gouvernements à maintenir, établir et développer des politiques de soutien à la culture et à la diversité culturelle. Son objet doit être de définir un droit applicable en matière de diversité culturelle. Cette convention doit aussi souligner l’ouverture aux autres cultures et à leurs expressions” (OIF 2002: 5).
industries that are viable and competitive at the national and international levels, in the face of the current imbalance in the flow and exchange of cultural goods at the global level” (UN 2003: Article 5(e)(iii)). It also called on states to enact policies in support of tangible and intangible heritage (UN 2003: Article 5(h)). The UN Resolution served to sustain global policy interest in cultural diversity; it also sent a message about the UN’s commitment to the UDCD and the normative principles outlined therein, and galvanized international momentum accordingly.

The final declaration of the second international meeting of cultural professional organizations, known as the *Louvre Declaration* (Comité de vigilance pour la diversité culturelle 2003), and which included participation from over thirty countries, affirmed among other things, that cultural diversity is a human right; that the diversity of cultural expressions is fundamentally tied to freedom of expression; and that countries have a sovereign right to advance cultural policies. The *Louvre Declaration* (Comité de vigilance pour la diversité culturelle 2003: np; emphasis added) called on countries to:

...participate in the development of a *binding international convention*, independent of the World Trade Organization, or any other international trade body, whose purpose will be to maintain or develop cultural diversity.

Cultural professional organizations, representing civil society from various countries, were not only tapped into the discussions taking place across jurisdictions on the issue of cultural diversity, they were also committed to doing their part to ensure that an international legal instrument on cultural diversity was developed.
Flowing from these and other actions, things moved very quickly over the course of the following two years. In March 2003, at the 166th session of the UNESCO Executive Board, eight countries (i.e., Canada, France, Germany, Greece, Mexico, Monaco, Morocco and Senegal) submitted a working document entitled “The preliminary study on the technical and legal aspects relating to the desirability of a standard-setting instrument on cultural diversity” (UNESCO 2003b). The document outlined a suite of standard-setting instruments pertaining to cultural diversity and proposed various avenues for consideration by UNESCO to move towards the development of an international instrument on cultural diversity. In particular, the document suggested the following possibilities:

- The development of an instrument on cultural rights
- The development of an instrument on the status of the artist
- The introduction of a new Protocol to the 1950 Florence Agreement (which could be amended to include cultural services), or
- The development of a new standard-setting instrument on the “protection of the diversity of cultural contents and artistic expressions” (UNESCO 2003b).

The last option, which emerged as the preferred option among Member States, was intended to address Articles 8 through 11 of the UDCD, recognizing that national cultural industries were at stake in a context of contemporary globalization. It would also provide a binding legal framework on cultural products, including cultural expressions (see UNESCO 2003b: Appendix 3, paragraph 2).

Subsequently, at the May 2003 meeting of the UNESCO Executive Board, Member States reviewed the preliminary study and, recalling the adoption of the UDCD, adopted a resolution inviting the Director General to submit to the
UNESCO General Conference, at its 32nd session, a report on the “desirability” of a new instrument on cultural diversity (UNESCO 2003c: 11, section 3.4.3 (5)). It was a formal overture in support of the UNESCO policy framework that was quickly taking shape on cultural diversity, further to the UDCD and signified the extent to which the UDCD was being mobilized.

Shortly thereafter, at the 32nd UNESCO General Conference, Member States reviewed the report submitted by Matsuura and adopted a resolution stating the formal decision to move forward with a convention on cultural diversity, “as regards the protection of the diversity of cultural contents and artistic expressions”, inviting the Director General to submit a draft document at the following year’s General Conference. The Resolution explicitly “recall[ed]” the UDCD and the importance of ensuring the “free flow of ideas by word and image”. It also “emphasize[d]” Article 19 of the UDHR on freedom of expression (UNESCO 2004: 1).

Interestingly, even states that were more reticent about the idea for such a convention, most notably the US (which had just re-joined UNESCO), did not oppose the resolution outright as there was still a significant amount of opportunity to define what such a convention could look like. The broad brush strokes used to define cultural diversity, as captured in the UDCD, reinforced the fact that there was still an opportunity to establish the precise parameters of such a proposed convention. In fact, the statement delivered by US Deputy Assistant Secretary of State, Richard Terrell Miller initially expressed support for the promotion of the idea of cultural diversity. He did, however, also call attention to
three areas that concerned the US regarding the development of such an instrument. First, the US was concerned about the potential human rights violations that could ensue following efforts to erect measures intended to "balance" or "control the flow of cultural information or goods and services". Second, the notion of "individual liberty" was an important consideration, at risk of being sidelined according to the US, given the potential threats posed to minority populations if states were endowed with a sovereign authority to erect national cultural policies. Finally, Miller underscored the importance of ensuring that organizations such as the WTO and WIPO were consulted in the development of such an instrument, and that UNESCO stayed within the scope of its mandate (US Department of State 2003).

During that same intervention, Miller recognized 'globalization' as the main driver fuelling the widespread interest in the proposed convention on cultural diversity:

Many delegates seem to link the need for a cultural diversity convention to concerns that are perhaps best summed up in the word "globalization." What an important topic this is for discussion! The world has changed and is changing very fast in every society, but nowhere more so than in developing countries, where traditional societies are trying to cope with problems different, and on a different scale, from anything they have ever known....We have a moral duty to help each other, a duty to work together to face these challenges. Indeed, this is at the heart of why the U.S. has rejoined UNESCO.

An easy answer to globalization is to try to shut out the rest of the world. Indeed, this is probably the most natural defensive reaction in all of our societies. A convention to control the flow of cultural ideas, products, or services is a perfect example. Many UN agencies, many UN bodies, including the General Assembly, face the problems of globalization in their own fields, So far, in every case, these bodies have decided that a defensive approach has costs that are too high, and long-term prospects of success that are
too low. We believe that this is true in UNESCO’s areas as well (US Department of State 2003; emphasis added).

In other words, while recognizing the conditions that constitute contemporary globalization, the US expressed concern regarding the development of reactive and protectionist measures that could have a negative impact on trade rules and the flow of cultural goods and services. Recalling the NWICO debates, one of the key sticking points for the US was any effort that could limit the free flow of information.

In light of these comments, a few days following his speech, Miller delivered the following more aggressive comments to the UNESCO General Conference about the proposed convention, this time intentionally recalling the NWICO debates:

We recall that some twenty years ago UNESCO embarked on an effort to regulate the flow of information, an effort now broadly acknowledged as misguided. We hope the current effort can avoid the mistakes of that endeavor (US Department of State 2003).

It was significant that the notion of the “free flow” had emerged as at stake, yet again, except this time in the context of UNESCO discussions surrounding a convention on cultural diversity. It was also notable that the US made the deliberate connection of the current effort to establish a cultural diversity convention to that which had transpired twenty years previously. It signaled that the US was clearly opposed to any attempt involving the regulation of information, even in a context of contemporary globalization – a point that would be raised again and again throughout the following two years as a draft convention on cultural diversity started to take shape. It further suggested that the position adopted by the US during the NWICO debates was once again at
stake. Finally, it indicated that the US actively resisted attempts to *legally* address the issue of cultural diversity as being about the regulation of the flow of cultural goods and services.

Notwithstanding the concerns raised by the US, interest in the regulation of information was gaining traction as a global media policy issue. In fact, in December 2003, the UDCD was formally referenced in the context of the UN’s World Summit on the Information Society (WSIS)\(^59\) which was considered by many as a touchstone of contemporary debates on global communication issues.

The first phase of the WSIS, which took place in Geneva from December 10-12, 2003, two years after the UDCD was adopted, resulted in the *Geneva Declaration of Principles* and the *Plan of Action* (WSIS 2003). Both documents made reference to cultural diversity and the UDCD in particular. In the *Geneva Declaration of Principles*, cultural diversity was identified as one of eleven principles in support of a just and equitable Information Society. This was a significant gesture as it reinforced UNESCO’s normative treatment of cultural diversity. In particular, Article B8 (52) of the *Geneva Declaration* (WSIS 2003) began by stating that “cultural diversity is the common heritage of humankind”, calling to mind, almost word for word, the heading of Article 1 in the UDCD. The *Geneva Declaration* went on to make explicit reference to the UDCD, mentioning it by name and referring to it as among the leading “relevant” policy documents.

\(^59\) The WSIS marked a milestone event at the United Nations that was designed to initiate a global conversation on the issues engendered by the Information Society in the current context of contemporary globalization. In particular, the WSIS involved two conferences in which issues such as the flow of information, access to communication technologies, Internet governance and notions of the digital divide, among others, were discussed. WSIS galvanized widespread interest from governments and international organizations from around the world. Civil society participation, including from the private sector, non-governmental organizations and academia, was particularly strong during the WSIS conferences (see Raboy and Landry 2005).
that can “further enrich the Information Society”. It emphasized the importance of “paying particular attention to the diversity of supply of creative work and due recognition of the rights of authors and artists” (WSIS 2003: Article B8 (53)), once again, referencing word for word, the UDCD and Article 8 in particular. Finally, the Geneva Declaration, under the cultural diversity principle, underscored the significance of cultural heritage in the Information Society and recalled its importance as the “mirror” of cultural diversity (WSIS 2003: Article B8 (54)).

Like the Geneva Declaration of Principles, the Geneva Plan of Action (WSIS 2003) also contained an action line on cultural diversity and included no less than fifteen recommendations in support of the promotion of cultural diversity in the context of the Information Society. Once again, the UDCD was directly referenced (see WSIS 2003: Article C8(23)(a)):

Create policies that support the respect, preservation, promotion and enhancement of cultural and linguistic diversity and cultural heritage within the Information Society, as reflected in relevant agreed United Nations documents, including UNESCO's Universal Declaration on Cultural Diversity. This includes encouraging governments to design cultural policies to promote the production of cultural, educational and scientific content and the development of local cultural industries suited to the linguistic and cultural context of the users.

The inclusion of and reference to the UDCD was a significant and strategic move. Among other things, it reinforced the relevance of the UNESCO policy frame on cultural diversity, as well as the key document (i.e., the UDCD) that institutionalized this frame, in other global media policy forums. To this end, it squarely situated cultural diversity as a global media policy issue of relevance to the Information Society, generating traction, interest and even outlining a series of proposed actions in this regard. Finally, it marked an important move
illustrating that the UDCD was being actively reproduced as an actor in support of other global media policy objectives.60

In light of these and other developments concerning the widespread interest and take up of cultural diversity, UNESCO proceeded in two stages. The first stage saw the establishment of a group of fifteen independent experts that would begin deliberations concerning the broad framework of a draft convention and that would lay out the key legal issues requiring consideration. The second and more contentious stage involved UNESCO bringing together a large group of intergovernmental experts to review the texts of the various drafts and to work through the finer details of the proposed instrument. Both stages resulted in the widespread deployment of the UDCD in support of a policy framework on cultural diversity.

**A Draft Convention Emerges**

During stage one, and at the first of three meetings that took place from December 17 to 20, 2003, experts debated, among other issues, the purpose and scope of the proposed convention. While several experts emphasized the importance of reflecting the UDCD in such a convention, they also held the view that the proposed instrument should focus on the “specific character of cultural contents and artistic expressions, the need for a balance between culture and trade, and thereby the dual nature – cultural and economic – of cultural goods and services” (UNESCO 2004a: 3, paragraph 3.1). In other words, while the

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60 It is interesting to note that the second phase of the WSIS, which took place from November 16 to 18, 2005 in Tunis, shortly after the adoption of the CCD, resulted in two outcome documents; the first of these, (WSIS 2005: Sections 9 and 32) once again made mention of cultural diversity.
UDCD provided important normative characterization of the issue of cultural diversity, it was specific policy issues that would be the focus of this new instrument.

Experts further called for the proposed convention to reflect both the dual interests of consumers (ensuring they have access to cultural products), and creators (promoting their right to participate in cultural life). Finally, they discussed the need to develop definitions related to key terms (e.g., cultural industries) that would anchor the new instrument, especially in light of the fact that there existed widespread variation in the meaning and use of such terms. Thus, they proposed the following:

...cultural goods and services accordingly are a means...by which cultural expressions can be conveyed to the general public; while cultural industries, for their part, are a means of production and distribution of cultural products...lastly, certain cultural expressions might not take material form as cultural products (folklore, religious ceremonies, cookery, libraries, archives or public museums) (UNESCO 2004a: 5, paragraph 3.2).

It seemed that the scope of the proposed convention was being drilled down into very specific terms – some could even argue very economic terms with the emphasis placed on goods, services and industries. At the same time, however, experts also affirmed the importance of developing a convention anchored in the broader principles which were captured in the UDCD – principles such as international cooperation, tolerance and dialogue.

Also at this first meeting, experts discussed the potential relationship of the proposed convention with other instruments and within the broader existing legal framework in which increased commercialization and global trade were
gaining a stronghold. Crucially, however, they determined that the proposed convention should hold a “purely cultural objective” and should not interfere with, neutralize or alter existing state obligations concerning trade (UNESCO 2004a: 7, paragraph 3.3). Still, experts suggested that due consideration should be given to the establishment of some kind of “judicial mechanism” which would be designed to mediate between signatory states in the event of a stalemate or a disagreement regarding the take up of cultural goods, services and industries. Such a mechanism, it was envisaged, could also ensure due implementation of the new legal instrument (UNESCO 2004a).

During the second meeting of experts which was held in Paris from March 30 to April 4, 2004, experts built on discussions from the previous meeting, and considered various drafting proposals regarding the elaboration of a new instrument, including regarding its principles, aims and objectives. It was during this meeting that experts developed a preliminary outline of the first draft of the proposed instrument.

One of the first measures of business, in this regard, was to propose a more streamlined title for the proposed convention noting that the “protection and promotion of the diversity of cultural expressions” was much less wordy than its predecessor, the “protection of the diversity of cultural contents and artistic expressions”. The new title also suggested an important shift away from a strictly protectionist instrument focused on “preservation, safeguarding and enhancement” (UNESCO 2007a); the lens of protection would constitute only part of what the proposed convention would actually cover. Thus, there was
agreement that the new instrument would also encourage and promote opportunities to foster and support a conducive environment in which cultural expressions could also flourish (UNESCO 2004b: 3). Moreover, it suggested that the term “cultural expressions” included both “cultural contents” and “artistic expressions” and called to mind both the tangible and intangible aspects of cultural expressions.

In addition, experts again reaffirmed that the new convention would need to flow from the UDCD, remain consistent with its principles, ensuring alignment with UNESCO’s overall treatment of the issue of cultural diversity therein. It was a conscious effort to ensure that the UDCD remained the anchor for the proposed instrument. At the same time, however, it was also recognized that the new instrument would need to focus exclusively upon the notion of “cultural expressions” and therefore be much more constricted in scope, as compared to the UDCD (UNESCO 2004b: 12).

In light of this focus and with a view to providing “as much legal clarity as possible, without sacrificing culture’s anthropological significance”, experts returned to the issue of developing a number of definitions, including regarding the cultural industries, cultural goods and service, cultural products, cultural capital, cultural policies and cultural expressions (UNESCO 2004b: 5-6).

A discussion also ensued about the rights and obligations of signatory states, at both the national and international levels, as per the new convention. To this end, some experts proposed that the new instrument explicitly state its binding nature on signatory states in all aspects. Others, however, suggested a
more moderate approach noting that the measures adopted by states at the national level to enhance their own cultural industries would need to be determined in accordance with each country’s unique and evolving needs, circumstances and capabilities. Thus, if a country chose to focus on one end of the spectrum regarding the protection of cultural expressions (especially at the national level), the new instrument would also need to leave room to enable this same country to adapt its approach to similarly promote cultural expressions (at the international level), as and when appropriate (UNESCO 2004b: 8).

Finally, there was also agreement that the proposed convention recognize the notion of intellectual property, particularly in respect of a state’s rights and obligations at the international level. And while various considerations were raised regarding the relationship of the proposed convention with other treaty instruments, no clear consensus emerged. The main issue was whether signatory states should comply with their rights and obligations as identified in other international instruments or whether they could be granted authority to stray from other commitments, within reason, if these would “threaten or cause serious damage to cultural diversity” (UNESCO 2004b: 10). Ultimately, discussions suggested that a balance was needed in order to endow states with the authority to introduce protection measures at the national level while adopting promotional measures in the international domain. The tenor of these early discussions on the issue of the rights and obligations of states, as they would be reflected in the new instrument, foreshadowed what would become one of the most contentious issues over the course of the deliberations for a new
At the third and final meeting of experts, held from May 28 to 31, 2004, experts discussed all the elements of the proposed convention with a view to developing a complete first draft. Among the several points raised during the meeting, most notable was the issue of a dispute settlement mechanism. In particular, experts affirmed that such a mechanism “...was the key to the effectiveness of the instrument. Failing that, the convention might prove ineffective” (UNESCO 2004c: 9). What is more, experts agreed that the draft should include a provision noting “preferential treatment for developing countries, requiring the developed countries to facilitate cultural exchanges with them” (UNESCO 2004c: 7). It was a clear signal that the proposed convention would materialize as an instrument not only in support of national cultural industries and cultural policies, but also as a tool for cultural development (recalling UNESCO’s focus in the 1990s) targeting developing countries.

The draft developed during the third meeting was shared with the World Trade Organization, the World Intellectual Property Organization and the United Nations Conference on Trade and Development (UNCTAD).  

A preliminary draft of the convention was subsequently prepared and shared with Member States of the UNESCO General Conference in July 2004, for their review and comments (UNESCO 2004d). By and large, this first stage was considered a productive period that resulted in a draft instrument on cultural diversity. It was also notable

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61 The UN General Assembly established UNCTAD in 1964. Its primary purpose is to assist developing countries to seize opportunities in the areas of trade, development and investment so that they can better compete at a global scope and scale. It is specifically geared towards supporting the interests of developing countries.
that during this period, the UDCD was widely leveraged in support of the proposed convention and was put into practice in a meaningful way towards the development of the CCD.

The second stage in UNESCO’s plan began almost as soon as the first stage came to an end. Following an invitation from the UNESCO Executive Board, the Director General convened three sessions of the “Intergovernmental Meeting of Experts on the Preliminary Draft of the Convention on the Protection of the Diversity of Cultural Contents and Artistic Expressions” between September 2004 and June 2005. The main objective of these meetings was to review the texts of the various drafts and to submit recommendations and proposals for new wording, as appropriate. It is of little surprise that this period is widely regarded as a time when progress on the draft convention slowed to a standstill, given the sheer number of parties and interests involved, the massive amounts of changes proposed and the limited agreement reached on the way forward.

Remarkably, the first session, which took place from September 20 to 24, 2004, drew close to 550 experts from 132 Member States, two permanent observers to UNESCO, and representatives from twenty NGOs and nine intergovernmental organizations (UNESCO 2004e: 5, paragraph 21). It was clear that there was a great deal of interest in the development of the proposed convention. During the first session, 77 Member States delivered interventions, with fifty providing written comments to the UNESCO Secretariat. Twelve intergovernmental and non-governmental organizations also shared their
perspectives on the draft text (UNESCO 2004e: 5, paragraph 22). Even after the meeting, the UNESCO Secretariat received over one hundred written submissions from 89 Member States, fifteen NGOs and three inter-governmental organizations (UNESCO 2004e: 7, paragraph 28).

Among the main interventions, several Member States called for a convention that ensured the sovereign right of states to develop their own cultural policies. While some states reinforced the need to include reference to a dispute settlement mechanism within the framework of the draft convention, others cautioned that such a move would be premature given that a clear set of rights and obligations had yet to be identified by and for states. Still others wanted to pursue tangents related to cultural diversity and suggested that the scope of the draft convention should be broadened to include consideration for issues related to topics such as interfaith dialogue (Obuljen 2006: 33).

The United States, among its many interventions, reiterated support for the promotion of cultural diversity as a broad and general concept, but expressed concerns about the draft instrument. In particular, the US underlined the fact that the draft overlooked the issue of “cultural liberty”.

We are deeply concerned that the preliminary draft convention circulated prior to today’s meeting does not address the fundamental concept of cultural liberty, which is essential to sustaining cultural diversity (US Department of State 2004).

The comment was significant for a few reasons: First, it suggested that the notion of “cultural liberty” was the starting point for understanding and ensuring cultural diversity as per the US. And yet, the UNESCO policy frame on cultural diversity, as defined in the aspirational UDCD, included no such mention of cultural liberty.
The US and UNESCO were thus at odds in their respective *normative* definitions of cultural diversity. UNESCO’s trump card, of course, was that the UDCD had already been adopted as a set of general principles in this regard. And the US was not a formal Member of UNESCO during the negotiations at which time the UDCD was developed and therefore did not have an opportunity to weigh in to the discussions that shaped the UDCD.

Second, the use of the notion of “cultural liberty” reinforced the driving premise behind the United Nations Development Programme’s (UNDP) 2004 Human Development Report *Cultural Liberty in Today’s Diverse World*, which was released that same year and submitted to the UN General Assembly. The 2004 UNDP report, which was set against the context of contemporary globalization, emphasized the need for a global “...approach that respects and promotes diversity while keeping countries open to global flows of capital, goods and people” (UNDP 2004: 11). At the same time, the report also acknowledged that “[d]iversity in cultural goods has its own value because it increases consumer choice and enriches people’s cultural experience” (UNDP 2004: 12; emphasis added). The report further recognized that “work ha[d] begun for a legally binding convention to secure the diversity of cultural expression” (UNDP 2004: 99). The UNDP report represented an attempt to put forth a balanced perspective on the various issues at stake with the idea of diversity. However, much to the disappointment of the US, the notion of cultural liberty was short-lived and engulfed by the issue of cultural diversity as captured in the UDCD.

Finally, the crux of US opposition to the preliminary draft, and to
subsequent drafts, was manifested in the view that cultural diversity was the by-product of conditions of freedom and liberty (or *freedom from*), rather than a process or a means through which cultural goods and services could be protected and promoted (*freedom for*). It was eerily reminiscent of the protracted NWICO debates, during which time Western State Parties to UNESCO, and largely the US, pushed for a different interpretation of the notion of the “free flow” of information. Indeed, the move to interpret cultural diversity as either stemming from conditions of cultural liberty (as in the case of the US), or as a means to create certain conditions in support of and to safeguard cultural expressions (as per the majority of UNESCO Member States), resulted in a very different set of implications for the treatment of cultural goods and services in a context of contemporary globalization. On the one hand, mounting barriers to trade could restrict the *free flow* of cultural goods and services, potentially compromising individual access and choice, the potential interface between cultures, and, by extension, cultural diversity. On the other hand, measures in support of cultural diversity – in particular those adopted to protect and promote cultural expressions – could ideally enhance conditions for the development of cultural goods and services, especially for developing countries. It was an issue that would be raised again and again over the following year as the US relentlessly sought to influence the outcome of the draft convention.

At the end of this charged first session in September 2004, a Drafting Committee consisting of 24 Members was established to consolidate the many comments received (and which were still forthcoming). Their task was to develop
a revised draft text by December 2004. The Drafting Committee consolidated “400 pages containing 1,025 options” to a document of approximately “130 pages with 650 options” (UNESCO 2004e: 8, paragraph 30). While it was a significant step forward, and one that would provide the basis for discussions at the second inter-governmental meeting of experts to be held in January and February 2005, it was not an easy feat. For example, during the meetings of the Drafting Committee, Bernier (2004) notes that there was a marked lack of clarity regarding the Committee’s mandate. Thus, while some Members wanted to revisit the debates about key words and expressions (e.g., what are cultural goods and services? what does protection mean? etc.) that were at the very heart of the proposed convention, others were of the view that the Committee held no authority to negotiate outside the scope of the larger plenary. Even the issue of whether or not to use square brackets or footnotes – or both – in the impending draft, took up a significant amount of discussion time and, more importantly, a decidedly political flavour (Bernier 2004). 62 The summary report of the Drafting Committee (UNESCO 2004f) catalogued the various changes proposed without identifying which Member States made which intervention. Overall, however, the Committee identified three overarching “trends”: The first among these suggested that some states delivered written submissions on the preliminary draft text but did not include any proposals for concrete changes. Others presented amendments to the existing draft, including two states which

62 The use of square brackets in UN documents is common and constitutes the main process by which formal deliberations on documents take place. Their use is intended to capture all comments presented in plenary by delegations that have different wording to propose or that reject outright certain words or phrases within a given draft.
tried to present a “reformulation of the structure of the preliminary draft and focused on major alterations to the articles” (UNESCO 2004f: 2). The final trend included a group of states that refrained from providing comments or made only a limited number of interventions on the draft text.

Just days before the second meeting of intergovernmental experts, held from January 31 to February 11 2005, the International Liaison Committee of Coalitions for Cultural Diversity (now the IFCCD),63 commented on the draft convention prepared by the Drafting Committee (IFCCD 2005). The intention was to hold a civil society discussion on the draft convention just prior to the formal deliberations involving Member States at the second meeting. It was a strategic move that served to leverage the various coalitions that had formed between certain states and civil society organizations (see Raboy and Mawani 2013) and reinforced the fact that political interests surrounding the mutual take up of cultural diversity as a global media policy issue, were increasingly aligned.

Among the recommendations proposed by the International Liaison Committee included consideration for the draft convention to affirm the sovereign right of states to develop cultural policies that both protect and promote cultural diversity. The Committee also affirmed the importance of ensuring that the draft convention hold legal weight such that it could act as an authoritative counterpoint to other instruments, without the risk of being subordinated. Similarly, the Committee favoured an instrument that could engender the true spirit of international cooperation in the interests of promoting cultural

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63 The IFCCD represented Argentina, Australia, Belgium, Benin, Burkina Faso, Canada, Chile, Colombia, France, Germany, Ireland, the Republic of Korea, Mexico, Morocco, New Zealand, Peru, Senegal, Spain, Slovakia, Togo and Uruguay.
development. The views advanced by the International Liaison Committee were clearly aligned with those held by countries in favour of the draft convention (IFCCD 2005).

Another active civil society group that lobbied hard for the draft instrument on cultural diversity was the CRIS (Communication Rights in the Information Society) Campaign. In their efforts, the CRIS Campaign wanted to ensure that the draft convention support the protection of culture as well as the non-commercial value of cultural expressions. Like the International Liaison Committee, the CRIS Campaign advocated that the draft instrument be endowed with some “teeth” in order to ensure it could hold its own and not be dismissed as irrelevant in trade deliberations. The CRIS Campaign also wanted the draft convention to safeguard and promote communication rights, rather than just focus on the cultural industries. They were interested in securing protections for the conditions of cultural creation rather than simply affording protections for the circulation of cultural industries. Finally, the CRIS Campaign expressed concerns over the potential to focus too heavily on intellectual property rights (IFACCA 2004).

Ivan Bernier notes that discussions during the second meeting of inter-governmental experts typically fell into one of two camps (Bernier 2005). The first, in line with the positions advanced by key civil society groups such as the International Liaison Committee, the INCD and the CRIS Campaign, recognized the value in moving forward with an international treaty that would recognize the unique nature of cultural goods and services as having both socio-cultural and
economic value (further to Articles 8 and 9 of the UDCD). They supported an instrument that reinforced the sovereign right of states to establish cultural policies in an effort to protect and promote national cultural expressions. Finally, these states maintained the view that such an instrument could significantly promote culture and communication as a resource for development.

The opposing view, held by a minority of Members including the United States, was preoccupied with the ramifications that the proposed instrument could have on current free trade agreements and the negotiation of future free trade activities. They questioned whether UNESCO, with the introduction of the draft instrument, would be over-stepping its governance role in the international arena, moving into areas beyond its field of competence. Similarly, they held strong reservations about the viability of introducing a dispute settlement mechanism. Such a mechanism, it was maintained, could call into question the rights and obligations of signatory states. Finally, they were uneasy with the proposal that the new instrument accord special treatment to developing countries. Ultimately, these states considered the draft text of the proposed convention to be “...overly focused on cultural goods and services and on the protection of cultural expressions and not enough on the promotion of cultural diversity” writ large (Bernier 2005: 34). The driving issue, once again, was the definition and scope of the issue of cultural diversity and the buy-in to the policy frame anchoring the draft convention.  

As the leading proponent of this view, the US also insisted that the draft instrument make mention of intellectual

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64 It is worth reiterating that the UDCD was adopted by the UNESCO General Conference in October 2001. Given that the US was not a Member of the organization at that time, it did not actively participate in the discussions surrounding the UDCD’s development.
property rights in a number of instances, something which countries such as Brazil adamantly resisted.\textsuperscript{65}

Notwithstanding the polarized views, Members concluded the second meeting of intergovernmental experts by adopting a recommendation requesting that the meeting’s Chairperson, Kader Asmal (today considered one of the founding fathers of the CCD), prepare a consolidated “Chair’s draft”. The intention was to have the “Chair’s draft” incorporate the various amendments that were presented, debated and discussed, and remove the large number of square brackets left over from earlier versions. In order to do so, Asmal invited a handful of people – including the Chairperson of the Drafting Committee, the Rapporteur of the Plenary, the Assistant Director General for Culture, and the Director of the UNESCO Office of International Standards and Legal Affairs – to Cape Town for a week at the beginning of April 2005. The “Chair’s draft”, which was developed over the course of this week, was used as the basis for the third meeting of intergovernmental experts, held from May 25 to June 4, 2005 and during which time many of the same issues were again discussed (e.g., objectives and scope of the draft instrument, definitions, rights and obligations of states, dispute settlement mechanism, etc.).

The Plenary finally adopted a recommendation requesting the General Conference to consider and adopt the draft convention at its next and 33\textsuperscript{rd} session in October 2005 (UNESCO 2005a). It marked the conclusion of two long

\textsuperscript{65} The final approved text of the CCD failed to make mention of the public domain or notions of the creative commons. This omission essentially negated the trend towards making available a range of works for creators to use fairly in the development of new cultural products. In so doing, the CCD was widely criticized as upholding the existing intellectual property regime.
years of intense deliberations in which the US, above all others, would erect every conceivable measure to halt the process in the draft convention’s development, or to formally object to the text itself (Bernier 2005a). Bernier notes that even after the conclusion of the third meeting, and just before the 33rd General Conference session held in October 2005, the US continued their efforts to amend or block the adoption of the draft convention. One measure, in particular, is worth mentioning. Just hours before the CCD was brought to a vote, then US Secretary of State, Condoleeza Rice, sent a letter to Matsuura as well as close to 200 Member States urging them not to support the draft convention, as proposed. The letter cautioned that "[t]his convention could be misused by governments to legitimise their controls over the flow of information". It further noted that the proposed treaty “invites abuse by enemies of democracy and free trade” (choike.org: nd). The letter indicated that adoption of such an instrument could threaten US participation at UNESCO, just as it had done in 1984.

In the end, however, US tactics proved unsuccessful and the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions was adopted at the 33rd UNESCO General Conference session on October 20, 2005. An overwhelming 148 UNESCO Member States supported the Convention, voting in its favour. Two countries, the US and Israel, voted against it and four Members (i.e., Australia, Nicaragua, Honduras and Liberia) abstained from voting.66

66 Notably, Australia, Nicaragua and Honduras would all later support the CCD.
At a press conference held immediately in the wake of the CCD’s adoption, the US Ambassador to UNESCO had this to say:

...[having few supporters is] okay with us because we’re standing up for principle, we’re standing up for freedom, we think [the idea of such a document] is all about freedom and we think that it is a good thing to talk about the role of freedom in cultural diversity because that is what cultural diversity is built upon. It’s built on the right of individuals to decide, what they want to do, what they want to read and what they want to see (Oliver 2005 in Vinsrygg 2006: 67).

Critically, the CCD’s adoption marked a milestone in UNESCO’s history and cemented its policy framework on cultural diversity, reinforcing the organization’s stature in the realm of global cultural governance. For countries like France and Canada, which had sponsored the treaty, the CCD’s adoption was an important victory that accorded protection and competitive advantage of national cultural industries in a globalizing world. It also reinforced a unique approach in support of national cultural policy development that involved strategically mobilizing around the issue of cultural diversity as a global media policy frame, aligning interests with national cultural industries and civil society alike.

The CCD entered into force in March 2007, soon after the required thirty governments or regional bodies ratified the treaty. To date, 133 states plus one regional organization have ratified the document. Still, as scholars such as Tomer Broude (2007: 363) and Nina Obuljen (2006: 21) independently note, the CCD’s adoption marked only the beginning of a global process surrounding its implementation rather than a conceivable end in and of itself.
The Contents of the UNESCO Convention on Cultural Diversity

The CCD is a lengthy document that contains a Preamble, seven sections and 35 articles. In what follows, I examine the key features of the instrument in an effort to highlight what ended up being included in the final document after the intense deliberations which took place in the years prior to its adoption. This next section is intended to highlight the key points and notable phrases of the CCD, with a view to identifying what the document underscores and what it intentionally leaves out.

The Preamble of the CCD includes over twenty broad assertions about cultural diversity. These assertions begin, for example, by: affirming that cultural diversity is a “defining characteristic of humanity”, declaring that it “forms a common heritage of humanity”; and acknowledging that it “is a mainspring for sustainable development” (UNESCO 2005: Preamble). The Preamble importantly situates cultural diversity within a democratic framework, further to the UDCD (UNESCO 2001) and the UDHR (UN 1948). It acknowledges the role of cultural diversity in the context of international development cooperation and recognizes the UN (2000) Millennium Declaration’s emphasis on poverty eradication with a view to establishing a relationship between culture and development.

The Preamble continues, making a series of affirmations relevant to global media policy. These begin with the recognition “that culture takes diverse forms across time and space” and states that cultural diversity is “embodied in the

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67 Recall that the UNESCO Convention for the Safeguarding of Intangible Cultural Heritage (2003: Preamble) referred to intangible cultural heritage as a “mainspring of cultural diversity”.

uniqueness and plurality of the identities and cultural expressions of the peoples and societies making up humanity" (UNESCO 2005: Preamble; emphasis added). Focusing on the notion of cultural expressions, the CCD identifies “the need to take measures to protect the diversity of cultural expressions, including their contents, especially in situations where cultural expressions may be threatened” (UNESCO 2005: Preamble).

Following, the Preamble references the notion of the “free flow of ideas”, recalling the UNESCO (1945) Constitution, and affirms that “freedom of thought, expression and information, as well as diversity of media” (UNESCO 2005: Preamble) are essential in order for cultural expressions to thrive. These expressions are considered the cornerstone enabling “individuals and peoples to express and to share with others their ideas and values” (UNESCO 2005: Preamble). Intellectual property rights are identified as an important vehicle for cultural expressions, effectively “sustaining those involved in cultural creativity”.

The next statement, which targets cultural goods and services, is perhaps one of the most significant in the entire document. It reads as follows:

*Being convinced* that cultural activities, goods and services have both an economic and a cultural nature, because they convey identities, values and meanings, and must therefore not be treated as solely having commercial value (UNESCO 2005: Preamble; emphasis in original).

This phrase is reminiscent of Article 8 of the UDCD (UNESCO 2001) in which cultural goods and services are characterized as “commodities of a unique kind”, vectors of “identities, values and meanings”. The CCD continues:

*Noting* that while the processes of globalization, which have been facilitated by the rapid development of information and
communication technologies, afford unprecedented conditions for enhanced interaction between cultures, they also represent a challenge for cultural diversity, namely in view of risks of imbalances between rich and poor countries (UNESCO 2005: Preamble; emphasis in original).

Once again, this is reminiscent of the language used in the UDCD’s Preamble. However, while the UDCD (2001: Preamble) used softer language, beginning with “considering that the process of globalization…”, the CCD emphatically “notes” the set of circumstances engendered by globalization. The UDCD also refers to globalization as “representing a challenge for cultural diversity” but does not specify this in the context of the disparities between “rich and poor countries” which is underscored in the CCD (see UNESCO 2005: Preamble). The elaboration of this phrase is significant insofar as it suggests that there was a degree of political will present during the negotiations surrounding the CCD’s development to strengthen the language on globalization and between developed and developing countries, as compared to that found in the UDCD.

Section 1, Article 1 of the CCD outlines the treaty’s objectives, the first of which is “to protect and promote the diversity of cultural expressions” (UNESCO 2005: Article 1(a)). Other objectives include promoting dialogue among cultures with a view to developing a culture of peace (Article 1(c)); raising awareness about the diversity of cultural expressions across jurisdictions (Article 1(e)); supporting the link between culture and development (Article 1(f)); recognizing the distinctiveness of cultural goods and services as “vehicles of identity, values and meaning” (Article 1(g)); asserting the sovereign right of states to erect policies in support of the protection and promotion of the diversity of cultural
expressions (Article 1(h)); and strengthening the capacities of developing countries with respect to their cultural expressions (Article 1(i)).

Section 2 outlines the CCD’s eight guiding principles. The first principle links the protection and promotion of cultural diversity to human rights and freedoms (e.g., freedom of expression) and states unequivocally that the CCD cannot be used as an instrument to violate the rights and freedoms enshrined in the UDHR. This principle calls to mind the 1999 UN resolution 54/160 which made a deliberate statement on the linkages between human rights and cultural diversity. The first principle also serves to neutralize concerns raised during the treaty’s development phase (e.g., including by the US) about the potential use and application of the CCD as an instrument to violate human rights, particularly minority rights.

The second guiding principle is anchored in the notion of state sovereignty, a central theme that is woven throughout the document. The exercise of state sovereignty within one’s territory reinforces the authority to introduce measures to, in this case, protect and promote one’s cultural expressions. Indeed, this is an essential feature of the CCD and represents one of its main objectives. It is an outgrowth of instances where states, including France and Canada, had encountered limits to the exercise of their sovereignty in the context of trade negotiations with the United States.

The third principle importantly reinforces that all cultures are equal, including those of minorities and indigenous peoples. The drive to protect and promote one’s cultural expressions, in the context of the CCD, must therefore be
carried out in the name of cultural diversity rather than as an attempt to exercise
superiority over other cultures. This was an important principle that suggested
UNESCO’s attempt to right the wording captured in the UNESCO (1966)
*Declaration of Principles on International Cultural Cooperation* which, as
previously discussed, could be interpreted in such a way so as to suggest that
one’s own culture could take precedence over the diversity of other cultures (see
UNESCO 2009).

International cooperation is recognized as the fourth guiding principle,
with the emphasis placed on supporting developing countries in the development
of their cultural industries. This is significant as it recalls the spirit of previous
efforts to support international cooperation for development. It is also consistent
with Article 14 of the CCD which, as discussed later, outlines four broad areas in
which signatory states would be expected to support developing countries in their
efforts to create thriving national cultural industries.

Flowing from the fourth principle, the fifth and sixth principles reaffirm
culture as a dimension of development – as important as the economic
dimension (UNESCO 2005: Article 2 (5)) – and even declare cultural diversity as
essential for sustainable development (UNESCO 2005: Article 2 (6)). Following,
principle seven (UNESCO 2005: Article 2(7)) affirms the importance of equitable
access in the context of cultural diversity. Thus, both access to a “range of
cultural expressions” as well as access to the “means of expressions” are
identified as essential to cultural diversity.

The final principle promotes an “openness to other cultures” in a manner
consistent with the measures used to protect cultural expressions. Thus, while the emphasis is on the protection of cultural expressions, this principle reinforces the notion that the CCD is not simply about upholding a protectionist view of the world; rather, it supports the dynamic exchange between cultures. According to the CCD, this exchange is what nurtures cultural diversity and enables all cultures to flourish in a context of contemporary globalization.

Following the establishment of the objectives and principles, the next section, section 3, focuses on the definitions of key terms that are used throughout the CCD. In total, eight terms are defined under Article 4, beginning with cultural diversity.

‘Cultural diversity’ refers to the manifold ways in which the cultures of groups and societies find expression. These expressions are passed on within and among groups and societies.

Cultural diversity is made manifest not only through the varied ways in which the cultural heritage of humanity is expressed, augmented and transmitted through the variety of cultural expressions, but also through diverse modes of artistic creation, production, dissemination, distribution and enjoyment, whatever the means and technologies used (UNESCO 2005: Section 3, Article 4(1)).

Notwithstanding the widespread reference to the UDCD, this was the first time that the notion of cultural diversity itself had actually been defined as such within a formal standard-setting UNESCO document. Of interest, the definition of cultural diversity in the CCD placed a clear emphasis on “find[ing] expression”. Cultural diversity was, as a result, contingent upon the notion of expression. This was significant as “cultural expressions” were subsequently defined, in that same Article (UNESCO 2005: 4(3)), as those “that result from the creativity…and that have cultural content”. In turn, “cultural content” was defined in the preceding
definition (UNESCO 2005: Article 4(2)) as “the symbolic meaning, artistic dimension and cultural values that originate from or express cultural identities”.

Each definition was directly linked to and built upon one another, resulting in a complicated definitional terrain for a treaty of this nature. This was not lost on some WTO Members who expressed concern over the lack of precision in some definitions (Voon 2006). For example, the definition of “cultural content” was more or less a blanket statement that could ultimately refer to a variety of products, goods and services including “computer games, designer objects, architectural services, medical services, tourism services, automobiles, steel, textiles, copper, or even rice” (Voon 2006: 641). The extent to which each of these examples could feasibly hold “identities, values and meanings” (UNESCO 2005) is debatable, but no less arguable.

The CCD continues, defining the notion of “cultural activities, goods and services” as those that “embody or convey cultural expressions, irrespective of the commercial value they may have” (UNESCO 2005: Article 4(4); emphasis added). In other words, the CCD made explicit that cultural activities, goods and services – so long as they act as a conduit for cultural expressions or represent an activity in meaning making – are unique and hold value which is independent of that which is solely related to their commercial orientation. By extension, “cultural industries” are defined as those “producing and distributing cultural goods or services” (UNESCO 2005: Article 4(5). Thus, through the vehicle of the CCD, cultural industries cannot be reduced only to their commercial value.

Building on these definitions, “cultural policies and measures” are said to
be “focused on culture” or “designed to have a direct effect on cultural expressions” affecting the “creation, production, dissemination, distribution of and access to cultural activities, goods and services” (UNESCO 2005: Article 4(6)), suggesting that various policies could be used in support of culture. To this end, Article 4(7) defined “protection” as those measures targeting cultural expressions and their “preservation, safeguarding and enhancement”. This was a deliberate move to eschew the solely protectionist connotation that had become synonymous with the cultural diversity treaty. Instead, it broadened the scope of application to include measures designed to also promote and enhance the diversity of cultural expressions.

Section 4 of the CCD is entitled “Rights and Obligations of Parties” and covers Articles 5 through 19. Article 5, for example, importantly affirms the “sovereign right” of state parties to enact cultural policies and to support the diversity of cultural expressions “within its territory”, as appropriate (see UNESCO 2005: Article 5). It is aligned with Article 2(2) and represents one of the most significant sections of the Convention as it fundamentally reinforces the sovereign authority of state parties to govern, at the national level, in regards to cultural expressions. As Beat Graber (2006: 558-9) notes, prior to the adoption of the CCD “there ha[d] been no binding instrument of public international law recognizing the pursuit of the diversity of cultural expressions as a legitimate goal of governmental policy”.

Flowing from Article 5, Article 6 outlines the broad scope of measures that state parties can adopt in order to exercise their sovereign right in support of the
diversity of cultural expressions. These include regulatory measures (e.g., as related to trade negotiations), measures in support of cultural activities, goods and services (e.g., quotas, funding, etc.), as well as those targeting domestic cultural industries (e.g., access to the means of production); measures to boost both public funding and support for artists and public institutions; measures that encourage the “free exchange and circulation of ideas”; and measures to enhance the “diversity of the media”. The inclusion of these various measures gave state parties broad discretion to adopt what was deemed necessary to promote and protect the diversity of cultural expressions (Beat Graber 2006). What is more, the last two measures in particular, concerning the “free exchange and circulation of ideas” and the “diversity of the media” underscored the main themes outlined in *Our Creative Diversity* (UNESCO 1995); they even gave a nod to the concerns raised during the NWICO debates in the 1980s.

Articles 7 and 8 of the CCD outline the measures that can be adopted in support of promoting and protecting the diversity of cultural expressions, respectively. To this end, Article 7 declares the following state party obligations:

1. Parties shall endeavour to create in their territory an environment which encourages individuals and social groups:

   (a) to create, produce, disseminate, distribute and have access to their own cultural expressions, paying due attention to the special circumstances and needs of women as well as various social groups, including persons belonging to minorities and indigenous peoples;

   (b) to have access to diverse cultural expressions from within their territory as well as from other countries of the world.

2. Parties shall also endeavour to recognize the important contribution of artists, others involved in the creative process, cultural communities, and organizations that support their work, and
their central role in nurturing the diversity of cultural expressions. Article 7 outlines expectations in terms of what signatory states are assumed to carry out in order to promote the diversity of cultural expressions. Article 8, on the other hand, grants state parties the authority to determine when the protection of cultural expressions is deemed necessary, (i.e., when such expressions are considered at risk), in accordance with Articles 5 and 6.

Following, Articles 9 and 10 focus on information sharing, education and awareness-raising. While Article 9 is largely administrative in nature, Article 10 outlines a state party’s responsibility towards raising awareness at the national and international levels about the diversity of cultural expressions, as well as towards strengthening capacities in the interests of developing thriving cultural industries.

Article 11 is another among the most significant of the CCD. This article recognizes and affirms the role of civil society in regards to the protection and promotion of the diversity of cultural expressions, encouraging state parties to promote civil society participation to this end. While this was not surprising given the role that civil society had played in support of the proposed treaty (e.g., forging alliances with interested states; see Raboy and Mawani 2013), it was no less remarkable. In fact, it represented one of the most explicit examples in which the role of civil society had been formally captured in a legal instrument pertaining global media policy. Further, Article 11 raised an interesting question as to the key players that needed to be involved in the implementation of the CCD. To this end, Guèvremont (nd) notes that the document, while clearly “an intergovernmental tool”, explicitly identifies and recognizes extra-governmental
actors (i.e., civil society) as vital for the implementation of the CCD.\textsuperscript{68}

Article 12 promotes international cooperation through dialogue, capacity-building and partnership. Article 13 promotes the integration of culture in development strategies, paying close attention to the diversity of cultural expressions. Article 14 encourages cooperation for development, bringing together the two preceding articles. Specifically, it calls for the “strengthening of the cultural industries in developing countries” (Article 14(a)); capacity-building and training activities (e.g., in the use of technology) (Article 14(b)); technology transfer (Article 14(c)); and funding support (Article 14(d)). The provision of funding is made possible through Article 18 of the CCD, which establishes an International Fund for Cultural Diversity, targeting developing countries, and to which other countries would be expected to contribute on a voluntary basis.\textsuperscript{69}

Article 14 is also enhanced by Article 16 which calls for the “preferential treatment of developing countries”, noting that “[d]eveloped countries shall facilitate cultural exchanges with developing countries”, providing “preferential treatment” to artists, creators and cultural professionals, as well as to cultural goods and services from less developed countries.

The emphasis on developing countries in the CCD served to reinforce two considerations: first, the act of strengthening the diversity of cultural expressions was not simply a first world issue of concern only to countries such as France

\textsuperscript{68} As discussed earlier in this chapter, civil society and the private sector, were explicitly identified in the UDCD (Article 11) as important partners in the pursuit of cultural diversity. Yet the CCD was significant in that it actually captured the role of civil society in regards to the protection and promotion of the diversity of cultural expressions as a matter of binding international law.

\textsuperscript{69} As of March 2013, just over US $5.8 million dollars had been contributed to the Fund; see http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/pdf/Conv2005_IFCD_Factsheet_2013_EN.pdf (accessed 12/18/2013).
and Canada; rather, it was an issue of importance to developing countries as well, both domestically in the context of their national cultural industries, as well as regionally and globally in terms of how these national cultural industries got taken up in broader contexts. Second, it underscored UNESCO’s interests in advancing culture as a foundational element of development.

The following section, entitled “relationship to other instruments” contains among the most noteworthy and often-discussed articles. In particular, Article 20 (UNESCO 2005) reads as follows:

1. Parties recognize that they shall perform in good faith their obligations under this Convention and all other treaties to which they are parties. Accordingly, without subordinating this Convention to any other treaty,

(a) they shall foster mutual supportiveness between this Convention and the other treaties to which they are parties; and

(b) when interpreting and applying the other treaties to which they are parties or when entering into other international obligations, Parties shall take into account the relevant provisions of this Convention.

2. Nothing in this Convention shall be interpreted as modifying rights and obligations of the Parties under any other treaties to which they are parties.

Article 20 interestingly reinforces the obligations of state parties as set out in the CCD, as well as “all other treaties to which they are parties”. In this regard, Article 20 indicates that the CCD cannot be subordinated to other treaties. Article 20 (1)(a) continues reinforcing the notion of “mutual supportiveness” between the CCD and other treaties to which state parties are signatories. This gives the CCD at least some degree of “teeth” to stand up to other treaties, which was a key discussion point during deliberations on the treaty. Article 20 (1)(b)
continues in this light, noting that state parties should take into consideration the CCD when “interpreting or applying” and “entering into” other treaties. However, Article 20(2) indicates, without ambiguity, that the CCD does not alter the conditions of any other treaties to which a signatory state of the CCD is already a party. What Article 20(1) sets out to achieve is ultimately negated by Article 20(2), and leaves one of the most disputed articles and issues (i.e., how the CCD would interact with other treaties) unclear.

It is significant to note that the “Chair’s draft” prepared by Kader Asmal in April 2005 included similar provisions in Article 20(1) but did not include those contained in Article 20(2) of the final document (UNESCO 2005b). Civil society groups such as the INCD applauded Article 20 as stipulated in the “Chair’s draft” as it made it clear that the CCD was on an equal playing field with other instruments, though it also suggested some revisions to the wording in Article 20 (1)(b) which were not accepted. Given the final outcome, it is reasonable to deduce that the final negotiations were contingent upon including Article 20(2). In this regard, it is widely accepted that the CCD retained the support that it did during the final vote precisely because of the inclusion of the ambiguous wording contained in Article 20(2). In other words, Article 20(2) amounted to the “conditio sine qua non” (Hahn 2006: 544), ensuring the overwhelming votes in favour of the Convention’s adoption.

Still, the shortcomings of Article 20 were the basis of the treaty’s criticism following its adoption. The CRIS Campaign, for example, included the following in their statement about the CCD:
We will remain vigilant with regards to the Convention’s relationship to other treaties, which as it stands is extremely ambiguous and therefore may encourage some trade ministers to ignore the Convention altogether in their negotiations (Latin America in Movement 2005).

Others, such as the INCD, also expressed discontent over the ambiguity of the treaty in relation to others, following the final round of negotiations on the draft instrument in summer 2005.

If the objective of the new Treaty is to declare the right of States to implement cultural policies and to establish a new foundation for future cooperation, the Treaty has succeeded. If the objective is to carve out cultural goods and services from the trade agreements, the Treaty is inadequate, at least in the short term (INCD 2005).

Even during the U40 World Forum, Article 20 was the subject of much discussion among participants in informal settings. However, it was also recognized that there was little recourse and not much value in focusing on the CCD’s weakest point (Mawani 2009, unpublished field notes).

Still, notwithstanding Article 20, Article 21 of the CCD stipulates that state parties must set out to promote both the objectives and principles (e.g., the principle of sovereignty) of the CCD in consultations taking place in other international forums. This was an important provision as it encouraged a broader discussion on the issues covered in the CCD in other forums of significance (e.g., within the WTO). Moreover, it reinforced the fact that the CCD was not simply limited in scope to UNESCO forums.

Section 6 of the CCD is entitled “Organs of the Convention” and speaks to the treaty’s governance, namely through various bodies including the Conference of Parties (Article 22), the Intergovernmental Committee (Article 23) and the
UNESCO Secretariat (Article 24).

The last section, section 7, is entitled “Final Clauses”. Quite possibly, it contains the most contentious article of the entire convention – that surrounding the settlement of disputes. In particular, Article 25 (UNESCO 2005) reads as follows:

1. In the event of a dispute between Parties to this Convention concerning the interpretation or the application of the Convention, the Parties shall seek a solution by negotiation.

2. If the Parties concerned cannot reach agreement by negotiation, they may jointly seek the good offices of, or request mediation by, a third party.

3. If good offices or mediation are not undertaken or if there is no settlement by negotiation, good offices or mediation, a Party may have recourse to conciliation in accordance with the procedure laid down in the Annex of this Convention. The Parties shall consider in good faith the proposal made by the Conciliation Commission for the resolution of the dispute.

4. Each Party may, at the time of ratification, acceptance, approval or accession, declare that it does not recognize the conciliation procedure provided for above. Any Party having made such a declaration may, at any time, withdraw this declaration by notification to the Director General of UNESCO.

Effectively, Article 25 (4) provides an opt-out clause for those states uninterested in settling disputes within the framework provided for by the CCD. Yet dispute settlement was one of the key discussion points raised during deliberations on the various drafts. Indeed, during the third meeting of experts held in May 2004, the ambiguity surrounding dispute settlements was identified as that which would render the CCD “ineffective” (UNESCO 2004c: 9) and is widely considered one of the major weaknesses of the treaty (see Voon 2006; Beat Graber 2006; Burri 2013).
The CCD’s development and eventual adoption signified an extraordinary development in the promotion of cultural sovereignty in a context of contemporary globalization. This development was importantly enabled by the UDCD and represented the culmination of efforts to advance a policy framework on cultural diversity at UNESCO.

Notwithstanding the fanfare and attention surrounding the CCD, however, it is deemed to have had limited impact as a legal instrument vis-à-vis trade negotiations in the first five years following its coming into force (Burri 2013).

III. Summary

This chapter shows how the UNESCO policy frame on cultural diversity – as embodied in the UDCD – was put into practice in order to advance a policy framework. Different actors leveraged the policy frame in order to advance their own respective political interests and agendas. Some focused on the broad principles of cultural diversity, as set out in the UDCD, while others mobilized the specific Articles targeting cultural goods and services. Still others tried to readjust the focus on cultural diversity in order to speak about cultural liberty. Even the issue of cultural heritage was made meaningful, in part, by the mobilization of the principles of cultural diversity. The UDCD, in this regard, emerged as a critical actor in the global media policy landscape as it established a reference point on cultural diversity that facilitated and encouraged further political work, resulting in the development of a concrete policy framework.
CHAPTER SIX:

THE UNESCO POLICY FRAME ON CULTURAL DIVERSITY AND ITS
ENSUING POLICY FRAMEWORK AS EXPRESSIONS OF THE RELATIONSHIP
BETWEEN GLOBALIZATION AND GOVERNANCE

As much as this dissertation has been focused on UNESCO’s interventions on cultural diversity as introduced in the early 2000s, it also represents an inquiry into how global media policy frames and their ensuing policy frameworks enable us to speak about the relationship between globalization and governance. To this end, I asked the following overarching research question at the beginning: How can an understanding of global media policy frames and their ensuing policy frameworks, as developed by global governance institutions, be brought to bear on the relationship between globalization and governance? In what follows, I applying the key findings from my case study analysis and discuss these in the context of this question. I conclude with a call for further research into the notion of policy frames and policy frameworks, as developed in this dissertation.

I. Summary of Key Findings

This case study analysis reveals that the UDCD, as the embodiment of the UNESCO policy frame on cultural diversity, was a significant political development that catapulted the issue of cultural diversity to the status of global media policy priority. Not only did the UDCD establish important normative content on the issue of cultural diversity, it also launched a platform from which to pursue further
actions comprising a policy framework - including standard-setting – on this issue. The way cultural diversity was defined in the UDCD made this possible. In this regard:

How a policy issue area is identified is political because it determines who participates in decision-making, the rhetorical frame and operational definitions applied, the analytical techniques and modes of argument used, and the resources – and goals – considered pertinent (Braman 2006: 39).

One of the main goals of the UDCD was to normatively recognize cultural goods and services as having value beyond their mere commercial or consumer worth (UNESCO 2001: Article 8). The UDCD also reinforced the role of national cultural policies and cultural sovereignty as critical towards ensuring the diversity of creative works in the public sphere (Article 9). These and other norms and principles, contained in the UDCD, were steadily mobilized by various policy actors in the years following its adoption – including by states, industry groups and civil society organizations – that were interested in the development of a policy framework with legal implications in support of the preferential treatment of cultural goods and services in the context of free trade.

The various efforts in which the UDCD was mobilized and taken up resulted in a myriad of efforts that culminated with the adoption of the CCD. To be sure, the CCD represents the legally binding instrument that transformed select normative principles of the UDCD into concrete actions and outcomes for application in the global media policy landscape. Even if the CCD has had only limited traction in contexts for its formal application and use (Burri 2013), it has materialized and continues to be regarded as a significant tool for policy actors –
especially civil society – in other, less formal (yet no less relevant) settings.

This case study further reveals that UNESCO’s interventions on cultural diversity served to accomplish the following: First, and most critically, these interventions legitimized UNESCO’s role in the field of global cultural governance and situated the organization as the site for the take up of cultural diversity, enhancing UNESCO’s posture and presence accordingly. UNESCO became the site of heated debates over the course of the CCD’s development, reminiscent of those which had taken place during the calls for a NWICO. It also garnered the attention of other governance institutions across various jurisdictions – including the UN General Assembly, which twice issued resolutions in support of UNESCO’s policy frame on cultural diversity – as well as from civil society actors. Simply stated, UNESCO’s interventions on cultural diversity enabled the organization to wield influence and “flex its muscle” on the global governance stage.

Second, and relatedly, UNESCO’s interventions on cultural diversity enabled UNESCO to erect a “bounded domain” (Braman 2006) of global media policy, ensuring that the “organization’ [wa]s made evident – performed – through the written record” (Prior 2003: 67). The take up of the policy issue of cultural diversity became, in some respects, synonymous with UNESCO. The erection of this “bounded domain” – which also included interventions on cultural heritage – notably served to reinforce UNESCO’s relevance as a global governance organization and reinforced its raison d’etre in the early 2000s. As Burri (2013: 10) notes:
The impact of the Convention on its own parent organization, the UNESCO, and its authority can be deemed sizeable as it has subsequently become a hub of new activities. The UNESCO Convention [the CCD] has also effectively contributed to promoting the notion of cultural diversity and establishing it as a global public good, as a regulatory objective worth pursuing in a wide range of activities and venues, both domestically and internationally. To be sure, the Convention has mobilized international cooperation, although the overall impact of the activities it has triggered may be small in practical terms...and the question of whether this development can be sustained remains open (Burri 2013: 10).

In other words, the documents that comprise these interventions – namely the UDCD and the CCD – enabled UNESCO to “represent” (Prior 2003: 168) and constitute itself, reinforcing its power and authority to influence decision-making in global media policy-making. The take up of the UDCD in the WSIS documents offers a case in point. Both the UDCD and the CCD thus emerged as institutional and political actors that called attention not only to the specific issues which they aimed to address, but also the organization and its existing policy canon. To reiterate, these findings show that the UNESCO policy frame on cultural diversity, and its ensuing policy framework, served to legitimize UNESCO as a global governance institution.

However, while the take up of the UDCD served to catalyze the development of a policy framework on cultural diversity, the documents constituting the policy framework may have served to depoliticize some of the policy issues that the UDCD had initially attempted to address. While arguably leveraging the UDCD to politicize and develop further actions on issues like national cultural sovereignty and the unique treatment of cultural goods and services, the CCD did not address most of the other policy issues identified in the
UDCD. In addition, notwithstanding the significance of the CCD’s adoption, it is a watered-down, hard-law instrument that has been neutered, in many respects, largely on account of the shortcomings of Articles 20 and 25, which, as discussed, were the basis of much criticism following the treaty’s adoption.

Still, UNESCO was “judged as good” (Ahmed 2007: 599), despite these flaws, because it had importantly created the space to deliberate on the issue of cultural diversity (further to the UDCD), ultimately resulting in the adoption of the CCD. The processes leading up to the adoption of the CCD may have therefore become more important than the actual outcome. In other words, how the CCD actually and concretely would advance the issues addressed emerged as less significant than the processes through which it was developed. The main political work remained the visibility of the policy frame and its ensuing policy framework (and, as a result, its host organization) rather than what the framework actually purported to do.

In light of these and other findings, this dissertation ultimately reveals that policy frames and their ensuing policy frameworks, as established by global governance institutions, are themselves expressions of the relationship between globalization and governance. Recall in chapter 1, with reference to Sassen (2006), I maintained that the conditions of contemporary globalization emerge as a question of co-creation – these conditions are at once shaped by a range of phenomena as well as by their own tangible and intangible effects. For example, the on-going evolution of globalization is shaped through specific governance measures in the political, economic and cultural domains,
among others. At the same time, the net effect of the conditions shaping globalization is also influencing the governance landscape. Thus, governance both affects and is affected by the conditions of contemporary globalization. In turn, contemporary globalization is advanced by governance actions as well as by the sum total of its manifested conditions. Globalization and governance are so enmeshed with the other, that they are ultimately self-reinforcing (see Sassen 2006).

From this perspective, UNESCO’s interventions on cultural diversity materialize as key vehicles through which the organization asserted itself and expressed agency in the realm of global cultural governance and global media policy more generally. UNESCO, through its policy frame and the ensuing policy framework on cultural diversity, has internalized the context in which it operates and thus emerges as an active agent of globalization.

At the same time, however, UNESCO’s interventions on cultural diversity were importantly shaped as counterpoints to contemporary globalization, particularly regarding the preferential treatment of cultural goods and services and the reinforcement of national cultural sovereignty. Similarly, the *global* media policy frame on cultural diversity, as embodied in the UDCD, was itself rooted in assumptions derived from within an array of national contexts (as discussed in chapter 4) and on which it relied in order to ensure its viability in light of both globalization and global governance. These interventions thus emerge as political manifestations of the national and the global working, simultaneously, together and through one another (Sassen 2006).
In other words, while the relationship between globalization and governance is constantly shifting and evolving, being produced and reproduced in different ways, it is also contingent upon policy frames and policy frameworks that work to stabilize and maintain a particular set of conditions on which these frames and frameworks are based. Policy frames and policy frameworks thus reinforce the conditions they are seeking to change while actively creating opportunities for also changing these conditions. Still, they are never static. Indeed, UNESCO’s policy canon on culture and communication (discussed in chapter 3) shows that these frames and frameworks can be reinforced, discarded or revised over time to create space for the take up of other issues deemed pertinent.

Ultimately, this suggests that policy frames and policy frameworks reflect expressions of power that are embedded in the very connections, institutions and arrangements that shape the processes that we define as having globalizing tendencies. In this regard, policy frames and policy frameworks themselves embody the “processes of structuration and stratification” (Held et al. 1999: 27) that have come to characterize globalization. Thus, *policy frames and their ensuing policy frameworks inherently emerge as expressions of the relationship between globalization and governance. Said differently, they are embodiments of the constitutive relationship between globalization and governance.*

Additional research related to the notion of policy frames and policy frameworks would be desirable. In particular, such research could identify
whether there are noticeable and reliable trends that exist across different global media policy frames and their resulting policy frameworks, as well as their host organizations. To this end, it would be useful to determine whether there are differences in the take up of policy frames and policy frameworks within and between different global media governance institutions; whether policy frames and policy frameworks are meaningfully developed across a spectrum of global media policy issues; and, finally, whether these policy frames and their resulting frameworks are leveraged and put into practice as sites of production and reproduction by their host institutions and to what end.
EPILOGUE

Not to be outdone by its predecessor, South Africa, the host for this year’s 2014 FIFA World Cup, Brazil, unveiled the signature musical instrument for this year’s tournament – the caxirola. The caxirola is a percussion instrument created by legendary Brazilian musician Carlinhos Brown. Modeled after the indigenous Brazilian instrument, the caxixi, which resembles a closed, pear-shaped basket with a flat bottom, the caxirola is made of green or yellow recycled plastic, and filled with small plastic beads. When shaken, it rattles. A knuckle holder on the side of the instrument ensures that the caxirola fits comfortably in the palm of one’s hand. Brown, in collaboration with the Brazilian Ministry of Sport, developed the instrument to reflect the sound and culture of Brazil during the 2014 World Cup. The sound of the caxirola was tested against the vuvuzela to ensure that it emitted sound levels well below that of the 2010 trademark South African World Cup instrument.

Following its launch in Fall 2013, a FIFA representative was quoted as saying that the caxirola will help to “create a unique Brazilian atmosphere in the stadiums” (Watson 2013: np). Dilma Roussef, the country’s president, went even further, stating: “I think the caxirola is not only related to soccer, but also to our country’s great capability to create an instrument that is much prettier than the vuvuzela” (Wills 2013: np).

During its test run at the 2013 Confederations Cup, also held in Brazil, Bahia fans ended up hurling hundreds of caxirolas onto the stadium field in protest to their team’s loss to its rival, creating safety concerns for the players.
and generating questions about the advisability of admitting the hand-held instrument during World Cup matches. Others have criticized the caxirola as a cheap knock-off of the original indigenous instrument, the caxixi, and call attention to intellectual property issues and the violation of traditional cultural heritage (see www.wikipedia.org).

Despite the fanfare surrounding its initial unveiling, and a slight redesign of the instrument in light of the safety concerns raised, the caxirola failed to capture the global imagination in the same way as the vuvuzela once did in 2010. However, it is notable that the cultural expression of Brazilian soccer, manifested in the form of a modern plastic rattle and based on a locally derived musical instrument, emerged as a point of focus for the global sporting event by the host nation. Among other things, it suggests that the capacity and struggle for national cultural expression – and the visibility of this cultural expression on the global stage – remains an enduring source of tension.
References


WSIS (2005) Tunis Commitment and Agenda for the Information Society. Tunis: WSIS.
Appendix A:
The UNESCO 2001 Universal Declaration on Cultural Diversity

The General Conference,

Committed to the full implementation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and other universally recognized legal instruments, such as the two International Covenants of 1966 relating respectively to civil and political rights and to economic, social and cultural rights,

Recalling that the Preamble to the Constitution of UNESCO affirms “that the wide diffusion of culture, and the education of humanity for justice and liberty and peace are indispensable to the dignity of man and constitute a sacred duty which all the nations must fulfil in a spirit of mutual assistance and concern”,

Further recalling Article I of the Constitution, which assigns to UNESCO among other purposes that of recommending “such international agreements as may be necessary to promote the free flow of ideas by word and image”,

Referring to the provisions relating to cultural diversity and the exercise of cultural rights in the international instruments enacted by UNESCO,(1)

Reaffirming that culture should be regarded as the set of distinctive spiritual, material, intellectual and emotional features of society or a social group, and that it encompasses, in addition to art and literature, lifestyles, ways of living together, value systems, traditions and beliefs,(2)

Noting that culture is at the heart of contemporary debates about identity, social cohesion, and the development of a knowledge-based economy,

Affirming that respect for the diversity of cultures, tolerance, dialogue and cooperation, in a climate of mutual trust and understanding are among the best guarantees of international peace and security,

Aspiring to greater solidarity on the basis of recognition of cultural diversity, of awareness of the unity of humankind, and of the development of intercultural exchanges,

Considering that the process of globalization, facilitated by the rapid development of new information and communication technologies, though representing a challenge for cultural diversity, creates the conditions for renewed dialogue among cultures and civilizations,

Aware of the specific mandate which has been entrusted to UNESCO, within the United Nations system, to ensure the preservation and promotion of the fruitful diversity of cultures,

Proclaims the following principles and adopts the present Declaration:

IDENTITY, DIVERSITY AND PLURALISM

Article 1 – Cultural diversity: the common heritage of humanity

Culture takes diverse forms across time and space. This diversity is embodied in the uniqueness and plurality of the identities of the groups and societies making up humankind. As a source of

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exchange, innovation and creativity, cultural diversity is as necessary for humankind as biodiversity is for nature. In this sense, it is the common heritage of humanity and should be recognized and affirmed for the benefit of present and future generations.

Article 2 – From cultural diversity to cultural pluralism

In our increasingly diverse societies, it is essential to ensure harmonious interaction among people and groups with plural, varied and dynamic cultural identities as well as their willingness to live together. Policies for the inclusion and participation of all citizens are guarantees of social cohesion, the vitality of civil society and peace. Thus defined, cultural pluralism gives policy expression to the reality of cultural diversity. Indissociable from a democratic framework, cultural pluralism is conducive to cultural exchange and to the flourishing of creative capacities that sustain public life.

Article 3 – Cultural diversity as a factor in development

Cultural diversity widens the range of options open to everyone; it is one of the roots of development, understood not simply in terms of economic growth, but also as a means to achieve a more satisfactory intellectual, emotional, moral and spiritual existence.

CULTURAL DIVERSITY AND HUMAN RIGHTS

Article 4 – Human rights as guarantees of cultural diversity

The defence of cultural diversity is an ethical imperative, inseparable from respect for human dignity. It implies a commitment to human rights and fundamental freedoms, in particular the rights of persons belonging to minorities and those of indigenous peoples. No one may invoke cultural diversity to infringe upon human rights guaranteed by international law, nor to limit their scope.

Article 5 – Cultural rights as an enabling environment for cultural diversity

Cultural rights are an integral part of human rights, which are universal, indivisible and interdependent. The flourishing of creative diversity requires the full implementation of cultural rights as defined in Article 27 of the Universal Declaration of Human Rights and in Articles 13 and 15 of the International Covenant on Economic, Social and Cultural Rights. All persons have therefore the right to express themselves and to create and disseminate their work in the language of their choice, and particularly in their mother tongue; all persons are entitled to quality education and training that fully respect their cultural identity; and all persons have the right to participate in the cultural life of their choice and conduct their own cultural practices, subject to respect for human rights and fundamental freedoms.

Article 6 – Towards access for all to cultural diversity

While ensuring the free flow of ideas by word and image care should be exercised so that all cultures can express themselves and make themselves known. Freedom of expression, media pluralism, multilingualism, equal access to art and to scientific and technological knowledge, including in digital form, and the possibility for all cultures to have access to the means of expression and dissemination are the guarantees of cultural diversity.

CULTURAL DIVERSITY AND CREATIVITY

Article 7 – Cultural heritage as the wellspring of creativity

Creation draws on the roots of cultural tradition, but flourishes in contact with other cultures. For
this reason, heritage in all its forms must be preserved, enhanced and handed on to future
generations as a record of human experience and aspirations, so as to foster creativity in all its
diversity and to inspire genuine dialogue among cultures.

Article 8 – Cultural goods and services: commodities of a unique kind

In the face of present-day economic and technological change, opening up vast prospects for
creation and innovation, particular attention must be paid to the diversity of the supply of creative
work, to due recognition of the rights of authors and artists and to the specificity of cultural goods
and services which, as vectors of identity, values and meaning, must not be treated as mere
commodities or consumer goods.

Article 9 – Cultural policies as catalysts of creativity

While ensuring the free circulation of ideas and works, cultural policies must create conditions
conducive to the production and dissemination of diversified cultural goods and services through
cultural industries that have the means to assert themselves at the local and global level. It is for
each State, with due regard to its international obligations, to define its cultural policy and to
implement it through the means it considers fit, whether by operational support or appropriate
regulations.

CULTURAL DIVERSITY AND INTERNATIONAL SOLIDARITY

Article 10 – Strengthening capacities for creation and dissemination worldwide

In the face of current imbalances in flows and exchanges of cultural goods at the global level, it is
necessary to reinforce international cooperation and solidarity aimed at enabling all countries,
especially developing countries and countries in transition, to establish cultural industries that are
viable and competitive at national and international level.

Article 11 – Building partnerships between the public sector, the private sector and civil
society

Market forces alone cannot guarantee the preservation and promotion of cultural diversity, which
is the key to sustainable human development. From this perspective, the pre-eminence of public
policy, in partnership with the private sector and civil society, must be reaffirmed.

Article 12 – The role of UNESCO

UNESCO, by virtue of its mandate and functions, has the responsibility to:

(a) promote the incorporation of the principles set out in the present Declaration into the
development strategies drawn up within the various intergovernmental bodies;

(b) serve as a reference point and a forum where States, international governmental and
nongovernmental organizations, civil society and the private sector may join together in
elaborating concepts, objectives and policies in favour of cultural diversity;

(c) pursue its activities in standard-setting, awareness raising and capacity-building in the areas
related to the present Declaration within its fields of competence;

(d) facilitate the implementation of the Action Plan, the main lines of which are appended to the
present Declaration.

(1) Including, in particular, the Florence Agreement of 1950 and its Nairobi Protocol of 1976, the

(2) This definition is in line with the conclusions of the World Conference on Cultural Policies (MONDIACULT, Mexico City, 1982), of the World Commission on Culture and Development Our Creative Diversity, 1995), and of the Intergovernmental Conference on Cultural Policies for Development (Stockholm, 1998)

Annex II Main lines of an action plan for the implementation of the UNESCO Universal Declaration on Cultural Diversity

The Member States commit themselves to taking appropriate steps to disseminate widely the “UNESCO Universal Declaration on Cultural Diversity” and to encourage its effective application, in particular by cooperating with a view to achieving the following objectives:

1. Deepening the international debate on questions relating to cultural diversity, particularly in respect of its links with development and its impact on policy-making, at both national and international level; taking forward notably consideration of the advisability of an international legal instrument on cultural diversity.

2. Advancing in the definition of principles, standards and practices, on both the national and the international levels, as well as of awareness-raising modalities and patterns of cooperation, that are most conducive to the safeguarding and promotion of cultural diversity.

3. Fostering the exchange of knowledge and best practices in regard to cultural pluralism with a view to facilitating, in diversified societies, the inclusion and participation of persons and groups from varied cultural backgrounds.

4. Making further headway in understanding and clarifying the content of cultural rights as an integral part of human rights.

5. Safeguarding the linguistic heritage of humanity and giving support to expression, creation and dissemination in the greatest possible number of languages.

6. Encouraging linguistic diversity – while respecting the mother tongue – at all levels of education, wherever possible, and fostering the learning of several languages from the earliest age.

7. Promoting through education an awareness of the positive value of cultural diversity and improving to this end both curriculum design and teacher education.

8. Incorporating, where appropriate, traditional pedagogies into the education process with a view to preserving and making full use of culturally appropriate methods of communication and transmission of knowledge.

9. Encouraging “digital literacy” and ensuring greater mastery of the new information and communication technologies, which should be seen both as educational disciplines and as pedagogical tools capable of enhancing the effectiveness of educational services.

10. Promoting linguistic diversity in cyberspace and encouraging universal access through the global network to all information in the public domain.
11. Countering the digital divide, in close cooperation in relevant United Nations system organizations, by fostering access by the developing countries to the new technologies, by helping them to master information technologies and by facilitating the digital dissemination of endogenous cultural products and access by those countries to the educational, cultural and scientific digital resources available worldwide.

12. Encouraging the production, safeguarding and dissemination of diversified contents in the media and global information networks and, to that end, promoting the role of public radio and television services in the development of audiovisual productions of good quality, in particular by fostering the establishment of cooperative mechanisms to facilitate their distribution.

13. Formulating policies and strategies for the preservation and enhancement of the cultural and natural heritage, notably the oral and intangible cultural heritage, and combating illicit traffic in cultural goods and services.

14. Respecting and protecting traditional knowledge, in particular that of indigenous peoples; recognizing the contribution of traditional knowledge, particularly with regard to environmental protection and the management of natural resources, and fostering synergies between modern science and local knowledge.

15. Fostering the mobility of creators, artists, researchers, scientists and intellectuals and the development of international research programmes and partnerships, while striving to preserve and enhance the creative capacity of developing countries and countries in transition.

16. Ensuring protection of copyright and related rights in the interest of the development of contemporary creativity and fair remuneration for creative work, while at the same time upholding a public right of access to culture, in accordance with Article 27 of the Universal Declaration of Human Rights.

17. Assisting in the emergence or consolidation of cultural industries in the developing countries and countries in transition and, to this end, cooperating in the development of the necessary infrastructures and skills, fostering the emergence of viable local markets, and facilitating access for the cultural products of those countries to the global market and international distribution networks.

18. Developing cultural policies, including operational support arrangements and/or appropriate regulatory frameworks, designed to promote the principles enshrined in this Declaration, in accordance with the international obligations incumbent upon each State.

19. Involving the various sections of civil society closely in the framing of public policies aimed at safeguarding and promoting cultural diversity.

20. Recognizing and encouraging the contribution that the private sector can make to enhancing cultural diversity and facilitating, to that end, the establishment of forums for dialogue between the public sector and the private sector.

The Member States recommend that the Director-General take the objectives set forth in this Action Plan into account in the implementation of UNESCO’s programmes and communicate it to institutions of the United Nations system and to other intergovernmental and non-governmental organizations concerned with a view to enhancing the synergy of actions in favour of cultural diversity.
Appendix B: Excerpts from the UNESCO 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions

The General Conference of the United Nations Educational, Scientific and Cultural Organization, meeting in Paris from 3 to 21 October 2005 at its 33rd session,

Affirming that cultural diversity is a defining characteristic of humanity,

Conscious that cultural diversity forms a common heritage of humanity and should be cherished and preserved for the benefit of all,

Being aware that cultural diversity creates a rich and varied world, which increases the range of choices and nurtures human capacities and values, and therefore is a mainspring for sustainable development for communities, peoples and nations,

Recalling that cultural diversity, flourishing within a framework of democracy, tolerance, social justice and mutual respect between peoples and cultures, is indispensable for peace and security at the local, national and international levels,

Celebrating the importance of cultural diversity for the full realization of human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and other universally recognized instruments,

Emphasizing the need to incorporate culture as a strategic element in national and international development policies, as well as in international development cooperation, taking into account also the United Nations Millennium Declaration (2000) with its special emphasis on poverty eradication,

Taking into account that culture takes diverse forms across time and space and that this diversity is embodied in the uniqueness and plurality of the identities and cultural expressions of the peoples and societies making up humanity,

Recognizing the importance of traditional knowledge as a source of intangible and material wealth, and in particular the knowledge systems of indigenous peoples, and its positive contribution to sustainable development, as well as the need for its adequate protection and promotion,

Recognizing the need to take measures to protect the diversity of cultural expressions, including their contents, especially in situations where cultural expressions may be threatened by the possibility of extinction or serious impairment,

Emphasizing the importance of culture for social cohesion in general, and in particular its potential for the enhancement of the status and role of women in society,

Being aware that cultural diversity is strengthened by the free flow of ideas, and that it is nurtured by constant exchanges and interaction between cultures,

Reaffirming that freedom of thought, expression and information, as well as diversity of the media, enable cultural expressions to flourish within societies,

71 This excerpt includes the Preamble and Articles 1 through 35 of the CCD only; the complete document is available at: http://portal.unesco.org/en/ev.php-URL_ID=31038&URL_DO=DO_TOPIC&URL_SECTION=201.html (accessed 5/4/2014).
Recognizing that the diversity of cultural expressions, including traditional cultural expressions, is an important factor that allows individuals and peoples to express and to share with others their ideas and values,

Recalling that linguistic diversity is a fundamental element of cultural diversity, and reaffirming the fundamental role that education plays in the protection and promotion of cultural expressions,

Taking into account the importance of the vitality of cultures, including for persons belonging to minorities and indigenous peoples, as manifested in their freedom to create, disseminate and distribute their traditional cultural expressions and to have access thereto, so as to benefit them for their own development,

Emphasizing the vital role of cultural interaction and creativity, which nurture and renew cultural expressions and enhance the role played by those involved in the development of culture for the progress of society at large,

Recognizing the importance of intellectual property rights in sustaining those involved in cultural creativity,

Being convinced that cultural activities, goods and services have both an economic and a cultural nature, because they convey identities, values and meanings, and must therefore not be treated as solely having commercial value,

Noting that while the processes of globalization, which have been facilitated by the rapid development of information and communication technologies, afford unprecedented conditions for enhanced interaction between cultures, they also represent a challenge for cultural diversity, namely in view of risks of imbalances between rich and poor countries,

Being aware of UNESCO’s specific mandate to ensure respect for the diversity of cultures and to recommend such international agreements as may be necessary to promote the free flow of ideas by word and image,

Referring to the provisions of the international instruments adopted by UNESCO relating to cultural diversity and the exercise of cultural rights, and in particular the Universal Declaration on Cultural Diversity of 2001,

Adopts this Convention on 20 October 2005.

I. Objectives and guiding principles

Article 1 – Objectives

The objectives of this Convention are:

(a) to protect and promote the diversity of cultural expressions;

(b) to create the conditions for cultures to flourish and to freely interact in a mutually beneficial manner;

(c) to encourage dialogue among cultures with a view to ensuring wider and balanced cultural exchanges in the world in favour of intercultural respect and a culture of peace;

(d) to foster interculturality in order to develop cultural interaction in the spirit of building bridges among peoples;

(e) to promote respect for the diversity of cultural expressions and raise awareness of its value at
the local, national and international levels;

(f) to reaffirm the importance of the link between culture and development for all countries, particularly for developing countries, and to support actions undertaken nationally and internationally to secure recognition of the true value of this link;

(g) to give recognition to the distinctive nature of cultural activities, goods and services as vehicles of identity, values and meaning;

(h) to reaffirm the sovereign rights of States to maintain, adopt and implement policies and measures that they deem appropriate for the protection and promotion of the diversity of cultural expressions on their territory;

(i) to strengthen international cooperation and solidarity in a spirit of partnership with a view, in particular, to enhancing the capacities of developing countries in order to protect and promote the diversity of cultural expressions.

Article 2 – Guiding principles

1. Principle of respect for human rights and fundamental freedoms

Cultural diversity can be protected and promoted only if human rights and fundamental freedoms, such as freedom of expression, information and communication, as well as the ability of individuals to choose cultural expressions, are guaranteed. No one may invoke the provisions of this Convention in order to infringe human rights and fundamental freedoms as enshrined in the Universal Declaration of Human Rights or guaranteed by international law, or to limit the scope thereof.

2. Principle of sovereignty

States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to adopt measures and policies to protect and promote the diversity of cultural expressions within their territory.

3. Principle of equal dignity of and respect for all cultures

The protection and promotion of the diversity of cultural expressions presuppose the recognition of equal dignity of and respect for all cultures, including the cultures of persons belonging to minorities and indigenous peoples.

4. Principle of international solidarity and cooperation

International cooperation and solidarity should be aimed at enabling countries, especially developing countries, to create and strengthen their means of cultural expression, including their cultural industries, whether nascent or established, at the local, national and international levels.

5. Principle of the complementarity of economic and cultural aspects of development

Since culture is one of the mainsprings of development, the cultural aspects of development are as important as its economic aspects, which individuals and peoples have the fundamental right to participate in and enjoy.

6. Principle of sustainable development

Cultural diversity is a rich asset for individuals and societies. The protection, promotion and maintenance of cultural diversity are an essential requirement for sustainable development for the
benefit of present and future generations.

7. Principle of equitable access

Equitable access to a rich and diversified range of cultural expressions from all over the world and access of cultures to the means of expressions and dissemination constitute important elements for enhancing cultural diversity and encouraging mutual understanding.

8. Principle of openness and balance

When States adopt measures to support the diversity of cultural expressions, they should seek to promote, in an appropriate manner, openness to other cultures of the world and to ensure that these measures are geared to the objectives pursued under the present Convention.

II. Scope of application

Article 3 – Scope of application

This Convention shall apply to the policies and measures adopted by the Parties related to the protection and promotion of the diversity of cultural expressions.

III. Definitions

Article 4 – Definitions

For the purposes of this Convention, it is understood that:

1. Cultural diversity

“Cultural diversity” refers to the manifold ways in which the cultures of groups and societies find expression. These expressions are passed on within and among groups and societies.

Cultural diversity is made manifest not only through the varied ways in which the cultural heritage of humanity is expressed, augmented and transmitted through the variety of cultural expressions, but also through diverse modes of artistic creation, production, dissemination, distribution and enjoyment, whatever the means and technologies used.

2. Cultural content

“Cultural content” refers to the symbolic meaning, artistic dimension and cultural values that originate from or express cultural identities.

3. Cultural expressions

“Cultural expressions” are those expressions that result from the creativity of individuals, groups and societies, and that have cultural content.

4. Cultural activities, goods and services

“Cultural activities, goods and services” refers to those activities, goods and services, which at the time they are considered as a specific attribute, use or purpose, embody or convey cultural expressions, irrespective of the commercial value they may have. Cultural activities may be an end in themselves, or they may contribute to the production of cultural goods and services.

5. Cultural industries

“Cultural industries” refers to industries producing and distributing cultural goods or services as
defined in paragraph 4 above.

6. Cultural policies and measures

“Cultural policies and measures” refers to those policies and measures relating to culture, whether at the local, national, regional or international level that are either focused on culture as such or are designed to have a direct effect on cultural expressions of individuals, groups or societies, including on the creation, production, dissemination, distribution of and access to cultural activities, goods and services.

7. Protection

“Protection” means the adoption of measures aimed at the preservation, safeguarding and enhancement of the diversity of cultural expressions.

“Protect” means to adopt such measures.

8. Interculturality

“Interculturality” refers to the existence and equitable interaction of diverse cultures and the possibility of generating shared cultural expressions through dialogue and mutual respect.

IV. Rights and obligations of Parties

Article 5 – General rule regarding rights and obligations

1. The Parties, in conformity with the Charter of the United Nations, the principles of international law and universally recognized human rights instruments, reaffirm their sovereign right to formulate and implement their cultural policies and to adopt measures to protect and promote the diversity of cultural expressions and to strengthen international cooperation to achieve the purposes of this Convention.

2. When a Party implements policies and takes measures to protect and promote the diversity of cultural expressions within its territory, its policies and measures shall be consistent with the provisions of this Convention.

Article 6 – Rights of parties at the national level

1. Within the framework of its cultural policies and measures as defined in Article 4.6 and taking into account its own particular circumstances and needs, each Party may adopt measures aimed at protecting and promoting the diversity of cultural expressions within its territory.

2. Such measures may include the following:

(a) regulatory measures aimed at protecting and promoting diversity of cultural expressions;

(b) measures that, in an appropriate manner, provide opportunities for domestic cultural activities, goods and services among all those available within the national territory for the creation, production, dissemination, distribution and enjoyment of such domestic cultural activities, goods and services, including provisions relating to the language used for such activities, goods and services;

(c) measures aimed at providing domestic independent cultural industries and activities in the informal sector effective access to the means of production, dissemination and distribution of cultural activities, goods and services;
(d) measures aimed at providing public financial assistance;

(e) measures aimed at encouraging non-profit organizations, as well as public and private institutions and artists and other cultural professionals, to develop and promote the free exchange and circulation of ideas, cultural expressions and cultural activities, goods and services, and to stimulate both the creative and entrepreneurial spirit in their activities;

(f) measures aimed at establishing and supporting public institutions, as appropriate;

(g) measures aimed at nurturing and supporting artists and others involved in the creation of cultural expressions;

(h) measures aimed at enhancing diversity of the media, including through public service broadcasting.

Article 7 – Measures to promote cultural expressions

1. Parties shall endeavour to create in their territory an environment which encourages individuals and social groups:

(a) to create, produce, disseminate, distribute and have access to their own cultural expressions, paying due attention to the special circumstances and needs of women as well as various social groups, including persons belonging to minorities and indigenous peoples;

(b) to have access to diverse cultural expressions from within their territory as well as from other countries of the world.

2. Parties shall also endeavour to recognize the important contribution of artists, others involved in the creative process, cultural communities, and organizations that support their work, and their central role in nurturing the diversity of cultural expressions.

Article 8 – Measures to protect cultural expressions

1. Without prejudice to the provisions of Articles 5 and 6, a Party may determine the existence of special situations where cultural expressions on its territory are at risk of extinction, under serious threat, or otherwise in need of urgent safeguarding.

2. Parties may take all appropriate measures to protect and preserve cultural expressions in situations referred to in paragraph 1 in a manner consistent with the provisions of this Convention.

3. Parties shall report to the Intergovernmental Committee referred to in Article 23 all measures taken to meet the exigencies of the situation, and the Committee may make appropriate recommendations.

Article 9 – Information sharing and transparency

Parties shall:

(a) provide appropriate information in their reports to UNESCO every four years on measures taken to protect and promote the diversity of cultural expressions within their territory and at the international level;

(b) designate a point of contact responsible for information sharing in relation to this Convention;

(c) share and exchange information relating to the protection and promotion of the diversity of cultural expressions.
Article 10 – Education and public awareness

Parties shall:

(a) encourage and promote understanding of the importance of the protection and promotion of the diversity of cultural expressions, inter alia, through educational and greater public awareness programmes;

(b) cooperate with other Parties and international and regional organizations in achieving the purpose of this article;

(c) endeavour to encourage creativity and strengthen production capacities by setting up educational, training and exchange programmes in the field of cultural industries. These measures should be implemented in a manner which does not have a negative impact on traditional forms of production.

Article 11 – Participation of civil society

Parties acknowledge the fundamental role of civil society in protecting and promoting the diversity of cultural expressions. Parties shall encourage the active participation of civil society in their efforts to achieve the objectives of this Convention.

Article 12 – Promotion of international cooperation

Parties shall endeavour to strengthen their bilateral, regional and international cooperation for the creation of conditions conducive to the promotion of the diversity of cultural expressions, taking particular account of the situations referred to in Articles 8 and 17, notably in order to:

(a) facilitate dialogue among Parties on cultural policy;

(b) enhance public sector strategic and management capacities in cultural public sector institutions, through professional and international cultural exchanges and sharing of best practices;

(c) reinforce partnerships with and among civil society, non-governmental organizations and the private sector in fostering and promoting the diversity of cultural expressions;

(d) promote the use of new technologies, encourage partnerships to enhance information sharing and cultural understanding, and foster the diversity of cultural expressions;

(e) encourage the conclusion of co-production and co-distribution agreements.

Article 13 – Integration of culture in sustainable development

Parties shall endeavour to integrate culture in their development policies at all levels for the creation of conditions conducive to sustainable development and, within this framework, foster aspects relating to the protection and promotion of the diversity of cultural expressions.

Article 14 – Cooperation for development

Parties shall endeavour to support cooperation for sustainable development and poverty reduction, especially in relation to the specific needs of developing countries, in order to foster the emergence of a dynamic cultural sector by, inter alia, the following means:

(a) the strengthening of the cultural industries in developing countries through:
(i) creating and strengthening cultural production and distribution capacities in developing countries;

(ii) facilitating wider access to the global market and international distribution networks for their cultural activities, goods and services;

(iii) enabling the emergence of viable local and regional markets;

(iv) adopting, where possible, appropriate measures in developed countries with a view to facilitating access to their territory for the cultural activities, goods and services of developing countries;

(v) providing support for creative work and facilitating the mobility, to the extent possible, of artists from the developing world;

(vi) encouraging appropriate collaboration between developed and developing countries in the areas, inter alia, of music and film;

(b) capacity-building through the exchange of information, experience and expertise, as well as the training of human resources in developing countries, in the public and private sector relating to, inter alia, strategic and management capacities, policy development and implementation, promotion and distribution of cultural expressions, small-, medium- and micro-enterprise development, the use of technology, and skills development and transfer;

(c) technology transfer through the introduction of appropriate incentive measures for the transfer of technology and know-how, especially in the areas of cultural industries and enterprises;

(d) financial support through:

(i) the establishment of an International Fund for Cultural Diversity as provided in Article 18;

(ii) the provision of official development assistance, as appropriate, including technical assistance, to stimulate and support creativity;

(iii) other forms of financial assistance such as low interest loans, grants and other funding mechanisms.

Article 15 – Collaborative arrangements

Parties shall encourage the development of partnerships, between and within the public and private sectors and non-profit organizations, in order to cooperate with developing countries in the enhancement of their capacities in the protection and promotion of the diversity of cultural expressions. These innovative partnerships shall, according to the practical needs of developing countries, emphasize the further development of infrastructure, human resources and policies, as well as the exchange of cultural activities, goods and services.

Article 16 – Preferential treatment for developing countries

Developed countries shall facilitate cultural exchanges with developing countries by granting, through the appropriate institutional and legal frameworks, preferential treatment to artists and other cultural professionals and practitioners, as well as cultural goods and services from developing countries.

Article 17 – International cooperation in situations of serious threat to cultural expressions
Parties shall cooperate in providing assistance to each other, and, in particular to developing countries, in situations referred to under Article 8.

Article 18 – International Fund for Cultural Diversity

1. An International Fund for Cultural Diversity, hereinafter referred to as “the Fund”, is hereby established.

2. The Fund shall consist of funds-in-trust established in accordance with the Financial Regulations of UNESCO.

3. The resources of the Fund shall consist of:

   (a) voluntary contributions made by Parties;

   (b) funds appropriated for this purpose by the General Conference of UNESCO;

   (c) contributions, gifts or bequests by other States; organizations and programmes of the United Nations system, other regional or international organizations; and public or private bodies or individuals;

   (d) any interest due on resources of the Fund;

   (e) funds raised through collections and receipts from events organized for the benefit of the Fund;

   (f) any other resources authorized by the Fund’s regulations.

4. The use of resources of the Fund shall be decided by the Intergovernmental Committee on the basis of guidelines determined by the Conference of Parties referred to in Article 22.

5. The Intergovernmental Committee may accept contributions and other forms of assistance for general and specific purposes relating to specific projects, provided that those projects have been approved by it.

6. No political, economic or other conditions that are incompatible with the objectives of this Convention may be attached to contributions made to the Fund.

7. Parties shall endeavour to provide voluntary contributions on a regular basis towards the implementation of this Convention.

Article 19 – Exchange, analysis and dissemination of information

1. Parties agree to exchange information and share expertise concerning data collection and statistics on the diversity of cultural expressions as well as on best practices for its protection and promotion.

2. UNESCO shall facilitate, through the use of existing mechanisms within the Secretariat, the collection, analysis and dissemination of all relevant information, statistics and best practices.

3. UNESCO shall also establish and update a data bank on different sectors and governmental, private and non-profit organizations involved in the area of cultural expressions.

4. To facilitate the collection of data, UNESCO shall pay particular attention to capacity-building and the strengthening of expertise for Parties that submit a request for such assistance.
5. The collection of information identified in this Article shall complement the information collected under the provisions of Article 9.

V. Relationship to other instruments

Article 20 – Relationship to other treaties: mutual supportiveness, complementarity and non-subordination

1. Parties recognize that they shall perform in good faith their obligations under this Convention and all other treaties to which they are parties. Accordingly, without subordinating this Convention to any other treaty,

(a) they shall foster mutual supportiveness between this Convention and the other treaties to which they are parties; and

(b) when interpreting and applying the other treaties to which they are parties or when entering into other international obligations, Parties shall take into account the relevant provisions of this Convention.

2. Nothing in this Convention shall be interpreted as modifying rights and obligations of the Parties under any other treaties to which they are parties.

Article 21 – International consultation and coordination

Parties undertake to promote the objectives and principles of this Convention in other international forums. For this purpose, Parties shall consult each other, as appropriate, bearing in mind these objectives and principles.

VI. Organs of the Convention

Article 22 – Conference of Parties

1. A Conference of Parties shall be established. The Conference of Parties shall be the plenary and supreme body of this Convention.

2. The Conference of Parties shall meet in ordinary session every two years, as far as possible, in conjunction with the General Conference of UNESCO. It may meet in extraordinary session if it so decides or if the Intergovernmental Committee receives a request to that effect from at least one-third of the Parties.

3. The Conference of Parties shall adopt its own rules of procedure.

4. The functions of the Conference of Parties shall be, inter alia:

(a) to elect the Members of the Intergovernmental Committee;

(b) to receive and examine reports of the Parties to this Convention transmitted by the Intergovernmental Committee;

(c) to approve the operational guidelines prepared upon its request by the Intergovernmental Committee;

(d) to take whatever other measures it may consider necessary to further the objectives of this Convention.

Article 23 – Intergovernmental Committee
1. An Intergovernmental Committee for the Protection and Promotion of the Diversity of Cultural Expressions, hereinafter referred to as “the Intergovernmental Committee”, shall be established within UNESCO. It shall be composed of representatives of 18 States Parties to the Convention, elected for a term of four years by the Conference of Parties upon entry into force of this Convention pursuant to Article 29.

2. The Intergovernmental Committee shall meet annually.

3. The Intergovernmental Committee shall function under the authority and guidance of and be accountable to the Conference of Parties.

4. The Members of the Intergovernmental Committee shall be increased to 24 once the number of Parties to the Convention reaches 50.

5. The election of Members of the Intergovernmental Committee shall be based on the principles of equitable geographical representation as well as rotation.

6. Without prejudice to the other responsibilities conferred upon it by this Convention, the functions of the Intergovernmental Committee shall be:

   (a) to promote the objectives of this Convention and to encourage and monitor the implementation thereof;

   (b) to prepare and submit for approval by the Conference of Parties, upon its request, the operational guidelines for the implementation and application of the provisions of the Convention;

   (c) to transmit to the Conference of Parties reports from Parties to the Convention, together with its comments and a summary of their contents;

   (d) to make appropriate recommendations to be taken in situations brought to its attention by Parties to the Convention in accordance with relevant provisions of the Convention, in particular Article 8;

   (e) to establish procedures and other mechanisms for consultation aimed at promoting the objectives and principles of this Convention in other international forums;

   (f) to perform any other tasks as may be requested by the Conference of Parties.

7. The Intergovernmental Committee, in accordance with its Rules of Procedure, may invite at any time public or private organizations or individuals to participate in its meetings for consultation on specific issues.

8. The Intergovernmental Committee shall prepare and submit to the Conference of Parties, for approval, its own Rules of Procedure.

**Article 24 – UNESCO Secretariat**

1. The organs of the Convention shall be assisted by the UNESCO Secretariat.

2. The Secretariat shall prepare the documentation of the Conference of Parties and the Intergovernmental Committee as well as the agenda of their meetings and shall assist in and report on the implementation of their decisions.
VII. Final clauses

Article 25 – Settlement of disputes

1. In the event of a dispute between Parties to this Convention concerning the interpretation or the application of the Convention, the Parties shall seek a solution by negotiation.

2. If the Parties concerned cannot reach agreement by negotiation, they may jointly seek the good offices of, or request mediation by, a third party.

3. If good offices or mediation are not undertaken or if there is no settlement by negotiation, good offices or mediation, a Party may have recourse to conciliation in accordance with the procedure laid down in the Annex of this Convention. The Parties shall consider in good faith the proposal made by the Conciliation Commission for the resolution of the dispute.

4. Each Party may, at the time of ratification, acceptance, approval or accession, declare that it does not recognize the conciliation procedure provided for above. Any Party having made such a declaration may, at any time, withdraw this declaration by notification to the Director-General of UNESCO.

Article 26 – Ratification, acceptance, approval or accession by Member States

1. This Convention shall be subject to ratification, acceptance, approval or accession by Member States of UNESCO in accordance with their respective constitutional procedures.

2. The instruments of ratification, acceptance, approval or accession shall be deposited with the Director-General of UNESCO.

Article 27 – Accession

1. This Convention shall be open to accession by all States not Members of UNESCO but members of the United Nations, or of any of its specialized agencies, that are invited by the General Conference of UNESCO to accede to it.

2. This Convention shall also be open to accession by territories which enjoy full internal self-government recognized as such by the United Nations, but which have not attained full independence in accordance with General Assembly resolution 1514 (XV), and which have competence over the matters governed by this Convention, including the competence to enter into treaties in respect of such matters.

3. The following provisions apply to regional economic integration organizations:

(a) This Convention shall also be open to accession by any regional economic integration organization, which shall, except as provided below, be fully bound by the provisions of the Convention in the same manner as States Parties;

(b) In the event that one or more Member States of such an organization is also Party to this Convention, the organization and such Member State or States shall decide on their responsibility for the performance of their obligations under this Convention. Such distribution of responsibility shall take effect following completion of the notification procedure described in subparagraph (c). The organization and the Member States shall not be entitled to exercise rights under this Convention concurrently. In addition, regional economic integration organizations, in matters within their competence, shall exercise their rights to vote with a number of votes equal to the number of their Member States that are Parties to this Convention. Such an organization shall not exercise its right to vote if any of its Member States exercises its right, and vice-versa;
(c) A regional economic integration organization and its Member State or States which have agreed on a distribution of responsibilities as provided in subparagraph (b) shall inform the Parties of any such proposed distribution of responsibilities in the following manner:

(i) in their instrument of accession, such organization shall declare with specificity, the distribution of their responsibilities with respect to matters governed by the Convention;

(ii) in the event of any later modification of their respective responsibilities, the regional economic integration organization shall inform the depositary of any such proposed modification of their respective responsibilities; the depositary shall in turn inform the Parties of such modification;

(d) Member States of a regional economic integration organization which become Parties to this Convention shall be presumed to retain competence over all matters in respect of which transfers of competence to the organization have not been specifically declared or informed to the depositary;

(e) “Regional economic integration organization” means an organization constituted by sovereign States, members of the United Nations or of any of its specialized agencies, to which those States have transferred competence in respect of matters governed by this Convention and which has been duly authorized, in accordance with its internal procedures, to become a Party to it.

4. The instrument of accession shall be deposited with the Director-General of UNESCO.

Article 28 – Point of contact

Upon becoming Parties to this Convention, each Party shall designate a point of contact as referred to in Article 9.

Article 29 – Entry into force

1. This Convention shall enter into force three months after the date of deposit of the thirtieth instrument of ratification, acceptance, approval or accession, but only with respect to those States or regional economic integration organizations that have deposited their respective instruments of ratification, acceptance, approval, or accession on or before that date. It shall enter into force with respect to any other Party three months after the deposit of its instrument of ratification, acceptance, approval or accession.

2. For the purposes of this Article, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by Member States of the organization.

Article 30 – Federal or non-unitary constitutional systems

Recognizing that international agreements are equally binding on Parties regardless of their constitutional systems, the following provisions shall apply to Parties which have a federal or non-unitary constitutional system:

(a) with regard to the provisions of this Convention, the implementation of which comes under the legal jurisdiction of the federal or central legislative power, the obligations of the federal or central government shall be the same as for those Parties which are not federal States;

(b) with regard to the provisions of the Convention, the implementation of which comes under the jurisdiction of individual constituent units such as States, counties, provinces, or cantons which are not obliged by the constitutional system of the federation to take legislative measures, the federal government shall inform, as necessary, the competent authorities of constituent units such as States, counties, provinces or cantons of the said provisions, with its recommendation for
their adoption.

**Article 31 – Denunciation**

1. Any Party to this Convention may denounce this Convention.

2. The denunciation shall be notified by an instrument in writing deposited with the Director-General of UNESCO.

3. The denunciation shall take effect 12 months after the receipt of the instrument of denunciation. It shall in no way affect the financial obligations of the Party denouncing the Convention until the date on which the withdrawal takes effect.

**Article 32 – Depositary functions**

The Director-General of UNESCO, as the depositary of this Convention, shall inform the Member States of the Organization, the States not members of the Organization and regional economic integration organizations referred to in Article 27, as well as the United Nations, of the deposit of all the instruments of ratification, acceptance, approval or accession provided for in Articles 26 and 27, and of the denunciations provided for in Article 31.

**Article 33 – Amendments**

1. A Party to this Convention may, by written communication addressed to the Director-General, propose amendments to this Convention. The Director-General shall circulate such communication to all Parties. If, within six months from the date of dispatch of the communication, no less than one half of the Parties reply favourably to the request, the Director-General shall present such proposal to the next session of the Conference of Parties for discussion and possible adoption.

2. Amendments shall be adopted by a two-thirds majority of Parties present and voting.

3. Once adopted, amendments to this Convention shall be submitted to the Parties for ratification, acceptance, approval or accession.

4. For Parties which have ratified, accepted, approved or acceded to them, amendments to this Convention shall enter into force three months after the deposit of the instruments referred to in paragraph 3 of this Article by two-thirds of the Parties. Thereafter, for each Party that ratifies, accepts, approves or accedes to an amendment, the said amendment shall enter into force three months after the date of deposit by that Party of its instrument of ratification, acceptance, approval or accession.

5. The procedure set out in paragraphs 3 and 4 shall not apply to amendments to Article 23 concerning the number of Members of the Intergovernmental Committee. These amendments shall enter into force at the time they are adopted.

6. A State or a regional economic integration organization referred to in Article 27 which becomes a Party to this Convention after the entry into force of amendments in conformity with paragraph 4 of this Article shall, failing an expression of different intention, be considered to be:

   (a) Party to this Convention as so amended; and

   (b) a Party to the unamended Convention in relation to any Party not bound by the amendments.

**Article 34 – Authoritative texts**
This Convention has been drawn up in Arabic, Chinese, English, French, Russian and Spanish, all six texts being equally authoritative.

**Article 35 – Registration**

In conformity with Article 102 of the Charter of the United Nations, this Convention shall be registered with the Secretariat of the United Nations at the request of the Director-General of UNESCO.