The Conference of Parties, at its third ordinary session in June 2011, in the context of the implementation of Section V of the Convention on the relationship to other instruments, requested the Secretariat to present, in relation to Article 21, a compendium of cases wherein the Convention is invoked or utilized in other international forums (Resolution 3.CP 11). This document presents a report on the matter.

Decision required: paragraph 9
1. At its third ordinary session, the Conference of Parties to the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (hereinafter referred to as "the Convention") requested the Secretariat “in the context of the implementation of Section V of the Convention on the relationship to other instruments, (…) to present, in relation to Article 21, a compendium of cases wherein the Convention is invoked or utilized in other international fora for examination by the Committee at each ordinary session" (Resolution 3.CP 11).

2. Article 21 “International consultation and coordination” is contained in Section V of the Convention, which concerns the relationship to other instruments. It obliges the Parties to accept responsibility by undertaking to promote the objectives and principles of the Convention. For this purpose, in addition to their individual actions and initiatives, the Parties may, if necessary, engage in consultations on the matter in the interests of Convention.

3. In conjunction with Article 21, Article 23.6 (e) also provides for consultations to ensure the promotion of the objectives and principles of the Convention in other international forums. Under Article 23.6 (e), which falls within the framework of the functions assigned to the Committee by the Convention, the Committee may, if it so desires, establish procedures and other mechanisms for consultation aimed at promoting the objectives and principles of the Convention in other international forums.

4. In accordance with Resolution 3.CP 11, the Secretariat consulted the Parties to the Convention and sent to them on 29 July 2011 a letter, together with a questionnaire (Annex I), inviting them to provide information on the measures they have taken to implement Article 21. Thirty-four (34) Parties sent replies to the Secretariat.1

5. The questionnaire was designed in three parts. The first asked Parties whether they have already invoked or utilized the Convention in other international forum, and if so, they were asked to describe the circumstances and the results. The second part of the questionnaire asked Parties whether they have ever engaged in consultations with other Parties to the Convention to promote its objectives and principles in international forums other than at UNESCO and if so, to elaborate their response. Finally, a third part asked Parties to consider in which other ways the Convention could be utilized or invoked in international forum in such a way that it would promote its objectives and principles. Parties were asked to provide original documents that will form the basis of a repository of information on the implementation of Article 21. A list of these documents is provided in Annex III.

6. The analysis of the replies is set out in Annex II of this document. It reveals that the Parties adopted a very broad definition of the concept of “international forums”. On the whole, the analysis indicates that the Parties utilize or invoke the Convention for example by:

   - making interventions in international forum that may or may not have cultural objectives;
   - underlining the objectives and principles of the Convention in culture and trade agreements;
   - engaging in consultation with other Parties that result in new bilateral agreements reflecting the objectives and principles of the Convention;
   - engaging in a dialogue with non-Party countries to encourage ratification.

7. Several Parties indicated that they have high expectations of the quadrennial periodic reports and the information to be provided that would help inform the current and future implementation of Article 21. It has also been underlined that it is difficult at this time to assess the real impact of activities to implement Article 21 and the importance of continuing to monitor developments given the relatively early stages of the operationalisation of the 2005 Convention at the national level.

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1 List of the Parties who responded to the questionnaire: Argentina, Armenia, Australia, Azerbaijan, Bosnia-Herzegovina, Brazil, Cameroon, Canada, China, Congo, Cuba, Egypt, Ecuador, Guatemala, Jordan, Madagascar, Malawi, Mauritius, Mexico, Namibia, Viet Nam, as well as the European Union and its following Member States: Austria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Greece, Portugal, Romania, Slovakia, Slovenia.
8. The Committee is invited at this session to review the outcome of the consultation on Article 21 and to formulate proposals and lines of emphasis in order to provide guidance to the Secretariat as it continues its work on this matter.

9. The Committee may wish to adopt the following decision:

**DRAFT DECISION 5.IGC 8**

_The Committee,_

1. **Having examined** document CE/11/5.IGC/213/8REV2 and its Annexes,

2. **Recalling** Resolution 3.CP 11 of the Conference of Parties,

3. **Takes note** of the information collected as a result of the consultation on the implementation of Article 21 of the Convention as presented in the document mentioned above,

4. **Invites** the Parties to bring to the attention of the Secretariat all relevant information concerning the implementation of Article 21 of the Convention,

5. **Requests** the Secretariat to continue its work on this matter and to transmit to it at its sixth ordinary session the results for examination.
ANNEX I

QUESTIONNAIRE ON THE IMPLEMENTATION OF ARTICLE 21 OF THE CONVENTION

1. Has your government ever invoked or utilized the Convention in other international forum?
   Yes □ No □
   • If yes:
     a. Which forum?
     b. What type of intervention was made (e.g. formal or informal)? Please describe.
     c. How was the Convention promoted / defended?
     d. What were the results?
     e. If possible, please add a link to the reference document(s) or attach a pdf file to your response.

2. Has your government engaged in consultations with other Parties to the Convention to promote its objectives and principles in international forums other than at UNESCO?
   Yes □ No □
   • If yes:
     a. Which forum?
     b. What type of consultations (e.g. bilateral or regional consultations, formal or informal procedures)?
     c. How was the Convention promoted / defended?
     d. What were the results?
     e. If possible, please add a link to the reference document(s) or attach a pdf file to your response.

3. In which other ways could the Convention be utilized or invoked in international forum in such a way that it would promote its objectives and principles?
ANNEX II

Implementing Article 21
An Analysis of Parties’ replies

This document presents a synthesis of the replies presented by Parties to the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions, on the ways and means they have implemented Article 21 to promote the Convention in other international forums. Information was provided by thirty-four (34) Parties to the Convention.

1. Defining international forums

International forums are understood by Parties as being multilateral and regional forums organized by either international governmental or non-governmental organizations, in or outside the cultural sphere. Those mentioned by Parties in their responses include:

- **international organizations**, such as the United Nations, the World Trade Organization (WTO) and the World Intellectual Property Organization (WIPO);

- **regional economic organizations**, such as the Association of Southeast Asian Nations (ASEAN), European Union (and its institutions, namely the Council of Ministers of the European Union and the European Council of heads of state or government), Mercosur and the Organization of the Black Sea Economic Cooperation;

- **intergovernmental organizations**, such as the Asia–Europe Meeting (ASEM), the Commonwealth of Independent States, the Council of Europe, the Organization of the American States (OAS), the Organization of Ibero-American States for Education, Science and Culture, the Organisation internationale de la Francophonie (OIF) and the Southern African Development Community;

- **government institutes and networks operating at the international or regional level** such as the Central American Educational and Cultural Coordination, the International Network on Cultural Policy (INCP) and the Regional Centre for Book Development in Latin America and the Caribbean;

- **international non-governmental organizations** such as the International Council of Museums, the International Publishers Association and the Anna Lindh Foundation.

2. Invoking the Convention in other international forums

Twenty-five (25) Parties indicated that they have invoked or utilized the Convention in international forums and nine (9) Parties indicated that they have not. The types of intervention are both formal and informal.

**Formal interventions**

The majority of responses provided indicated that Parties had made formal interventions invoking the Convention in international forums. This took the form of legal cases, resolutions and declarations adopted during international meetings as well as the setting up of new working groups in international organizations other than UNESCO.
Legal cases

To date, the Convention has been invoked in two legal cases within the international forum of the World Trade Organisation and the European Union Court of Justice. References to these cases are:

- European Union Court of Justice (EUCJ): Affaire Unión de televisorones comerciales asociadas (UTECA) (C-222/07, March 5, 2009).

Resolutions and declarations adopted during international meetings

Following Parties' interventions in the form of written contributions or delivered speeches, several resolutions and declarations were passed in recent years during international meetings that make reference to the 2005 Convention, its principles and objectives, encourage ratification and propose recommendations for action to be taken in the fields of cultural policies and/or cultural industries. Some examples:

- Article 2 (d) of the UN Resolution 65/166 Culture and Development (2010), which invited States to “actively support the emergence of local markets for cultural goods and services and to facilitate the effective and licit access of such goods and services to international markets, taking into account the expanding range of cultural consumption and, for States Parties to it, the provisions of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions”;

- Article 36, Montreux Declaration, adopted at the conclusion of the 13th Summit of the Francophonie (2010). The Declaration reaffirms the important contribution of culture to social and economic development and in this context, relaunched an appeal for universal ratification and implementation of the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions. Through this Declaration, the Member States of the Francophonie called upon the Secretariat to “renforcer l’accompagnement des pays francophones du Sud qui s’engagent dans le développement de leurs politiques nationales en matière de culture et qui travaillent à l’émergence d’industries culturelles sur leur territoire ».

- Article 9, Ljubljana Resolution on Books adopted during the World Summit on Books (2011) which recommends that “professional associations lead an active policy in promoting and implementing cultural policies in the book sector, in line with the objectives of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions”.

Working groups set up in other international forums

Some Parties indicated that their interventions have contributed to the setting up of special working groups on cultural diversity in other international forums. For example, in its response, Canada indicated that it contributes to the working group on cultural diversity set up within the International Organisation of the Francophonie, working with other Parties to promote ratification and implementation of the Convention. It also contributes to the work of the Inter-American ministerial level Committee on Culture of the Organization of the American States (OAS). This includes the formulation of an action plan to build capacity in the cultural industries in developing countries with a view to promoting economic development and job growth. This action plan was inspired by Article 14 of the 2005 Convention on cooperation for development.
In the context of Mercosur, Brazil proposed the creation of a technical working group on cultural diversity. The first meeting of the group took place in September 2010 in Rio de Janeiro.

Informal interventions

Several responses indicated that informal interventions were made during international seminars and meetings to raise awareness of the Convention and promote its visibility, for example, during the 6th International Cultural Games of the Francophonie held in Lebanon (2009), the World Book Summit held in Slovenia (2011) or during international festivals such as the International Day for Cultural Diversity (Mexico), International Jazz Festival (Baku), Feria Internacional de Artesanía FIART (Cuba).

A full list of international seminars and events as provided in the questionnaire responses is presented in Annex IV.

3. Cooperation between Parties to promote the objectives and principles of the Convention

With regard to the second question, thirteen (13) Parties indicated that they have engaged in consultations with other Parties to promote the Convention’s objectives and principles. Such consultations have resulted in the conclusion of multilateral and bilateral cultural agreements, bilateral trade agreements as well as the development of tools to raise awareness of the Convention.

A full list of multilateral, bilateral and regional agreements as provided in the questionnaire responses is presented in Annex III.

Multilateral and bilateral cultural negotiations and agreements

Several Parties referred to multilateral and bilateral cultural agreements as well as Memorandum of Understanding they have concluded in recent years that invoke the Convention. In some cases, they have led to the establishment of specific cultural cooperation programmes (Brazil-Argentina cooperation that resulted in the Puntos de Cultura programme adopted in August 2011). MOUs have resulted in action plans emphasizing the importance of bilateral cultural cooperation to facilitate the implementation of the 2005 Convention (MOU signed between Austria and Cyprus in 2010).

In their joint declaration signed in 2009, Brazil and the European Commission agreed to create a series of initiatives to reinforce cooperation and dialogue in the field of culture, particularly in view of implementing the Convention.

Bilateral or regional culture-trade negotiations and agreements

There are examples of bilateral or regional culture-trade agreements that include mention of the Convention. Some agreements have resulted in the creation of new cooperation frameworks that are based on the objectives and principles of the Convention including to facilitate trade in cultural goods and services as well as to facilitate the mobility of artists and cultural professionals. An example is the cultural cooperation protocol concluded as an annex to Economic Partnership Agreement between the European Union and the CARIFORUM as well as the Free Trade Agreement concluded between the European Union and Korea.

Another example was provided by Canada stating that all bilateral and regional trade agreements signed by Canada since the Convention was adopted in 2005 include a reference to the principles and objectives of the Convention, and a general exemption clause for cultural
industries designed to protect the right of Parties to implement policies and adopt measures recognized in articles 5 and 6 of the Convention and that are aimed at protecting and promoting the diversity of cultural expressions.

In its response, China mentioned that in its negotiation with Japan and the United States of America on a bilateral service market access, it presented information on the Convention’s objectives and principles, emphasizing the double (economic and cultural) nature of audiovisual services.

Awareness-raising tools

Parties have developed awareness-raising tools to share experiences on the positive results they have achieved through the implementation of the Convention and have communicated messages promoting the Convention via media (e.g., radio, television, Internet) and advertising campaigns. For example, Mexico mentioned in its response that it created a web platform (www.diversidadcultural.mx) and produced ten radio spots to promote cultural diversity and the messages of the Convention.

4. Ideas for the future

Responses to the third question generated a wealth of ideas that could be implemented in the future by the Parties concerning other ways to utilize or invoke the Convention in international forum.

The suggestions provided indicate that Parties continue to encourage efforts to:

- make specific references of the Convention in official declarations and agreements as well as during bilateral or multilateral meetings;
- reaffirm the importance of taking into account the objectives and principles of the Convention when making interventions in the context of non-culture related international forum;
- negotiate bilateral or multilateral protocols or cultural cooperation agreements
- work together with other Parties to organize regional seminars and conferences that involve the participation of artists, cultural producers, researchers and public officials, especially during cultural events/cultural weeks, festivals etc.

Parties also suggested new ideas such as the:

- introduction of a system for Parties to inform other Parties when ongoing negotiations are taking place in other international forum that might impact or be in contradiction to provisions of the Convention, and encourage relevant discussions.
- creation of joint funding programmes to support transnational activities to implement the Convention that are developed and financed in partnership with international organizations and institutions;
- organization of international exhibitions on the 2005 Convention where artists and cultural professionals could present their work;
- production and dissemination of videos illustrating institutional practices to implement the Convention;
- organization of workshops on the Convention, inviting both governmental and non-governmental stakeholders.

Finally, Parties recommended that the 2005 Convention be invoked and utilized during meetings of other UNESCO’s conventions, not only those in the culture sector.
5. Conclusion

The responses provided by the Parties demonstrate the various ways they have invoked and utilized the Convention in order to ensure its implementation, raise awareness about its objectives and principles as well as encourage its ratification.

A review of the responses reveals that the Parties have a broad interpretation of “international forums” that includes: international, intergovernmental and non-governmental organizations, bilateral and regional organizations, government institutes and networks operating at the international or regional level.

The analysis also indicates that the Parties implement Article 21 by:

- making interventions in international forum that may or may not have cultural objectives;
- underlining the objectives and principles of the Convention in culture and trade agreements;
- engaging in consultation with other Parties that result in new bilateral agreements reflecting the objectives and principles of the Convention; and
- engaging in a dialogue with non-Party countries to encourage ratification.

Several Parties indicated that they have high expectations of the quadrennial periodic reports and the information to be provided that would help inform the current and future implementation of Article 21.

Finally, it has been underlined that it is difficult at this time to assess the real impact of activities to implement Article 21 and the importance of continuing to monitor developments given the relatively early stages of the operationalization of the 2005 Convention at the national level.
ANNEX III

List of documents provided by Parties

Azerbaijan:

Brazil:
- III Encuentro Iberoamericano de Museos, Declaración Final, Santiago de Chile, 2,3 y 4 de septiembre 2009.
- The European Commission and the Government of the Federative Republic of Brazil, Joint Declaration of Mr. Joao Luiz Silva Ferreira, Sate Minister for Culture of the Federative Republic of Brazil, and Mr. Jan Figel’, Commissioner for education training, culture and youth, Brasilia, 18th of May 2009.

Canada:
- Cultural Cooperation Agreements between Government of Quebec and Jalisco, Guanajuato and Nuevo León
- Cultural agreement and programs of cultural cooperation between Canada and China
- Cultural agreements and programs of cultural cooperation between Canada and Colombia
- Cultural agreements and programs of cultural cooperation between Canada and India
- Free Trade Agreement between Canada and Colombia
- Free Trade Agreement between Canada and Jordan
- Free Trade Agreement between Canada and Peru
- Free Trade Agreement between Canada and the States of the European Free Trade Association (Iceland, Liechtenstein, Norway and Switzerland)
- Projet révisé de proposition de base pour le traité de l'OMPI sur la protection des organismes de radiodiffusion (SCCR/15/2) http://www.wipo.int/copyright/fr/

Ecuador:
- FICDC, Resoluciones de la asamblea general del secundo congreso de la Federación intencional de coaliciones para la diversidad cultural, Salvador de Bahia, Brasil, 5 - 8 de noviembre 2009, Segundo Congreso de la Federación Internacional de Coaliciones para la Diversidad Cultural Salvador de Bahia, Brasil, Del 5 al 8 de noviembre de 2009.
- Notícia, "Jorge Serrano e o cinema latino-americano: Equador tenta se sobressair com novas políticas de proteção à obra audiovisual".

France:

Greece:
- 4th ASEM Culture Ministers Meeting, Poland, September 9th and 10th 2010 http://www.aseminfoboard.org/content/documents/4th_ASEM_CMM_Chairmans_Statement_10th_October_2010_Poznan.pdf
- 9th Regional Summit of Heads of State of South-East Europe, Speech of Mr. Pavlos Yeroulanos, Minister of Culture and Tourism of the Hellenic Republic, Viminacium, 2 September 2011.

Slovenia:

The European Union:
- Journal officiel de l'Union européenne, Informations provenant des institutions, organes et organismes de l'Union européenne, Conclusions du Conseil et des représentants des gouvernements des États membres, réunis au sein du Conseil, sur le plan de travail 2011-2014 en faveur de la culture
Annex III

- United Nations General Assembly, Sixty-fifth Session, Second Committee, Agenda item 22: Globalization and interdependence,

- World Trade Organization, Audiovisual services,
  [http://www.wto.org/english/tratop_e/serv_e/audiovisual_e/audiovisual_e.htm](http://www.wto.org/english/tratop_e/serv_e/audiovisual_e/audiovisual_e.htm)
ANNEX IV

Events during which the Parties invoked or utilized the 2005 Convention

Ministerial meetings:

- 27e Conférence ministérielle de la Francophonie, December 1st and 2nd 2011, Paris, France
- 26e Conférence ministérielle de la Francophonie, October 20th and 21st 2010, Montreux, Suisse
- XVIIIe Forum of Ministers of Culture and Officials in Charge of Cultural policies of Latin America and the Caribbean, July 21st and 22nd 2011, Santa Cruz de la Sierra, Bolivia
- The 4th Meeting of ASEM Culture Ministries, September 8th to 10th 2010, Asia-Europe meeting, Poznan, Poland
- Ministerial conference of the European Commission, 5-year anniversary of the adoption of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions; December 8th 2010, Brussels, Belgium
- Third Inter-American Meeting of Ministers of Culture and Highest Appropriate Authorities, November 13th to 15th 2006, Montreal, Canada

International / regional / national meetings:

- Assemblée Générale du Comité Ibéro-américaine de la Confédération International des Sociétés d’Auteurs et Compositeurs (CISAC), April 28th and 29th 2011, Montevideo, Uruguay
- 30th Board Meeting of the International Federation of Arts Councils and Culture Agencies (IFACCA), April 18th to 19th 2011, Havana, Cuba
- 3e Congrès ibéro-américain de la culture, July 1st to 4th 2010, Medellin, Colombia
- Encuentro internacional sobre la diversidad cultural: Segundo Congreso de la Federación internacional de las coaliciones para la diversidad cultural (FICDC), del 5 al 8 de noviembre 2009, Salvador, Brasil.
- Forum “Ignite the Americas”, September 15th to 21st 2008, Toronto, Canada
- Inter-American U40 Meeting for Cultural Diversity 2011, May 19th to 22nd 2011, Toluca, Mexico
- 9th Regional Summit of Heads of State of South East Europe, September 2nd 2011, Belgrade, Serbia
- Segundo Congreso de la Federación Internacional de Coaliciones para la Diversidad Cultural, November 5th to 8th 2009, Salvador de Bahía, Brasil
- Tenth session of the Permanent Forum on Indigenous Peoples of the UN, May 16th to 27th 2011, New York, United States
- XIIIe Sommet de la Francophonie, October 22nd to 24th 2010, Montreux, Suisse
- XIIe Sommet de la Francophonie, October 17th to 19th 2008, Quebec, Canada
- United Nations General Assembly, December 20th 2010, New York, United States
- United Nations, Millennium Development Goals Summit, September 20th to 22nd 2010, New York, United States
- World Economic Forum, January 26th to 30th 2011 Davos-Klosters; Switzerland
- World Forum on Intercultural Dialogue, April 7th to 9th 2011, Baku, Azerbaïdjan
- 5th World Summit on Arts and Culture, October 3rd to 6th 2011, Melbourne, Australia

Seminar / conferences:

- ASEM Seminar on preserving and promoting the Diversity of Cultural Expressions: Sharing Asian and European Experiences, December 15th to 16th 2008, Hanoi, Vietnam
- International Symposium on “Musical instruments of Turkic-speaking countries, December 16th and 17th 2010, Baku, Azerbaijan
- Interparliamentary Conference on the Diversity of Cultural Expressions (CIDEC), February 2nd and 3rd 2011, Quebec, Canada
- UNESCO Regional Forum “Writing, publishing, translating : building cultural diversity in Southeast Europe”, March 31st to April 1st 2011, Ljubljana, Slovenia

Celebrations:

- CUBADISCO ; May 14th to 22nd 2011, Santiago de Cuba, Cuba
- Festival des Caraïbes - Fête du Feu, July 3rd to 9th 2011, Santiago de Cuba, Cuba
- Foire Internationale de l'Artisanat FIART, December 9th to 19th 2010, Havana, Cuba
- International Festival of Ashugs, October 20th to 28th 2011, Baku, Azerbaijan
- International Jazz Festival, October 16th to 30th 2010, Baku, Azerbaijan
- Second international Mugam Festival, March 14th to 21st 2011, Baku, Azerbaijan