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**Subject: Corrections of Verbatim Records in Plenary session of the
Executive Board on Item 60**

Madam/Sir,

I would kindly request you to send any corrections to the attached verbatim records to the Secretariat of the Executive Board not later than 19 May 2005.

In case we do not receive your comments by that date, we consider that no corrections are necessary.

Thanking you for your kind cooperation.

Yours sincerely,


Armoogum Parsuramen
Secretary of the Executive Board

Item 60

Chairperson of the Special Committee, Ms Vatsyayan

Thank you Mr Chairman. I am kind of recovering from anti-doping! Doping is of various kinds and of various levels.

Mr Chairman, Sir, as you had planned and as I had mentioned to the distinguished Members here that the report on item 60 would be presented this afternoon. Therefore I proceed with that report.

The Committee members finally proceeded to item 60 – Participation of the European Community in the Intergovernmental Meeting of Experts (category II) on the Preliminary Draft Convention on the Protection of the Diversity of Cultural Contents and Artistic Expressions – document 171 EX/47 and Addendum. This item was included in the provisional agenda at the request of Luxembourg on behalf of the Member States of the European Union. The subject was introduced by the representative of the Czech Republic. After an extended debate and since there was no agreement on this item by the Committee members, the Committee decided by consensus to refer the matter to an informal working group chaired by the Ambassador and Permanent Delegate of the Permanent Delegation of India to UNESCO. The Committee the informal group to submit to the Special Committee its recommendation. After useful and detailed discussion in the three meetings and on the basis of the revised draft decision proposed by the Chairperson, along with Brazil and Uruguay, the informal working group could not arrive at a consensus.

The Chairperson of the informal working group, at its last meeting on 22 April 2005, made a summing up which was endorsed by all concerned members that since there was no consensus on her text, the entire matter should be transmitted to the Executive Board along with the revised draft decisions proposed by the Chairperson of the informal working group.

The Special Committee had decided to transmit the revised draft decision to the Executive Board contained in document 171 EX/62 for information and debate. However, Mr Chairperson, I understand that there have been further negotiations and informal talks in the corridors of UNESCO, which is normal in UNESCO, I understand, and is getting more and more normal and therefore I shall now give the floor to my distinguished colleague the Permanent Delegate of India to UNESCO.

Chairman

I do thank you very much for your introduction and I am pleased to have now with us the Permanent Delegate of India to UNESCO. You have the floor, Madam.

Delegate of India

Thank you Mr Chairman.

Mr Chairman, at the last meeting of the informal drafting group, the Chairperson had, in the summing up which was endorsed by all concerned, expressed the view that clearly the subject matter needed to be discussed in a more cosy atmosphere than was possible in the confines of the particular drafting group where we were meeting. I feel that this is a very good point to make.

applauded by all concerned, that what it needed was a more cosy and informal discussion than could have been possible within that drafting committee.

These discussions have now come to fruition and I have the pleasure to inform you, Mr Chairman and Members of the Board, that there is a new text which may form the basis of an agreement and with your permission, Mr Chairman, since it is in English, I could read it out so that all concerned could hear it in their different languages. Would you like me to do that?

Chairman

That would be very kind. In the meantime, as you know, the text has been circulated - distributed around the table both in English and in French I understand. But please go ahead we cannot, in this short time, have the other four official languages available and we ask our colleagues for understanding that we are proceeding now with English and you do it slowly so that our interpreters can also translate it ably enough in the other four languages of UNESCO. You have the floor again, Madame.

Delegate of India

Thank you Mr Chairman. I am told that there are a few problems in the French text. It is the English text which is the basic text. I will read that out slowly in dictation speed.

Chairman

Can I interrupt you? I was informed that indeed the problems with the French translation have been sorted out among the concerned partners. Is that correct? And we have a new French version which has been now accepted. It's an official version by the Secretariat as well.

Delegate of India

I will read out the text in English. Thank you.

The Executive Board,

1. Recalling 169 EX/Decision 3.7.2 in which it invited the Director-General to convene meetings of government experts (category II) aimed at taking forward the preparation of the preliminary draft convention on the protection of the diversity of cultural contents and artistic expressions in order to report to the General Conference at its 33rd session,
2. Having examined document 171 EX/47 concerning the participation of the European Community in the intergovernmental meeting of experts (category II) on the preliminary draft convention on the protection of the diversity of cultural contents and artistic expressions,

3. Invites, on an exceptional basis, the European Community, while maintaining its observer status, to participate actively and as fully as appropriate in the work of the intergovernmental meeting of experts (25 May-4 June 2005);
4. Recommends that the General Conference, at its 33rd session, take this decision into account with respect to its consideration of the item related to the preliminary draft convention on the protection of the diversity of cultural contents and artistic expressions.

Mr Chairman, it is my understanding that this decision has agreement and could be considered for adoption.

Thank you.

Chairman

Thank you very much, Madam, for your contribution, for your statement and especially let me thank you for the splendid result of the work you have conducted throughout this Board meeting with, I understand, the help of many committed colleagues from around the table. So if I see no objection I would hope that you agree that we can adopt this proposal, this draft decision by consensus. I see that there is no objection.

Thank you so much, so decided.

Thank you very much. I must really applaud you. [applause]

I have however now - thank you very much, this is a very important decision. I am grateful to all of you. I have now three speakers on my list. First the United Kingdom, then afterwards the delegation from Japan and then the United States.

I give the floor to the distinguished colleague from the United Kingdom. You have the floor, Sir.

United Kingdom

Thank you very much, Mr Chairman. I would like to make a statement on behalf of the whole European Union.

The decision just adopted refers to active participation of the European Community as fully as appropriate. The European Union considers that this active participation shall consist within the negotiation of the convention of the ability to speak as other participants. Such active participation shall also consist of the ability to reply, to put forward proposals and amendments on issues for which it has competence at the formal meetings. It shall also include the ability to take part in the discussion of procedural issues within the context of the draft cultural diversity convention and the ability to take part in the committees, working groups, formal or informal meetings set up in the course of the work relating to negotiation of this convention.

The European Community shall have its own nameplate. The European Community may chair committees or sub-committees or serve as Rapporteur unless there is full consensus. The European Community shall not have the right to vote not break or block consensus. Furthermore

European Community participation does not mean an additional voice. Indeed, the European Community decides in internal coordination whether the Presidency of the Council will speak on an issue on behalf of the Member States or whether the Commission will speak in matters of its competence on behalf of the Community and its Member States.

During this process we have been open to providing further explanations concerning competences of the Community as regards the draft convention whenever it speaks. We will continue to do so.

Finally, Mr Chairman, I would simply like to thank you in particular and all the colleagues who have worked so hard in the past few days and months to arrive at an agreement on this issue. I would like to thank in particular the Chairperson of the Special Committee and the Chairperson of the Informal Working Group. While at times these negotiations have been tense and difficult, they have once again demonstrated that the principles for which UNESCO has existed for 60 years can and will prevail.

Thank you very much, Mr Chairman.

Chairman

Thank you so much, Distinguished Delegate. Also thank you for the kind words in my direction, but I have to redirect them immediately to the Distinguished Chairperson of the Special Committee and to the Distinguished Delegate from India. They have really done the job, I have to repeat it very clearly.

As regards the divisive discussions you are referring to, I understand, actually I was witnessing them within the EU negotiations. So I give the floor now to the distinguished delegate from Japan. You have the floor, Sir.

Delegate from Japan

Thank you, Mr Chairman.

I would like to express my appreciation and congratulations to all the people concerned for having taken part in this discussion and statement.

At this moment, I just want to state our understanding that the observer status to participate actively as fully as appropriate does not include right to vote. I think this is a matter of course and happy that this point was clearly stated by the Ambassador of the United Kingdom. But as this is a crucial point for Japan, I dare express our understanding which is a premise of accepting this decision.

Thank you, Mr Chairman.

Chairman

Thank you, Sir, for your statement. I may now give the floor to the distinguished delegate from the United States. Madam, you have the floor.

Delegate from the United States

Thank you, Mr Chairman. I really have very little to say other than to congratulate all of my colleagues. It has been very busy - not just days but nights. I welcome very much the result of the consultations. It is exactly what I think we all hoped for, and have been hoping for, for a very long time. I echo the comments from the Ambassador from Japan. I think that the statement read by the Ambassador from the United Kingdom really was very clear as to exactly how this is going to work. I think it will work very well and I look forward to working closely not only with the members of the European Union, but also with the European Community as we embark upon the next major meeting that many of us will be attending at the end of May.

Again my congratulations to everyone.

Chairman

Thank you very much, Madam. Once more I would like to express our gratitude to all colleagues involved in this very successful exercise. That means that we are in the position of concluding the consideration of the work of the Special Committee but I wanted to ask the distinguished Chairperson of the Special Committee whether she still would like to make a final comment. That's fine. I give the floor to the distinguished delegate of Australia. You have the floor, Madam.

Delegate from Australia

Very briefly, we would like to thank all those who worked so hard to achieve this outcome, but also looking ahead we would also like to note that we would welcome in due course clarification on competencies. The United Kingdom representative noted that, *intér alia*, the European Community or the European Commission would have the right to speak, reply and put forward proposals on issues for which it has its competency. In the explanatory information and in other discussions provided to date, we still have some queries and questions in relation to those areas of competency and where the European Community has shared competency on cultural issues or is asserting competency on the grounds that the convention could potentially impact on areas where the EC's competence is shared or exclusive to Member States. There are still a number of issues on which, in due course, clarification would be helpful and appreciated by my Government.

Thank you.

Chairman

I do thank you for your statement, Madam. I understand that the statement that was presented to us by the distinguished colleague from the United Kingdom will be also contained in the minutes and thus give already a clear indication of what is the understanding in our draft decision which we have adopted just a few minutes ago. I give the floor to the distinguished delegate from the United States again. You have the floor, Madam.

Delegate from the United States

Mr Chairman, that is simply what I was going to say, which is that given the importance of that statement, too, there are deliberations I think that should be in the summary records.

Thank you, Mr Chairman.

Chairman

In fact, you know, I agree completely and just want to clarify that in the summary records we sometimes only have the summing up. We will, as it is the practice in these kinds of cases, of course, reproduce the entire text so that no doubt will be possible. I am sure that the Australian Delegation will get the necessary clarifications by the EU and the other delegations concerned. I give the floor to the distinguished colleague from the Russian Federation. You have the floor, Sir.

Delegate from the Russian Federation

Вы знаете, до этого момента, уважаемый г-н Председатель, я воздерживался от выступления. У меня вопрос в связи с выступлением представителя Великобритании, вопрос к нашему юрисконсульту: а кто же будет определять в настоящее время непосредственно принципы так сказать участия Евросоюза в разработке этой конвенции, кто. Вот сейчас прозвучало заявление представителя Великобритании от Евросоюза. Но, видимо, должно существовать какое-то положение и разъяснение со стороны Организации, как это все поняли, т.е. от Исполсовета, если я правильно понимаю. У меня вопрос к юрисконсульту: кто это определяет.

You know, up until now, esteemed Chairman, I have refrained from taking the floor. I have a question relating to the statement of the representative of the United Kingdom, a question for our Legal Adviser : who should now determine directly the principles governing the, as it were, participation of the European Union in the elaboration of his convention, who? Just now we heard the statement of the representative of the United Kingdom from the European Union. But, one would think there should be some provision and clarification on the part of the Organization, as we have all understood, in other words from the Executive Board, if I have understood correctly. I have a question for the Legal Adviser : who should determine this?

Chairman

Thank you very much for your statement. I am going to be very daring before I give the floor to the Legal Adviser because I happen to be the Chairman of the Board and we just adopted a decision. This is a decision binding for the Board. There is a very important paragraph among the four provisions which have been spelled out: paragraph 3. It has now been decided by this Board that the European Community can participate actively and as fully as appropriate in the work of the intergovernmental meeting of experts, which will take place in May/June. With regard to the actual contents of this active participation, we have heard the statement by the representative of the European Union, the distinguished delegate from the UK and there was no disagreement on that so it is my duty to forward this decision along with the statement taken to our minutes to the Chairperson of the Intergovernmental Experts Meeting. But I give the floor to the distinguished Legal Adviser who will provide you with certainly more clarity than I am able to do. You have the floor, Sir.

Legal Adviser

Thank you, Mr Chairman.

I'm not sure that I can provide more clarity, but it is my understanding that the Board has come to a felicitous conclusion on this matter and that as part of that conclusion there is also certain commonly shared understandings which have been spelled out here in various statements. The way that they have been spelled out has not been - at least as far as I am aware of - challenged or objected to by any Members. So I of course understand that these are commonly held understandings and I hope that those commonly shared understandings will hold and will be as such respected by all parties during the intergovernmental meeting and I think it is their intention and I cannot see otherwise. But if the distinguished delegate from the Russian Federation thinks that anything else may happen, I can reassure him that I will be there and that I will make my views known at that time also.

Thank you, Mr Chairman.

Chairman

Thank you very much. I give the floor again to the distinguished delegate of the Russian Federation, hoping that he understood what you had to say. You have the floor, Sir.