

PROTOCOL on cultural cooperation ⁽¹⁾

Whereas,

AS SIGNATORIES to the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, adopted in Paris on 20 October 2005 (hereinafter referred to as the "UNESCO Convention"), which entered into force on 18 March 2007, the Parties intend to effectively implement the UNESCO Convention and to co-operate within the framework of its implementation, building upon the principles of the Convention and developing actions in line with its provisions, notably its Articles 14, 15 and 16;

RECOGNISING the importance of the cultural industries and the multi-faceted nature of cultural goods and services as activities of cultural, economic and social value;

RECALLING that the objectives of this Protocol are complemented and supported by existing and future policy instruments managed in other frameworks, with a view to:

- (a) reinforcing the capacities and independence of the Parties' cultural industries;
- (b) promoting local and regional cultural content;
- (c) recognising, protecting and promoting cultural diversity as a condition for a successful dialogue between cultures;
- (d) recognising, protecting and promoting cultural heritage, as well as promote its recognition by local populations and recognise its value as a means for expressing cultural identities.

STRESSING the importance to facilitate cultural co-operation between the Parties and for that purpose to take into account, on a case by case basis, *inter alia*, the degree of development of their cultural industries, the level and structural imbalances of cultural exchanges and the existence of preferential schemes for the promotion of local or regional cultural content;

HAVING REGARD to Title VIII (Culture and Audio-Visual Co-operation) of Part III of this Agreement and wishing to develop co-operation further;

NOTING the establishment of a Co-operation Sub-Committee in paragraph 7 of Article 8 of Title II (Institutional Framework) of Part I of this Agreement, should include officials who have competence in cultural matters and practices, when dealing with the implementation of this Protocol.

Article 1

Scope, Objectives and Definitions

1. Without prejudice to the provisions of this Agreement, this Protocol sets up the framework within which the Parties shall co-operate for facilitating exchanges regarding cultural activities, goods and services, including *inter alia* in the audio-visual sector.

2. While preserving and further developing their capacity to elaborate and implement their cultural policies, with a view to protecting and promoting cultural diversity, the Parties shall endeavour to collaborate in order to improve the conditions governing their exchanges of cultural activities, goods and services and address imbalances which may exist, and ensure wider and more balanced cultural exchanges.

3. The UNESCO Convention constitutes the reference for all definitions and concepts used in this Protocol. In addition, for the purpose of this Protocol, and in particular its Article 3, "artists and other cultural professionals and practitioners", as referred to in Article 16 of the UNESCO Convention, covers

natural persons that perform cultural activities, produce cultural goods or participate in the direct supply of cultural services.

SECTION A

HORIZONTAL PROVISIONS

Article 2

Cultural exchanges and dialogue

1. The Parties shall aim at fostering their capacities to determine and develop their cultural policies, developing their cultural industries and enhancing exchange opportunities for cultural goods and services of the Parties, including through preferential treatment, where applicable in accordance with the domestic legislations of the respective Parties.

2. The Parties shall co-operate to foster the development of a common understanding and enhanced exchange of information on cultural and audiovisual matters through an EU-Central American dialogue, including on good practices in the field of intellectual property rights protection which are relevant to this Protocol. This dialogue will take place within the mechanisms established in the Agreement as well as in other relevant fora, as and when appropriate.

⁽¹⁾ Nothing in this Protocol shall be subject to Title X (Dispute Settlement) of Part IV of this Agreement.

*Article 3***Artists and other Cultural Professionals and Practitioners**

1. The Parties shall endeavour to facilitate, in conformity with their respective domestic legislations, the entry into, and temporary stay in their territories of artists and other cultural professionals and practitioners from the other Party, who are either:

- (a) artists, actors, technicians and other cultural professionals and practitioners from the other Party involved in the shooting of cinematographic films or TV programmes; or
- (b) artists and other cultural professionals and practitioners such as visual, plastic and performing artists and instructors, composers, authors, providers of entertainment services and other similar professionals and practitioners from the other Party involved in cultural activities such as the recording of music or contributing an active part to cultural events such as literary fairs and similar,

provided that:

- (a) they are not engaged in selling or supplying their services and do not receive any remuneration from a source located within the Party where they are temporarily staying; and
- (b) they are not engaged in the supply of a service in the framework of a contract concluded between a legal person, who has no commercial presence in the Party where the artist or other cultural professional or practitioner is temporary staying, and a consumer in this Party.

2. The Parties shall endeavour to facilitate, in conformity with their respective domestic legislations, the training of, and increased contacts between artists and other cultural professionals and practitioners such as:

- (a) theatrical producers, singer groups, band and orchestra members;
- (b) authors, composers, sculptors, entertainers and other individual artists;
- (c) artists and other cultural professionals and practitioners participating in the direct supply of circus, amusement park and similar attraction services;
- (d) artists and other cultural professionals and practitioners participating in the direct supply of ballroom, discotheque services and dance instructors.

*Article 4***Technical Assistance**

1. The EU Party shall endeavour to provide technical assistance to the Republics of the CA Party with the aim of

assisting in the development of their cultural industries, development and implementation of cultural policies, and in promoting the production and exchange of cultural goods and services.

2. The Parties agree to co-operate, including by facilitating support, through different measures, *inter alia*, training, exchange of information, expertise and experiences, and counselling in elaboration of policies and legislation as well as in usage and transfer of technologies and know-how. Technical assistance may also facilitate cooperation between private companies, non-governmental organisations as well as public-private partnerships.

SECTION B**SECTORAL PROVISIONS***Article 5***Audio-Visual, including Cinematographic, Cooperation**

1. The Parties shall encourage the negotiation of new and implementation of existing co-production agreements between one or several Member States of the European Union and one or several Republics of the CA Party.

2. The Parties, in conformity with their respective domestic legislation, shall facilitate the access of co-productions between one or several EU Party producers and one or several producers from the Republics of the CA Party to their respective markets, through appropriate measures including by facilitating support through the organisation of festivals, seminars and similar initiatives.

3. Each Party shall encourage as appropriate the promotion of its territory as a location for the purpose of shooting cinematographic films and TV programmes.

4. The Parties shall, in conformity with their respective domestic legislations, examine and allow the temporary importation or admission, as applicable, of the technical material and equipment necessary to carry out the shooting of cinematographic films and TV programmes by cultural professionals and practitioners from the territory of one Party into the territory of the other Party.

*Article 6***Performing arts**

1. The Parties agree to cooperate, in conformity with their respective domestic legislation, including by facilitating increased contacts between practitioners of performing arts in areas such as professional exchanges and training, *inter alia* participation in auditions, development of networks and promotion of networking.

2. The Parties shall encourage joint productions in the fields of performing arts between producers of one or several Member States of the European Union and one or several Republics of the CA Party.

3. The Parties shall encourage the development of international theatre technology standards and the use of theatre stage signs. They shall facilitate the co-operation towards this objective.

Article 7

Publications

The Parties agree to co-operate, in conformity with their respective domestic legislation, including by facilitating exchange with and dissemination of publications of the other Party in areas such as:

- (a) organisation of fairs, seminars, literary events and other similar events related to publications, including public reading mobile structures;
- (b) facilitating co-publishing and translations;
- (c) facilitating professional exchanges and training for librarians, writers, translators, booksellers and publishers.

Article 8

Protection of Sites and Historic Monuments

The Parties agree to co-operate, including by facilitating support to encourage exchanges of expertise and best practices regarding

the protection of sites and historic monuments, bearing in mind the UNESCO world heritage mission. This includes facilitating the exchange of experts, collaboration on professional training, awareness of the local publics and counselling on the protection of the historic monuments and protected spaces and on the legislation and implementation of measures related to heritage, in particular its integration into local life. Such co-operation shall conform with the Parties' respective domestic legislation.

SECTION C

FINAL PROVISIONS

Article 9

Final Provisions

1. The provisions of this Protocol shall apply between the EU Party and each Republic of the CA Party from the first day of the month following the date in which that Republic of the CA Party has deposited its instrument of ratification of the UNESCO Convention.

2. If all the Republics of the CA Party have deposited their instruments of ratification of the UNESCO Convention before the exchange of notifications referred to in paragraphs 2 and 3 of Article 353 of Part V (Final Provisions) of this Agreement, the provisions of this Protocol shall apply from the date of entry into force of this Agreement.
