



# *Cultural Heritage Protection and Promotion in the EU FTAs*

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# SDGs and Culture



**SUSTAINABLE DEVELOPMENT GOALS**

17 GOALS TO TRANSFORM OUR WORLD

## Culture





# THEMATIC INDICATORS FOR CULTURE IN THE 2030 AGENDA

## ENVIRONMENT & RESILIENCE

- 1 Expenditure on heritage ☺
- 2 Sustainable management of heritage ♀
- 3 Climate adaptation & resilience ♀
- 4 Cultural facilities ♀
- 5 Open space for culture ♀

INDICATORS



- 2.4 Sustainable foodways & agriculture
- 3.6 Water related ecosystems
- 11.4 Quality infrastructure
- 11.4 Cultural & natural heritage
- 11.7 Inclusive public spaces
- 13.1 Sustainable tourism management
- 13.1 Climate & disaster resilience
- 14.5 Marine areas conservation
- 15.1 Sustainable terrestrial ecosystems
- 15.4 Recovery of stolen assets

## PROSPERITY & LIVELIHOODS

- 6 Culture in GDP
- 7 Cultural employment ♀ ☺
- 8 Cultural businesses ♀
- 9 Household expenditure
- 10 Trade in cultural goods & services ☺
- 11 Public finance for culture ♀
- 12 Governance of culture ♀

INDICATORS



- 8.9 Jobs, entrepreneurship & innovation
- 8.9 Policies for sustainable tourism
- 8.a Increase Aid for Trade
- 10.a Differential treatment on trade
- 11.4 Cultural & natural heritage

## KNOWLEDGE & SKILLS

- 13 Education for Sustainable Development ♀ ☺
- 14 Cultural knowledge ♀
- 15 Multilingual education ♀
- 16 Cultural & artistic education ♀
- 17 Cultural training ♀

INDICATORS



- 4.4 Skills for employment
- 4.7 Skills for sustainable development
- 8.9 Jobs, entrepreneurship & innovation
- 8.a Access to information technologies
- 12.a Sustainable consumption
- 13.2 Education on climate adaptation

## INCLUSION & PARTICIPATION

- 18 Culture for social cohesion ♀
- 19 Artistic freedom ♀
- 20 Access to culture ♀
- 21 Cultural participation ♀
- 22 Participatory processes ♀

INDICATORS



- 9.3 Quality infrastructure/equitable access
- 9.a Access to information technologies
- 10.2 Social inclusion
- 11.7 Inclusive public spaces
- 16.7 Participatory decision-making
- 16.30 Fundamental freedoms
- 16.a Prevention of violence
- 16.b Non-discriminatory policies

SDG & TARGETS

THE CULTURE | 2030 INDICATORS

ALSO CONTRIBUTE TRANSVERSALLY TO:



5.5 Women participation & leadership  
5.a Policies on gender equality



17 Capacity building  
17.16 Global partnership  
17.17 Public, private and civil society partnerships  
17.18 Measuring of sustainability





# Trade



# dilemma



# Culture





# Convention on the Protection and Promotion of the Diversity of Cultural Expressions, UNESCO (2005)

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- Role of European Union
- Cultural *diversity*
- Guiding principles articles 2 paragraph 5 and 6 CPPDCE
- Articles 13, 16, 20
- *Cultural Cooperation Protocol*



# Article 2 – Guiding principles n. 5 and 6

**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.



# Article 13 – Integration of culture in sustainable development

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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 16 – Preferential treatment for developing countries

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

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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.



# European competence in the field of culture

- **Article 6 TFEU** → culture as supporting competence of the EU
- **Article 167 TFEU**, paragraphs **1, 2, 3** and **5** → explicit competences
- **Article 167** paragraph **4 TFEU** → implicit powers
- **Article 4** paragraph **3 TEU** → duty of sincere cooperation



# Free Trade Agreements pre-Lisbon Treaty

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- European Economic Community and the Swiss Confederation → 1973
- ECC and Palestine Liberation Organization (PLO) → 1997
- European Communities and their Member States and the Kingdom of Morocco → 2000
- European Communities and their Member States, of the and the State of Israel → 2000



# Agreement between the European Economic Community and the Swiss Confederation (1973)

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**Art. 20:** The Agreement shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, law and order or public security, the protection of life and health of humans, animals or plants, **the protection of national treasures of artistic, historic or archaeological value**, the protection of industrial and commercial property, or rules relating to gold or silver. Such prohibitions or restrictions must not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between the Contracting Parties.



# Agreement between European Communities and their Member States and the Kingdom of Morocco (2000)

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**Art.28:** This Agreement shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants; **the protection of national treasures of artistic, historic or archaeological value** or the protection of intellectual, industrial and commercial property or rules relating to gold and silver. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between the Parties.



# Free Trade Agreements post-Lisbon Treaty

- CARIFORUM States and the European Community and its Member States → 2008
- European Union and its Member States and the Republic of Korea → 2010
- European Union and its Member States and Central America → 2012
- Comprehensive Economic and Trade Agreement (CETA) between Canada and the European Union and its Member States, of the other part → 2017



# PROTOCOL III

## On cultural cooperation

THE PARTIES AND THE SIGNATORY **CARIFORUM STATES**,  
Having ratified the UNESCO **Convention on the Protection and Promotion of the Diversity of Cultural Expressions** adopted in Paris on 20 October 2005, which entered into force on 18 March 2007, or intending to do so promptly;.....

Recognising that the regional integration process supported by this Agreement forms part of a global strategy aimed at **promoting equitable growth and the reinforcement of economic, trade and cultural cooperation between the Parties;**

# Article 5

## Audio-visual, including cinematographic, cooperation

2. The Parties and the Signatory CARIFORUM States, in conformity with their respective legislation, shall **facilitate the access of co-productions between** one or several producers of the EC Party and one or several producers of Signatory CARIFORUM States **to their respective markets**, including through the granting of preferential treatment, and subject to the provisions of Article 7 of this Agreement, including by facilitating support through the organisation of festivals, seminars and similar initiatives.





# PROTOCOL on cultural cooperation (EU-Korea)

The Parties, AFTER HAVING RATIFIED the UNESCO **Convention on the Protection and Promotion of the Diversity of Cultural Expressions adopted in Paris on 20 October 2005** (the 'UNESCO Convention'), which entered into force on 18 March 2007, according to the procedure set in Article 15.10.3 (Entry into force), intending to effectively implement the UNESCO Convention and to cooperate within the framework of its implementation, building upon the principles of the Convention and developing actions in line with its provisions;.....

RECOGNISING that the process supported by this Agreement adds up to a global strategy aimed at promoting **equitable growth and the reinforcement of economic, trade and cultural cooperation** between the Parties;



# Committee on Cultural Cooperation

Art. 3: 1. No later than six months after this Protocol is applied, a Committee on Cultural Cooperation shall be established. The Committee on Cultural Cooperation shall comprise senior officials from within the administration of each Party who have expertise and experience in cultural matters and practices.....

3. By derogation from the institutional provisions of Chapter Fifteen (Institutional, General and Final Provisions), the Trade Committee shall have no jurisdiction over this Protocol and the **Committee on Cultural Cooperation shall exercise all functions of the Trade Committee as regards this Protocol, where such functions are relevant for the purposes of implementing this Protocol.**



# Audiovisual co-productions

Arti.5: 1. For the purposes of this Protocol, a **co-production** means an audiovisual work produced by producers of both Korea and the EU Party into which those producers have invested in accordance with the terms of this Protocol....

3. The Parties, in conformity with their respective legislation, shall facilitate co-productions between producers from the EU Party and Korea, including through entitlement for co- productions to **benefit from respective schemes for the promotion of local/regional cultural content.**



# PROTOCOL on cultural cooperation (EU-Central America)

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;....

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.



# Audio-Visual, including Cinematographic, Cooperation

Art. 5: 1. The Parties shall encourage the negotiation of new and implementation of existing **coproduction 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.

# Concluding Remarks

Trade/culture dilemma → challenges arising from the new developments that globalisation brings

EU's traditional position in FTAs → widest possible cultural policy space for the audiovisual sector by including a cultural exception in these agreements

UNESCO Convention → important legal framework for coherent EU action in favor of cultural diversity

UNESCO World Conference on Cultural Policies and Sustainable Development 2022 → *"We call on the UN Secretary General to firmly anchor culture as a global public good, and to integrate it as a specific goal in its own right in the development agenda beyond 2030"*



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