

CHAIRPERSON'S TEXT

Article 20 – Relationship to other instruments

1. This Convention shall not affect the rights and obligations of Parties derived from other international agreements. Nor shall other international agreements affect the rights and obligations of Parties under this Convention.
2. When interpreting and applying other international instruments or when entering into other international obligations, Parties shall take into account the objectives and principles of this Convention.

Article 21 – International consultation and coordination

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

INCD COMMENTS

The approach in Article 20 has merit. It declares the equivalence of this Convention with other instruments. It also provides that States will take into account the Convention's principles and objectives when interpreting and applying other instruments, or when making commitments in other fora. Article 21 provides that Parties will work together in those fora to promote cultural diversity principles and objectives.

INCD believes Article 20.2 needs to be strengthened:

Art. 20.2 – replace the words “take into account the principles and objectives of this Convention” with the words “shall respect the provisions of this Convention.”

This change is particularly important for a situation in which there is a dispute between two States which are parties both to this Convention and to another instrument.

To achieve equivalence to trade and investment treaties, it is also necessary for the Dispute Settlement provisions of the Chair's text to be strengthened:

Art. 25 – Include a pre-commitment for States to resolve under the terms of this Convention any dispute that arises between them on matters relating to cultural diversity.

Art. 25 – Provide for an arbitration process that will be binding on the parties if they are unable otherwise to resolve their dispute, such as the one provided in the original draft.

Art. 25 – Establish a process to permit a State to seek an opinion from the Intergovernmental Committee on the consistency of its actions with the provisions of the Convention if it is involved in a dispute with a State that is not a party to the Convention.