



Item 8.5 of the provisional agenda

**DRAFT RECOMMENDATION ON THE PROMOTION AND USE
OF MULTILINGUALISM AND UNIVERSAL ACCESS TO CYBERSPACE
AND REPORT BY THE DIRECTOR-GENERAL**

OUTLINE

Source: 30 C/Resolution 37; 159 EX/Decision 3.5.2;
161 EX/Decision 3.5.1.

Background: Following the series of debates on the promotion of multilingualism and universal access to cyberspace held at the Executive Board from its 159th to 161st sessions and during the 29th and 30th sessions of the General Conference, the consultation of the Member States and Associate Members on the preliminary report defining the framework of the draft recommendation, the Director-General submits the final report including a draft recommendation, finalized by a group of 24 governmental experts, to the General Conference.

Purpose: This draft recommendation, prepared in accordance with 30 C/Resolution 37 of the General Conference, proposes concrete measures at national and international levels with a view to promoting multilingualism and universal access to cyberspace in order to foster an equitable and multicultural information society.

Decision required: paragraph 13.

I. BACKGROUND

1. At its 30th session, the General Conference invited the Director-General (30 C/Resolution 37) to “submit a draft recommendation on the promotion and use of multilingualism and universal access to cyberspace” at its 31st session.
2. At its 159th session, the Executive Board (159 EX/Decision 3.5.2) invited the Director-General to continue the elaboration of a strategy “Initiative B@bel” on the promotion of multilingualism on the global networks in view of including it in the draft recommendation to Member States to be submitted for adoption by the General Conference at its 31st session, and to report on the progress on this issue at its 161st session.

II. SUMMARY OF ACTIVITIES

Preliminary report

3. In compliance with the Rules and Procedures concerning recommendations to Member States the Director-General prepared a preliminary report to define the framework of the draft recommendation on the promotion and use of multilingualism and universal access to cyberspace and invited, in December 2000, the views of Member States and Associate Members of the Organization, as well as the observers concerned, on the priorities to be addressed in this context.
4. The preliminary report, based on four expert studies carried out during May-June 2000, proposes that the draft recommendation covers the following fields closely linked to the concept of universal access to cyberspace: provision of access to telematics networks and services, promotion of multilingualism, provision of access to information in the public domain, and applicability of exemptions to copyright in the electronic environment.
5. The preliminary report took also into consideration the recommendations of several major events relevant to the subject that took place during the past year such as the Declaration of the Ministers of Culture meeting in Oaxaca, Mexico, the United Nations Economic and Social Council (ECOSOC) Ministerial Declaration in New York, United States and the Okinawa Charter on Global Information Society. It also kept in mind the preparation of the World Summit on the Information Society foreseen in 2003.
6. The report proposed under each of these aspects a number of measures at the national and international levels to encourage the application of common fundamental principles in support to governments in the formulation of the policies, regulatory frameworks, and infrastructure, addressing these concerns and determining their participation in the global information society.

INFOethics 2000

7. The Director-General also organized the third UNESCO Congress on the ethical, legal and societal challenges of cyberspace – INFOethics 2000 (Paris, November 2000). It was preceded by four INFOethics regional workshops organized over the year 2000 in Africa, Asia and the Pacific, Europe/North America, Latin America and the Caribbean and was based on the four thematic studies mentioned above.
8. The debates reconfirmed the importance and relevance of the issues highlighted by the Congress for the future development of the information society. Strong emphasis was placed

on the need to ensure that the human rights principles already in place should be preserved and reinforced in the new digital environment and in cyberspace.

Expert group

9. The Director-General then convened a group of governmental experts (category VI) in April 2001; the experts were selected in consultation with Member States, through the electoral groups, so as to ensure adequate geographical distribution. This group of experts was entrusted to finalize the draft recommendation based primarily on the comments and observations received from Member States and Associate Members and also on the recommendations of the INFOethics 2000 Congress. The final report and the draft recommendation are reproduced in Annexes I and II to this document and are hereby submitted to the General Conference for consideration and eventual adoption.

“Initiative B@bel”

10. In addition to the preparation of the draft recommendation the Secretariat prepared a strategy “Initiative B@bel”, as one of the basic elements in support of the concept of universal access to information in the emerging information society. The strategy proposes concrete activities at national and international levels, with the objective to develop multilingualism on the information networks and to encourage full partnership between governments, private sector and civil society.

11. This initiative, designed as an intersectoral effort of the Organization’s programme in support of linguistic diversity, encourages (1) the formulation of guiding principles and/or policies, (2) the implementation of concrete research and development projects for the improvement of online accessibility to different languages, and (3) the dissemination of information on multilingualism experiences and best practices.

12. “Initiative B@bel” is proposed for inclusion in document 31 C/5 among the projects under the cross-cutting theme “The contribution of new information and communication technologies to the development of education, science, culture and the construction of a knowledge society”.

13. The General Conference may wish to adopt the following draft resolution:

The General Conference,

1. Taking note of the report submitted by the Director-General, in accordance with 30 C/Resolution 37, on the implementation of activities on the promotion and use of multilingualism and universal access to cyberspace as reported in document 31 C/25,
2. Recognizing the importance of multilingualism for the promotion of universal access to information, particularly to information that falls into the public domain,
3. Reiterates its conviction that UNESCO should have a leading international role in promoting access to public domain information and in encouraging multilingualism and cultural diversity on global information networks;

4. Decides to adopt the draft recommendation annexed to the report;
5. Invites the Director-General to undertake concrete actions, in cooperation with the Member States, international intergovernmental and non-governmental organizations and the private sector for the implementation of this draft recommendation.

ANNEX I

FINAL REPORT

concerning the Promotion and Use of Multilingualism and Universal Access to Cyberspace

Introduction

1. The meeting of 24 experts was convened as a follow-up to 30 C/Resolution 37 of the 30th session of the General Conference of UNESCO. Representing 24 Member States, the experts were selected in consultation with the six regional electoral groups. Two international intergovernmental organizations as well as 23 observers representing 17 Member States, one non-Member State, and five non-governmental organizations also attended the meeting (see Annex C).
2. The Assistant Director-General for Communication and Information, Mr Alain Modoux, welcomed the participants and conveyed the Director-General's thanks to all the governments who gave their support to this important activity. He reiterated the importance of the meeting in the efforts of the Organization to prepare a recommendation on the issues of promoting multilingualism and universal access to cyberspace. He reminded those present of UNESCO's priority in promoting cultural diversity on the web thereby generating, enriching and disseminating knowledge by opening access to digital information for all (see Annex B).
3. His Excellency Dr Ali Al-Mashat, Ambassador of Iraq to UNESCO, was elected Chairperson of the meeting and Professor Mohammed Sheya, Deputy Permanent Delegate of the United Republic of Tanzania, as Vice-Chairperson.
4. The Chairperson expressed appreciation to the participants on his election and welcomed them to the meeting. He urged the experts to focus their wisdom and experience on the task of formulating principles that could govern the promotion and use of multilingualism and universal access to information in cyberspace and underscored the importance of their work. He expressed his hope that the recommendation could be presented to the next session of the General Conference of UNESCO as the latter requested at its 30th session.
5. Following the approval of the agenda of the meeting it was agreed to establish a drafting group of six persons (one from each UNESCO region) with the mandate to elaborate a revised version of the draft recommendation. This work will be based on the preliminary report on the promotion and use of multilingualism and universal access to cyberspace (CL/3569) circulated to all the Member States in December 2000, the synopsis document (EM/2001/2) of the Member States' replies received since that date and the comments and suggestions to be made during the two days' deliberations. The following additional documents were also provided to the experts to assist them in this work:
 - (a) Proceedings and Proposals INFOethics 2000 (CII-2000/CONF.402/CLD)
 - (b) Conclusions of the Regional INFOethics workshop – Africa
 - (c) Conclusions of the Regional INFOethics workshop – Arab States
 - (d) Conclusions of the Regional INFOethics workshop – Asia

- (e) Conclusions of the Regional INFOethics workshop – Europe
- (f) Conclusions of the Regional INFOethics workshop – Latin America.

6. The Drafting Group, chaired by Professor Mohammed Sheya (United Republic of Tanzania) was composed as follows:

Africa	Ms Zubeida Desai, South Africa
Arab States	Mr Ali Mohamed Zaid, Yemen
Asia and the Pacific	Ms Elizabeth Longworth, New Zealand
Europe I	Mr Rainer Kuhlen, Germany
Europe II	Mr Imants Freibergs, Latvia
Latin America and the Caribbean	Mr Gerardo Garcia Cabrera, Cuba

7. The procedure adopted by the experts group included a review of the text, paragraph by paragraph (projected on the screen for easier collective work), in plenary; a consolidation of the comments made in plenary by the drafting group after each plenary session and the adoption of the revised text in the final plenary session.

Summary of the debates

8. The participants were in agreement on the merits and urgency for the recommendations and many stressed its importance and timeliness. The meeting was characterized by the openness of the debates and the genuine desire to reach consensus while at the same time not losing focus on the need to address the individual peculiarities of the various regions.

9. The experts being cognizant of the global variations that needed to be considered found it necessary to define more precisely certain key concepts, definitions and basic principles so as to acknowledge and take these into consideration.

10. Considerable attention was focused on strategies for overcoming financial and technical hurdles to access and the need to explore new models such as private-public partnerships. The need for special measures to ensure access by disadvantaged groups received strong support.

11. Four new measures were elaborated and introduced to respond to critical issues that were raised and discussed at length by several speakers and which had not been foreseen in the earlier proposed recommendations. The new recommendations pointed to the following needs:

- that Member States develop information strategies and models that reach out to communities at all levels so as to foster the emergence of local ICT leaders and mentors and ensure the uptake of ICTs by communities;
- the necessity for Member States to establish the right of universal access within each State to “public domain information”, the need for a clearer, universal definition of this concept and its promotion was elaborated;

- the importance of establishing measures to provide training in best information practices, ethical behaviour and respect for community standards and values online as a necessary complement to ongoing training in areas of technical competency;
- the necessity of a revision in current intellectual property regulations so that the rights of people to benefit from scientific and technological progress are respected;
- finally, it was decided to reorder the draft recommendation and present it in four parts: a preamble; list of definitions; general principles; and the recommended measures to be undertaken by Member States and/or international organizations including UNESCO.

Adoption of the revised draft recommendation

12. At its final session the plenary adopted the preamble and the recommended measures parts and agreed that the revision of the “definitions” and “basic principles” will be completed online and through an online forum set up by the Institute of Library Science, Humboldt University Berlin, Germany. It was agreed with the plenary that all amendments that had been identified would be incorporated into the revised draft recommendation (see Annex A), after consultation with the members of the experts group and its Chairperson.

Closing of the meeting

13. The Chairperson closed the meeting after expressing his thanks to the panel of experts and observers for the constructive spirit of the debate. He urged the experts to quickly complete the draft recommendation and hoped that on their completion the recommendations would be accepted in their entirety by the 31st session of the General Conference.

14. The Assistant Director-General for Communication and Information thanked, on behalf of the Director-General of UNESCO, the experts, the Member States and the observers who contributed to the finalization of the draft recommendation.

ANNEX II

**UNITED NATIONS EDUCATIONAL,
SCIENTIFIC AND CULTURAL ORGANIZATION**

**DRAFT RECOMMENDATION
CONCERNING THE PROMOTION AND USE OF MULTILINGUALISM
AND UNIVERSAL ACCESS TO CYBERSPACE**

(as revised by the Meeting of Governmental Experts)

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PREAMBLE

The General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO), meeting in Paris from 15 October to 3 November 2001, at its 31st session,

Recalling the responsibility of the Member States and Associate Members to provide access to information in fulfilment of Articles 19 and 27 of the Universal Declaration of Human Rights¹ and the United Nations Millennium Declaration,²

Conscious, in particular, that one of the ultimate goals of any society is empowerment of all its citizens through access and use of knowledge,

Aware that everyone and every nation must have an equal opportunity to benefit from cultural diversity and scientific progress, which must remain, more than ever, a basic human right in the emerging information society,

Convinced that “universal access” to information and communication technologies and particularly to global information networks is essential for achieving goals of social cohesion and economic inclusion,

Recognizing that basic education and literacy are prerequisites for universal access to cyberspace,

Considering that multilingualism in cyberspace is of vital and strategic importance to ensure the right to information and cultural diversity,

Convinced that the promotion and the use of multilingualism and universal access to cyberspace and the process of economic globalization are interlinked and that without multilingualism, globalization will be culturally impoverishing, inequitable and unjust,

Convinced further that information and communication technologies open new vistas for cultural diversity and for human advancement and can play an important role in preserving and extending multilingualism, but at the same time can increase the disparities between those who have access and those who do not,

Recalling the recognition by the United Nations General Assembly at its thirty-fifth session, in 1980, of the central and important role of UNESCO in the field of information and communication and in the implementation of relevant decisions in this area adopted by the General Conference,

Recalling further that the ACC Statement on Universal Access to Basic Communication and Information Services, issued in 1997, commits the United Nations system in promoting policies that provide for equitable public participation in the information society,

¹ Article 19: “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers”.

Article 27: “Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits”.

² Article 25: “We resolve, therefore: (...) To ensure the freedom of the media to perform their essential role and the right of the public to have access to information”.

Bearing in mind that Article I, paragraph 2(c), of its Constitution confers to the Organization the mission to “maintain, increase and diffuse knowledge ... by initiating methods of international cooperation calculated to give the people of all countries access to the printed and published materials produced by any of them”,

Taking into account 29 C/Resolution 28, paragraph 2.A(h), of the General Conference inviting the Director-General to undertake action “... to facilitate access to information in the public domain with the ultimate aim of building up a general electronic repository of all information of a public nature relevant to UNESCO’s fields of competence”,

Taking further into account 29 C/Resolution 36 and 30 C/Resolution 37 calling for the preparation and submission of a draft recommendation on the promotion and use of multilingualism and universal access to cyberspace at its 31st session,

Recalling also 30 C/Resolution 41 urging all Member States and Associate Members “to promote free and universal access to public domain information for the purpose of education, science and culture”,

Recognizing further the Okinawa Charter on Global Information Society on July 2000 affirming the need to bridge the international information and knowledge divide,³ so that “everyone, everywhere should be enabled to participate in and no one should be excluded from the benefits of global information society”,

Desires to complement existing conventions, covenants and recommendations contained in the international standards with provisions relating to problems related to equitable access to information on global networks,

Adopts the present Recommendation this day of

³ G8 – Okinawa Charter on Global Information Society, Japan, 23 July 2000.

I. DEFINITIONS

1. For the purpose of this Recommendation:
 - (a) **Cyberspace** is commonly used to designate a virtual world for electronic communication associated with the global information infrastructure.
 - (b) **Digital divide** is a phenomenon that results from the unequal application of, and access to, information and communication technologies leading to a global knowledge gap between information “haves” and “have-nots” – between those who know and those who do not.
 - (c) **Domain name** is the name given to an Internet address which facilitates access to Internet resources by users (e.g. “unesco.org” in <http://www.unesco.org>).
 - (d) **Information society** is commonly used to refer to a new planetary community based on information.
 - (e) **Internet service provider (ISP)** is a supplier of Internet access services on a commercial or not-for-profit basis to clients who may be end-users, networks or other ISPs.
 - (f) **Legal exemptions** are copyright provisions providing possibilities to reuse copyrighted work for certain specific purposes such as critical works, commentaries, scholarship or research.⁴
 - (g) **Public domain information**, also known as the “information commons” refers to freely accessible information, intellectual works, or the media on which these are stored, the use of which does not infringe on any intellectual property right, or breach any other communal right (such as indigenous rights) or any obligation of confidentiality⁵.
 - (h) **Telematics** is the use of telecommunications to network remote computers or other electronic devices for various applications or services. The most widely used publicly accessible network infrastructure for telematics is the Internet.
 - (i) **Universal access** is equitable and affordable access by all citizens to information infrastructure and to information and knowledge essential to collective and individual human development.
 - (j) **Universal access to telematics networks and services** is equitable and affordable access to the Internet, including required user facilities, at an

⁴ For a complete description of exceptions in different countries see *Les Frontières du droit d’auteur: ses limites et exceptions*, ALAI Workshop, 14-17 September 1998, Ed. Australian Copyright Council, 1999.

⁵ By way of example, public domain information may embody: certain anonymous works (provided there is no infringement of any other stakeholder’s interest in that information); facts; deposits, collections and catalogues in public libraries, archives and museums; information in which there are no intellectual property rights or on which these have expired; official information produced and made available by government or international organizations; information disclosure of which is in the public interest and for the public good, information intended to be made publicly available by its author, owner or custodian; and metadata (data on data) within the previous categories. For the avoidance of doubt, even though information may be in the public domain, it cannot be assumed to be free of all other interests or control.

acceptable distance from people's homes and the work sites of development actors.⁶

II. GENERAL PRINCIPLES

In the light of the above considerations proactive measures need to be taken urgently at the national and international levels to encourage the application of common fundamental principles in support of governments that are addressing the formulation of policies, regulatory frameworks, and infrastructure, which will determine the future of the global information society.

The essence of the draft recommendation is to foster an equitable and multicultural information society respecting the principles embodied in the Universal Declaration of Human Rights. Above all, it is a call to all stakeholders, in both the public and private sectors and to civil society, to maximize information and communication technology (ICT) capacities so that everyone can enjoy the benefits of universal and affordable access to information and knowledge.

The draft recommendation covers the following key aspects of universal access to cyberspace.

(a) Facilitating access to telematics services

The availability of publicly accessible Internet networks and services is the first prerequisite to ensure that all citizens and all nations gain benefit from the multicultural human heritage in cyberspace. Inequalities in access to the Internet services are the most evident cause of the disparities existing between the information "haves" and "have-nots", and between the developing and industrialized countries.

Among the many obstacles to universal access are economic constraints and high rates for Internet service connection and access to telecommunications channels necessary for access to the Internet, particularly by the developing countries.

The provision of telecommunications facilities as a public service is subject to well-defined regulatory frameworks at the national level, as well as international standards developed by the International Telecommunication Union (ITU), which has adopted universal access of citizens to telecommunications as one of its goals. On the other hand, Internet service connection is considered by the ITU as a user application rather than as a telecommunications service within its mandate. While most industrialized countries do not regulate Internet connectivity, many developing countries restrict the establishment of Internet service providers (ISPs) or their access to international gateways contributing to the higher costs of Internet access in these countries. In addition, the historical development of the Internet has led to a strong market dominance of a very few major international providers. Subsequently, ISPs in most developing countries are generally obliged to assume the full cost of an international leased telecommunications channel to a backbone provider. Another

⁶ This definition is extended from that of *universal access to telecommunication services* defined by the ITU as access at an acceptable distance from people's homes (as distinguished from universal service which would mean at least one telephone line for every household). ITU Telecommunication Development Bureau. *Preparation of Handbooks for Developing Countries: New Developments in Rural Telecommunications*. Geneva: International Telecommunication Union, 1999 (ITU-D Study Groups, First Study Period (1995-1998), Report on Question 2/2).

consequence has been the distortions in traffic that have hindered the development of strong regional Internet backbones and, in the case of certain developing countries, also national backbones and peering arrangements.

Other factors limiting access are inadequate or non-existent national policies to promote Internet connectivity and the use of information and communication technologies in improving public services. There is also a severe inequality of the populations of rural and disadvantaged communities particularly in developing countries with inadequate or non-existence of public services such as electricity and telephone; others include economic and administrative constraints of public service institutions wishing to participate in the information revolution, and difficulties in obtaining the Internet domain names in many developing countries.

(b) Promoting multilingualism

Language constitutes the foundation of communication between people and is also part of their cultural heritage. For many people, language carries far-reaching emotive and cultural associations and values embedded in vast literary, historical, philosophical and educational heritage.

For this reason the users' language should not constitute an obstacle to accessing the multicultural human heritage available in cyberspace. Harmonious development of the information society is therefore only possible by encouraging the availability of multilingual and multicultural information.

The growing diversity of the user population in terms of different languages raises a host of technological challenges and calls for taking advantage of technologies which facilitate communication and access to information in as many languages and scripts as possible so as to ensure maximum self-expression, education, science, culture and communication.

(c) Facilitating access through development of public domain content

A significant amount of world human heritage lies in information content known as public domain information or the information commons. This enormous legacy of knowledge, mostly generated by governments, public institutions and international organizations exists in every country, every culture and every language. The facilitation of its provision and dissemination on the global information networks will substantially contribute to the goal of universal access.

Further, rapid advancement of innovations in information and communication technologies has sparked a race to lay claim to knowledge, resulting in the risks of appropriation and privatization of information which should be in the public domain. It is primarily the responsibility of the public institutions such as libraries, archives, and governmental agencies to facilitate access to this type of information, by encouraging private-sector contributions and citizen participation.

(d) Facilitating access through application of exemptions to copyright

Maintaining a balance between copyright protection and access to information is a major challenge for the information society. This involves both national and international regulation. Certain principles of copyright (e.g. limitations on the duration and scope of

protection) embody the quest for that balance. More fundamentally, the notion that a work can be protected on the basis of the criterion of originality is a vital instrument for drawing the border between protected works and works in the public domain. Users are also allowed exemptions reflecting the need to strike a balance between the private interests of the creators of intellectual content and the larger public interest, by providing not only for legitimate access to information and culture, but also for the dissemination of knowledge through education, research and libraries.

Many international treaties⁷ confirm the recently extended prerogatives of authors and holders of neighbouring rights, and further extension of the scope of their protection. These same treaties have adjusted limitations and exemptions as part of the process of the updating of rights.

Three recent developments are worthy of consideration: the tendency for intellectual property rights to become a system for safeguarding investment, as illustrated in the current trend to protect databases (a *sui generis* right); the restriction of exceptions to and limitations on copyright; and the increasingly frequent use of contracts and technical measures to protect works in the electronic environment, making it difficult for users to avail themselves of the exemptions provided for by law and seriously threatening the very institution of copyright. All three have a direct influence on the acquisition and transfer of knowledge and access to contents of culture and information, including access to humanity's multicultural heritage. The above factors must be taken into account in adapting intellectual property rights to the digital environment of cyberspace.

III. RECOMMENDED MEASURES

(a) Facilitating access to telematics networks and services

M1 – The international community should recognize and support universal access to telematics networks and services as a contemporary and appropriate interpretation of the human right as defined in Articles 19 and 27 of the Universal Declaration of Human Rights.

M2 – The Internet should be considered by governments and international organizations as a public information utility service and not only as a “commercial product”. Solutions to facilitating access to Internet services are needed first and foremost at the policy level.

M3 – Concerned international organizations, particularly UNESCO in collaboration with the ITU as part of a wider United Nations system effort, should make an effort to promote the sharing of information and experience on the application of telematics networks and services in development. This includes the promotion of appropriate open technologies, the formulation and application of appropriate policies and regulations at the national, regional and international levels, and the strengthening of international support for capacity-building in the developing countries.

M4 – Mechanisms should be established at the national, regional and international levels to ensure that telecommunication and Internet costs facilitate universal access to the Internet and its multilingual contents, with special consideration of exemptions for public service institutions, and for disadvantaged population groups. New models for public-private

⁷ See in particular the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty, signed at Geneva on 20 December 1996.

partnerships for financing and providing incentives for this access, including the reduction of financial barriers to the use of ICTs such as taxes and customs duties on informatics equipment, software and services, may also be considered.

M5 – Concessionary rates for Internet access in public service institutions such as schools, academic institutions, museums and public libraries should be considered by Member States and ISPs as a transitional measure towards low-cost access to cyberspace.

M6 – Member States should encourage collaboration among public service institutions on information and communication technology, as suggested in a joint study of the ITU and UNESCO,⁸ as a means of reducing the cost of access to Internet services.

M7 – Member States should encourage the development of information strategies and models that facilitate community access and reach out to all levels of society, including setting up community projects and fostering the emergence of local information and communication technology leaders and mentors.

M8 – On the principle of international solidarity, interconnection on a fair cost-sharing basis should be encouraged between national Internet peering points in developing countries (which bring together the traffic of private and non-profit ISPs) and peering points in other countries (whether developing or industrialized).

M9 – Regional organizations or forums should strengthen inter- and intra-regional networks, combining commercial and public service traffic. Serious thought should be given to the possibility of establishing high capacity regional backbones to connect each country within a multi-hub global network in which none dominates connectivity – as is already under consideration, for example, in the Asia and the Pacific region.

(b) Promoting multilingualism

M10 – Member States and intergovernmental international organizations should reaffirm and promote the respect and use of all languages in cyberspace, to contribute to the preservation of the richness and diversity of the universal human heritage and to peaceful coexistence, objectives that are enshrined in many international declarations and conventions and in many national constitutions.⁹

M11 – The developers of Internet content should broaden language diversity in cyberspace by creating contents, and means to find, access and process them, in all widely used languages as well as in other languages at the local, national and regional levels, including less used languages.

M12 – In order to prevent all forms of linguistic segregation in access to cultural and scientific information and knowledge, technical, financial and educational resources should be

⁸ ITU and UNESCO. *The Right to Communicate - At What Price? Economic Constraints to the Effective Use of Telecommunications in Education, Science, Culture and in the Circulation of Information*. Paris: UNESCO, May 1995 (CII-95/WS/2).

⁹ Universal Declaration of Human Rights, 1948; International Covenant on Civil and Political Rights, Article 27, and International Covenant on Economic, Social and Cultural Rights, 1966; United Nations Declaration on the Rights of Persons belonging to National, Ethnic, Religious and Linguistic Minorities (Resolution 47/135 of 18 December 1992); and many other regional intergovernmental and international NGO declarations.

provided by the public and private sectors at local, national, regional and international levels to ensure the creation, preservation and maintenance of national and multilingual websites.

M13 – Member States and intergovernmental and non-governmental international organizations should adopt strategies to develop, and disseminate online, freely accessible language education materials.

M14 – Member States and international intergovernmental and non-governmental organizations and ICT industries should encourage the participation of specialists in collaborative research and development on, and localization (adaptation) of operating systems, search engines and web browsers with extensive multilingual capabilities, as well as the development of online dictionaries and terminologies. Software should preferably be developed and made available in an open source environment.

M15 – Member States and international intergovernmental and non-governmental organizations and ICT industries should support international cooperative efforts to develop automated translation services accessible to all, free or at a nominal charge, and to encourage the development of intelligent linguistic systems such as those performing multilingual information retrieval, summarizing/abstracting and speech understanding.

M16 – Member States should formulate strong national policies on the crucial issue of language survival in cyberspace. International assistance to Member States in framing and implementing language policies, designed to promote mother tongues and language teaching, should be strengthened while respecting cultural diversity on the global information networks and reinforcing national and international solidarity.

M17 – International organizations, in particular UNESCO, should maintain and promote an international collaborative online observatory on the different existing policies and regulations relating to multilingualism and multilingual resources and applications. Such a portal should create and make accessible, free of charge, a database on current experiences, standards and technical recommendations, software products and ongoing innovations bearing on computerization of languages.

(c) Facilitating access through development of public domain content

M18 – Member States should establish the right of universal access, within their State, to “public domain information”, covering all the information required by citizens in a modern democratic society (e.g. statistics, laws and regulations, information on health, security and the environment), to be designated by each State without risk of appropriation by private concerns for profit making.

M19 – Member States and international intergovernmental and non-governmental organizations should encourage legislative measures, such as freedom of information laws, protected disclosure policies and regulations on the digitization, archiving and online accessibility of public and government-held records, taking appropriate account of national security concerns. These measures should be based on common fundamental principles and standards that will facilitate their harmonization and interoperability in the global information society.

M20 – Member States and international intergovernmental and non-governmental organizations should define at the national, regional and international levels, and for all cultural and linguistic communities, the repositories of information and knowledge in the

public domain which constitute the common heritage of humanity and should be freely accessible by all.

M21 – Member States and international intergovernmental and non-governmental organizations should promote partnering arrangements which balance the interests of the public and private sectors in order to redress the imbalances in access to information in the public domain between the developing and the industrialized countries, and between the disadvantaged and the information-rich communities. Incentives of different types should be worked out to encourage private-sector contributions to generating information on human heritage and facilitating access to it.

M22 – Member States and international organizations should support funding initiatives to enable public institutions to undertake the preservation and digitization of public domain information, and to adopt appropriate standards and systems for information exchange, portability, interoperability and online accessibility. These institutions should be encouraged to make the results available on global information networks.

M23 – Member States should develop and nurture “human capital” for the information society, including measures for distance education, integrated education, ICT training and skills-based programmes.

M24 – Member States should find ways to assist their citizens to make the attitudinal changes required for ICT literacy, including popularizing and building trust and confidence in the implementation and use of ICTs.

M25 – Member States and UNESCO should encourage cooperation among the different international governmental and non-governmental organizations (FAO, UNDP, UNEP, WHO, World Bank, etc.) with a view to building up a universally accessible body of knowledge, particularly for the benefit of developing countries and disadvantaged communities, from the massive amount of information produced through development projects and programmes.

M26 – UNESCO should encourage the compilation of an international inventory of legislation, regulation, plans of action and programmes on the generation and dissemination of public domain information in close collaboration with leading organizations in this domain such as WIPO.

M27 – Member States and international organizations should implement measures that encourage best information practices, ethical behaviour and respect for community standards and values regarding the activities and content of information producers, users and service providers. Public authorities should ensure that all ICT training within their national jurisdictions includes training on ethical awareness and standards and not just on technical competence.

(d) Facilitating access through application of exemptions to copyright

M28 – Member States and international intergovernmental and non-governmental organizations should reaffirm and promote the principles underlying exemptions to the protection of intellectual property rights, in particular those relating to the purposes of education, science and critical review. They should define a new fair balance between the interests of authors and publishers and those of the public concerning free access to information.

M29 – Member States and UNESCO should defend the principle of universal access against attempts to strengthen intellectual property rights through technological means such as digital rights management. In particular, Member States are encouraged in their national and international deliberations on intellectual property laws to ensure free access to public domain information (such as statistical, regulatory, environmental and safety-related information) which is essential for citizens in a modern democratic society.

M30 – Member States and UNESCO should encourage the revision of regulations concerning intellectual property in the electronic environment, notably concerning the scope and duration of protection, in the sense of a planetary social contract in which authors' rights, the legitimate and justifiable interests of investors and intermediaries, and the rights of peoples to benefit from scientific and technological progress are respected.



31 C/25 Corr.
22 October 2001
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Item 8.5 of the agenda

**DRAFT RECOMMENDATION
CONCERNING THE PROMOTION AND USE OF MULTILINGUALISM
AND UNIVERSAL ACCESS TO CYBERSPACE**

CORRIGENDUM

ANNEX II

Since the text of the draft recommendation presented in document 31 C/25 was circulated to Member States, a number of comments were received which prompted the Secretariat to consult further with those most concerned by the present wording in order to clarify some of the statements in the text and to minimize misunderstandings and misinterpretation about the proposed measures.

On the basis of these contentions, a few modifications have been made in the original text. The attached revised version is submitted to the General Conference for its consideration and approval.

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PREAMBLE

The General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO), meeting in Paris from 15 October to 3 November 2001, at its 31st session,

Recalling the responsibility of the Member States and Associate Members to provide access to information in fulfilment of Articles 19 and 27 of the Universal Declaration of Human Rights¹ and the United Nations Millennium Declaration,²

Conscious, in particular, that one of the ultimate goals of any society is empowerment of all its citizens through access and use of knowledge,

Aware that everyone and every nation must have an equal opportunity to benefit from cultural diversity and scientific progress, which must remain, more than ever, a basic human right in the emerging information society,

Convinced that “universal access” to information and communication technologies and particularly to global information networks is essential for achieving goals of social cohesion and economic inclusion,

Recognizing that basic education and literacy are prerequisites for universal access to cyberspace,

Considering that multilingualism in cyberspace is of vital and strategic importance to ensure the right to information and cultural diversity,

Convinced that the promotion and the use of multilingualism and universal access to cyberspace and the process of economic globalization are interlinked and that without multilingualism, globalization will be culturally impoverishing, inequitable and unjust,

Convinced further that information and communication technologies open new vistas for cultural diversity and for human advancement and can play an important role in preserving and extending multilingualism, but at the same time can increase the disparities between those who have access and those who do not,

Recalling the recognition by the United Nations General Assembly at its thirty-fifth session, in 1980, of the central and important role of UNESCO in the field of information and communication and in the implementation of relevant decisions in this area adopted by the General Conference,

Recalling further that the ACC Statement on Universal Access to Basic Communication and Information Services, issued in 1997, commits the United Nations system in promoting policies that provide for equitable public participation in the information society,

¹ Article 19: “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers”.

Article 27(1): “Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits”.

Article 27(2): “Everyone has the right to protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author”.

² Article 25: “We resolve, therefore: (...) To ensure the freedom of the media to perform their essential role and the right of the public to have access to information”.

Bearing in mind that Article I, paragraph 2(c), of its Constitution confers to the Organization the mission to “maintain, increase and diffuse knowledge ... by initiating methods of international cooperation calculated to give the people of all countries access to the printed and published materials produced by any of them”,

Taking into account 29 C/Resolution 28, paragraph 2.A(h), of the General Conference inviting the Director-General to undertake action “... to facilitate access to information in the public domain with the ultimate aim of building up a general electronic repository of all information of a public nature relevant to UNESCO’s fields of competence”,

Taking further into account 29 C/Resolution 36 and 30 C/Resolution 37 calling for the preparation and submission of a draft recommendation on the promotion and use of multilingualism and universal access to cyberspace at its 31st session,

Recalling also 30 C/Resolution 41 urging all Member States and Associate Members “to promote free and universal access to public domain information for the purpose of education, science and culture”,

Recognizing further the Okinawa Charter on Global Information Society on July 2000 affirming the need to bridge the international information and knowledge divide,³ so that “everyone, everywhere should be enabled to participate in and no one should be excluded from the benefits of global information society”,

Desires to complement international standards with principles relating to problems related to equitable access to information on global networks,

Adopts the present Recommendation this day of

³ G8 – Okinawa Charter on Global Information Society, Japan, 23 July 2000.

I. DEFINITIONS

For the purpose of this Recommendation:

- (a) **Cyberspace** is commonly used to designate a virtual world for electronic communication associated with the global information infrastructure.
- (b) **Digital divide** is a phenomenon that results from the unequal application of, and access to, information and communication technologies leading to a global knowledge gap between information “haves” and “have-nots” – between those who know and those who do not.
- (c) **Domain name** is the name given to an Internet address which facilitates access to Internet resources by users (e.g. “unesco.org” in <http://www.unesco.org>).
- (d) **Information society** is commonly used to refer to a new planetary community based on information.
- (e) **Internet service provider (ISP)** is a supplier of Internet access services on a commercial or not-for-profit basis to clients who may be end-users, networks or other ISPs.
- (f) **Legal exemptions** are copyright provisions providing possibilities to reuse copyrighted work for certain specific purposes such as critical works, commentaries, scholarship or research.⁴
- (g) **Public domain information**, also known as the “information commons” refers to freely accessible information, intellectual works, or the media on which these are stored, the use of which does not infringe on any intellectual property right, or breach any other communal right (such as indigenous rights) or any obligation of confidentiality.⁵
- (h) **Telematics** is the use of telecommunications to network remote computers or other electronic devices for various applications or services. The most widely used publicly accessible network infrastructure for telematics is the Internet.
- (i) **Universal access** is equitable and affordable access by all citizens to information infrastructure and to information and knowledge essential to collective and individual human development.
- (j) **Universal access to telematics networks and services** is equitable and affordable access to the Internet, including required user facilities, at an

⁴ For a complete description of exceptions in different countries see *Les Frontières du droit d’auteur: ses limites et exceptions*, ALAI Workshop, 14-17 September 1998, Ed. Australian Copyright Council, 1999.

⁵ By way of example, public domain information may embody: certain anonymous works (provided there is no infringement of any other stakeholder’s interest in that information); facts; public library catalogues; deposits, collections and catalogues in public archives and museums; information in which there are no intellectual property rights or on which these have expired; official information produced and made available by government or international organizations; information disclosure which is in the public interest and for the public good, information intended to be made publicly available by its author, owner or custodian; and metadata (data on data) within the previous categories. For the avoidance of doubt, even though information may be in the public domain, it cannot be assumed to be free of all other interests or control.

acceptable distance from people's homes and the work sites of development actors.⁶

II. GENERAL PRINCIPLES

In the light of the above considerations proactive measures need to be taken urgently at the national and international levels to encourage the application of common fundamental principles in support of governments that are addressing the formulation of policies, regulatory frameworks, and infrastructure, which will determine the future of the global information society.

The essence of the draft recommendation is to foster an equitable and multicultural information society respecting the principles embodied in the Universal Declaration of Human Rights. Above all, it is a call to all stakeholders, in both the public and private sectors and to civil society, to maximize information and communication technology (ICT) capacities so that everyone can enjoy the benefits of universal and affordable access to information and knowledge.

The draft recommendation covers the following key aspects of universal access to cyberspace.

(a) Facilitating access to telematics services

The availability of publicly accessible Internet networks and services is the first prerequisite to ensure that all citizens and all nations gain benefit from the multicultural human heritage in cyberspace. Inequalities in access to the Internet services are the most evident cause of the disparities existing between the information "haves" and "have-nots", and between the developing and industrialized countries.

Among the many obstacles to universal access are economic constraints and high rates for Internet service connection and access to telecommunications channels necessary for access to the Internet, particularly by the developing countries.

The provision of telecommunications facilities as a public service is subject to well-defined regulatory frameworks at the national level, as well as international standards developed by the International Telecommunication Union (ITU), which has adopted universal access of citizens to telecommunications as one of its goals. On the other hand, Internet service connection is considered by the ITU as a user application rather than as a telecommunications service within its mandate. While most industrialized countries do not regulate Internet connectivity, many developing countries restrict the establishment of Internet service providers (ISPs) or their access to international gateways contributing to the higher costs of Internet access in these countries. In addition, the historical development of the Internet has led to a strong market dominance of a very few major international providers. Subsequently, ISPs in most developing countries are generally obliged to assume the full cost of an international leased telecommunications channel to a backbone provider. Another consequence has been the distortions in traffic that have hindered the development of strong

⁶ This definition is extended from that of *universal access to telecommunication services* defined by the ITU as access at an acceptable distance from people's homes (as distinguished from universal service which would mean at least one telephone line for every household). ITU Telecommunication Development Bureau. *Preparation of Handbooks for Developing Countries: New Developments in Rural Telecommunications*. Geneva: International Telecommunication Union, 1999 (ITU-D Study Groups, First Study Period (1995-1998), Report on Question 2/2).

regional Internet backbones and, in the case of certain developing countries, also national backbones and peering arrangements.

Other factors limiting access are inadequate or non-existent national policies to promote Internet connectivity and the use of information and communication technologies in improving public services. There is also a severe inequality of the populations of rural and disadvantaged communities particularly in developing countries with inadequate or non-existence of public services such as electricity and telephone; others include economic and administrative constraints of public service institutions wishing to participate in the information revolution, and difficulties in obtaining the Internet domain names and/or addresses in many developing countries.

(b) Promoting multilingualism

Language constitutes the foundation of communication between people and is also part of their cultural heritage. For many people, language carries far-reaching emotive and cultural associations and values embedded in vast literary, historical, philosophical and educational heritage.

For this reason the users' language should not constitute an obstacle to accessing the multicultural human heritage available in cyberspace. Harmonious development of the information society is therefore only possible by encouraging the availability of multilingual and multicultural information.

The growing diversity of the user population in terms of different languages raises a host of technological challenges and calls for taking advantage of technologies which facilitate communication and access to information in as many languages and scripts as possible so as to ensure maximum self-expression, education, science, culture and communication.

(c) Facilitating access through development of public domain content

A significant amount of world human heritage lies in information content known as public domain information or the information commons. This enormous legacy of knowledge, mostly generated by governments, public institutions and international organizations exists in every country, every culture and every language. The facilitation of its provision and dissemination on the global information networks will substantially contribute to the goal of universal access.

Further, rapid advancement of innovations in information and communication technologies has sparked a race to lay claim to knowledge, resulting in the risks of appropriation and privatization of information which should be in the public domain. It is primarily the responsibility of the public institutions such as libraries, archives and governmental agencies to facilitate access to this type of information.

(d) Adapting the “fair use” principle to the electronic environment

Maintaining a balance between copyright protection and access to information is a major challenge for the information society. This involves both national and international regulation. Certain principles of copyright (e.g. limitations on the duration and scope of protection) embody the quest for that balance. More fundamentally, the notion that a work can be protected on the basis of the criterion of originality is a vital instrument for drawing the

border between protected works and works in the public domain. Users are also allowed exemptions reflecting the need to strike a balance between the private interests of the creators of intellectual content and the larger public interest, by providing not only for legitimate access to information and culture, but also for the dissemination of knowledge through education, research and libraries.

Many international treaties⁷ confirm the recently extended prerogatives of authors and holders of neighbouring rights, and further extension of the scope of their protection. These same treaties have adjusted limitations and exemptions as part of the process of the updating of rights.

However, much remains to be done in order to reach a consensus on practical ways to ensure adequate enforcement of fair use in the digital environment without undermining copyright protection of literary, scientific and artistic works in electronic formats, currently challenged by electronic privacy. These factors must be fully taken into account in adapting intellectual property rights to the digital environment of cyberspace. The elimination of legal uncertainty in this area is indeed one of the major challenges currently faced by the international community for the development of the global information society.

III. RECOMMENDED MEASURES

(a) Facilitating access to telematics networks and services

M1 – The international community should recognize and support universal access to telematics networks and services as a contemporary and appropriate interpretation of the human right as defined in Articles 19 and 27 of the Universal Declaration of Human Rights.

M2 – The Internet should be considered by governments and international organizations as a public information utility service and not only as a “commercial product”. Solutions to facilitating access to Internet services are needed first and foremost at the policy level.

M3 – Concerned international organizations, particularly UNESCO in collaboration with the ITU as part of a wider United Nations system effort, should make an effort to promote the sharing of information and experience on the application of telematics networks and services in development. This includes the promotion of appropriate open technologies, the formulation and application of appropriate policies and regulations at the national, regional and international levels, and the strengthening of international support for capacity-building in the developing countries.

M4 – Mechanisms should be established at the national, regional and international levels to ensure that telecommunication and Internet costs facilitate universal access to the Internet and its multilingual contents, with special consideration of exemptions for public service institutions, and for disadvantaged population groups. New models for public-private partnerships for financing and providing incentives for this access, including the reduction of financial barriers to the use of ICTs such as taxes and customs duties on informatics equipment, software and services, may also be considered.

⁷ See in particular the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty, signed at Geneva on 20 December 1996.

M5 – Concessionary rates for Internet access in public service institutions such as schools, academic institutions, museums and public libraries should be considered by Member States and ISPs as a transitional measure towards low-cost access to cyberspace.

M6 – Member States should encourage collaboration among public service institutions on information and communication technology, as suggested in a joint study of the ITU and UNESCO,⁸ as a means of reducing the cost of access to Internet services.

M7 – Member States should encourage the development of information strategies and models that facilitate community access and reach out to all levels of society, including setting up community projects and fostering the emergence of local information and communication technology leaders and mentors.

M8 – On the principle of international solidarity, interconnection on a fair cost-sharing basis should be encouraged between national Internet peering points in developing countries (which bring together the traffic of private and non-profit ISPs) and peering points in other countries (whether developing or industrialized).

M9 – Regional organizations or forums should strengthen inter- and intra-regional networks, combining commercial and public service traffic. Serious thought should be given to the possibility of establishing high capacity regional backbones to connect each country within a multi-hub global network in which none dominates connectivity – as is already under consideration, for example, in the Asia and the Pacific region.

(b) Promoting multilingualism

M10 – Member States and intergovernmental international organizations should reaffirm and promote the respect and use of all languages in cyberspace, to contribute to the preservation of the richness and diversity of the universal human heritage and to peaceful coexistence, objectives that are enshrined in many international declarations and conventions and in many national constitutions.⁹

M11 – The developers of Internet content should broaden language diversity in cyberspace by creating contents, and means to find, access and process them, in all widely used languages as well as in other languages at the local, national and regional levels, including less used languages.

M12 – In order to prevent all forms of linguistic segregation in access to cultural and scientific information and knowledge, technical, financial and educational resources should be provided by the public and private sectors at local, national, regional and international levels to ensure the creation, preservation and maintenance of national and multilingual websites.

⁸ ITU and UNESCO. *The Right to Communicate - At What Price? Economic Constraints to the Effective Use of Telecommunications in Education, Science, Culture and in the Circulation of Information*. Paris: UNESCO, May 1995 (CII-95/WS/2).

⁹ Universal Declaration of Human Rights, 1948; International Covenant on Civil and Political Rights, Article 27, and International Covenant on Economic, Social and Cultural Rights, 1966; United Nations Declaration on the Rights of Persons belonging to National, Ethnic, Religious and Linguistic Minorities (Resolution 47/135 of 18 December 1992); and many other regional intergovernmental and international NGO declarations.

M13 – Member States and intergovernmental and non-governmental international organizations should adopt strategies to develop, and disseminate online, freely accessible language education materials.

M14 – Member States and international intergovernmental and non-governmental organizations and ICT industries should encourage the participation of specialists in collaborative research and development on, and localization (adaptation) of operating systems, search engines and web browsers with extensive multilingual capabilities, as well as the development of online dictionaries and terminologies. Software should preferably be developed and made available in an open source environment.

M15 – Member States and international intergovernmental and non-governmental organizations and ICT industries should support international cooperative efforts to develop automated translation services accessible to all, free or at a nominal charge, and to encourage the development of intelligent linguistic systems such as those performing multilingual information retrieval, summarizing/abstracting and speech understanding.

M16 – Member States should formulate strong national policies on the crucial issue of language survival in cyberspace. International assistance to Member States in framing and implementing language policies, designed to promote mother tongues and language teaching, should be strengthened while respecting cultural diversity on the global information networks and reinforcing national and international solidarity.

M17 – International organizations, in particular UNESCO, should maintain and promote an international collaborative online observatory on the different existing policies and regulations relating to multilingualism and multilingual resources and applications. Such a portal should create and make accessible, free of charge, a database on current experiences, standards and technical recommendations, software products and ongoing innovations bearing on computerization of languages.

(c) Facilitating access through development of public domain content

M18 – Member States should establish the right of universal access, within their respective jurisdictions, to “public domain information”, covering all the information required by citizens in a modern democratic society (e.g. statistics, laws and regulations, information on health, security and the environment), to be defined by each State without prejudicing the existing rights of authors and copyright holders.

M19 – Member States and international intergovernmental and non-governmental organizations should encourage legislative measures, such as freedom of information laws, protected disclosure policies and regulations on the digitization, archiving and online accessibility of public and government-held records, taking appropriate account of national security concerns.

M20 – Member States and international intergovernmental and non-governmental organizations should identify and promote at the national, regional and international levels, and for all cultural and linguistic communities, the repositories of information and knowledge in the public domain which constitute the common heritage of humanity and should be freely accessible by all.

M21 – Member States and international intergovernmental and non-governmental organizations should promote cooperation between public and private sectors in order to

ensure universal access and free flow of information in the public domain, both in the developing and industrialized countries, without any discrimination between the disadvantaged and the information-rich communities.

M22 – Member States and international organizations should support funding initiatives to enable public institutions to undertake the preservation and digitization of public domain information, and to adopt appropriate standards and systems for information exchange, portability, interoperability and online accessibility. These institutions should be encouraged to make the results available on global information networks.

M23 – Member States should develop and nurture “human capital” for the information society, including measures for distance education, integrated education, ICT training and skills-based programmes.

M24 – Member States should find ways to assist their citizens to make the attitudinal changes required for ICT literacy, including popularizing and building trust and confidence in the implementation and use of ICTs.

M25 – Member States and UNESCO should encourage cooperation among the different international governmental and non-governmental organizations (FAO, UNDP, UNEP, WHO, World Bank, etc.) with a view to building up a universally accessible body of knowledge, particularly for the benefit of developing countries and disadvantaged communities, from the massive amount of information produced through development projects and programmes.

M26 – UNESCO should encourage the compilation of an international inventory of legislation, regulation, plans of action and programmes on the generation and dissemination of public domain information in close collaboration with leading organizations in this domain such as WIPO.

M27 – Best information practices as well as voluntary, self-regulatory professional and ethical guidelines should be encouraged, without any obstacles to freedom of expression, regarding the activities and content of information producers, users and services providers. All ICT training should include training in ethical awareness and not just on technical competence.

(d) Adapting the “fair use” principle to the electronic environment

M28 – Member States and international intergovernmental and non-governmental organizations should reaffirm and promote the basic principles embodied in international copyright conventions, in particular those regarding copyright exemptions. A consensus on a new balance between the interests of authors and copyright holders and those of the public has to be sought in the spirit of Article 27 of the Universal Declaration of Human Rights and in close cooperation with all the interested parties so as to ensure smooth circulation of protected works in the electronic networks as well as adequate access for educational and scientific purposes and for critical review.

M29 – Member States should work to ensure that the principle of fair use is not weakened through inappropriate use of technical means to restrict access or ensure security. In particular, Member States are encouraged in their national and international deliberations on intellectual property laws to ensure free access to public domain information (such as statistical, regulatory, environmental and safety-related information) which is essential for citizens in a modern democratic society.

M30 – Member States and intergovernmental and non-governmental organizations should encourage the urgent updating of national copyright legislations and their adaptation to the electronic environment, taking full account of international copyright conventions. In so doing, particular attention should be paid to the need to protect copyrighted works against unlawful practices while, at the same time, ensuring that the rights of peoples to benefit from scientific and technological progress are respected.



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ANNEX II

(Revised version 2)

Item 8.5 of the agenda

**DRAFT RECOMMENDATION
CONCERNING THE PROMOTION AND USE OF MULTILINGUALISM
AND UNIVERSAL ACCESS TO CYBERSPACE**

CORRIGENDUM 2

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PREAMBLE

The General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO), meeting in Paris from 15 October to 3 November 2001, at its 31st session,

Recalling the responsibility of the Member States and Associate Members to provide access to information in fulfilment of Articles 19 and 27 of the Universal Declaration of Human Rights¹ and the United Nations Millennium Declaration,²

Conscious, in particular, that one of the ultimate goals of any society is empowerment of all its citizens through access and use of knowledge,

Aware that every individual and all peoples shall have an equal opportunity to benefit from cultural diversity and scientific progress, which shall be a human right in the emerging information society,

Convinced that “universal access” to information and communication technologies and particularly to global information networks is essential for achieving goals of social cohesion and economic participation,

Recognizing that basic education and literacy are prerequisites for universal access to cyberspace,

Further recognizing that different levels of economic development affect prospects for access to cyberspace and recognizing therefore that policies designed to ensure universal access should take this into account,

Considering that multilingualism in cyberspace is of vital and strategic importance to ensure the right to information and cultural diversity,

Convinced that the promotion and the use of multilingualism and universal access to cyberspace and the economic globalization are interlinked and that multilingualism humanizes the process of globalization,

Convinced further that information and communication technologies open new vistas for cultural diversity and for human advancement and can play an important role in preserving and extending multilingualism, but at the same time can increase the disparities between those who have access and those who do not,

Recalling the recognition by the United Nations General Assembly at its thirty-fifth session, in 1980, of the central and important role of UNESCO in the field of information and communication and in the implementation of relevant decisions in this area adopted by the General Conference,

¹ Article 19: “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers”.

Article 27(1): “Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits”.

Article 27(2): “Everyone has the right to protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author”.

² Article 25: “We resolve, therefore: (...) To ensure the freedom of the media to perform their essential role and the right of the public to have access to information”.

Recalling further that the ACC Statement on Universal Access to Basic Communication and Information Services, issued in 1997, commits the United Nations system in promoting policies that provide for equitable public participation in the information society,

Bearing in mind that Article I, paragraph 2(c), of its Constitution confers to the Organization the mission to “maintain, increase and diffuse knowledge ... by initiating methods of international cooperation calculated to give the people of all countries access to the printed and published materials produced by any of them”,

Taking into account 29 C/Resolution 28, paragraph 2.A(h), of the General Conference inviting the Director-General to undertake action “... to facilitate access to information in the public domain with the ultimate aim of building up a general electronic repository of all information of a public nature relevant to UNESCO’s fields of competence”,

Taking further into account 29 C/Resolution 36 and 30 C/Resolution 37 calling for the preparation and submission of a draft recommendation on the promotion and use of multilingualism and universal access to cyberspace at its 31st session,

Recalling also 30 C/Resolution 41 urging all Member States and Associate Members “to promote free and universal access to public domain information for the purpose of education, science and culture”,

Recognizing further the Okinawa Charter on Global Information Society on July 2000 affirming the need to bridge the international information and knowledge divide,³ so that “everyone, everywhere should be enabled to participate in and no one should be excluded from the benefits of global information society”,

Desires to complement existing international standards with principles enhancing equitable access to information on global networks,

Adopts the present Recommendation this day of

³ G8 – Okinawa Charter on Global Information Society, Japan, 23 July 2000.

I. DEFINITIONS

For the purpose of this Recommendation:

- (a) **Cyberspace** is commonly used to designate a virtual world for electronic communication associated with the global information infrastructure.
- (b) **Digital divide** is a phenomenon that results from the unequal application of, and access to, information and communication technologies leading to a global knowledge gap between information “haves” and “have-nots” – between those who know and those who do not.
- (c) **Domain name** is the name given to an Internet address which facilitates access to Internet resources by users (e.g. “unesco.org” in <http://www.unesco.org>).
- (d) **Information society** is commonly used to refer to a new planetary community based on information.
- (e) **Intellectual property**, herewith exclusively referred to copyright and neighbouring rights in accordance with UNESCO’s mandate, are the legal protection framework of literary, scientific and artistic works as well as their performance, production and broadcasting.
- (f) **Internet service provider (ISP)** is a supplier of Internet access services on a commercial or not-for-profit basis to clients who may be end-users, networks or other ISPs.
- (g) **Legal exemptions** are copyright provisions providing possibilities to reuse copyrighted work for certain specific purposes such as critical works, commentaries, scholarship or research.⁴
- (h) **Public domain information**, also known as the “information commons” refers to freely accessible information, intellectual works, or the media on which these are stored, the use of which does not infringe on any intellectual property right, or breach any other communal right (such as indigenous rights) or any obligation of confidentiality.⁵
- (i) **Telematics** is the use of telecommunications to network remote computers or other electronic devices for various applications or services. The most widely used publicly accessible network infrastructure for telematics is the Internet.

⁴ For a complete description of exceptions in different countries see *Les Frontières du droit d’auteur: ses limites et exceptions*, ALAI Workshop, 14-17 September 1998, Ed. Australian Copyright Council, 1999.

⁵ By way of example, public domain information may embody: certain anonymous works (provided there is no infringement of any other stakeholder’s interest in that information); facts; public library catalogues; deposits, collections and catalogues in public archives and museums; information in which there are no intellectual property rights or on which these have expired; official information produced and made available by government or international organizations; information disclosure which is in the public interest and for the public good, information intended to be made publicly available by its author, owner or custodian; and metadata (data on data) within the previous categories. For the avoidance of doubt, even though information may be in the public domain, it cannot be assumed to be free of all other interests or control.

- (j) **Universal access** is equitable and affordable access by all citizens to information infrastructure and to information and knowledge essential to collective and individual human development.
- (k) **Universal access to telematics networks and services** is equitable and affordable access to the Internet, including required user facilities, at an acceptable distance from people's homes and the work sites of development actors.⁶

II. GENERAL PRINCIPLES

In the light of the above considerations proactive measures need to be taken urgently at the national and international levels to encourage the application of common fundamental principles in support of governments that are addressing the formulation of policies, regulatory frameworks, and infrastructure, which will determine the future of the global information society.

The essence of the draft recommendation is to foster an equitable and multicultural information society respecting the principles embodied in the Universal Declaration of Human Rights. Above all, it is a call to all stakeholders, in both the public and private sectors and to civil society, to maximize information and communication technology (ICT) capacities so that everyone can enjoy the benefits of universal and affordable access to information and knowledge.

The draft recommendation covers the following key aspects of universal access to cyberspace.

(a) Facilitating access to telematics services

The availability of publicly accessible Internet networks and services is the first prerequisite to ensure that all citizens and all nations gain benefit from the multicultural human heritage in cyberspace. Inequalities in access to the Internet services are the most evident cause of the disparities existing between the information "haves" and "have-nots", and between the developing and industrialized countries.

Among the many obstacles to universal access are economic constraints and high rates for Internet service connection and access to telecommunications channels necessary for access to the Internet, particularly by the developing countries.

The provision of telecommunications facilities as a public service is subject to well-defined regulatory frameworks at the national level, as well as international standards developed by the International Telecommunication Union (ITU), which has adopted universal access of citizens to telecommunications as one of its goals. On the other hand, Internet service connection is considered by the ITU as a user application rather than as a telecommunications service within its mandate. While most industrialized countries do not regulate Internet connectivity, many developing countries restrict the establishment of

⁶ This definition is extended from that of *universal access to telecommunication services* defined by the ITU as access at an acceptable distance from people's homes (as distinguished from universal service which would mean at least one telephone line for every household). ITU Telecommunication Development Bureau. *Preparation of Handbooks for Developing Countries: New Developments in Rural Telecommunications*. Geneva: International Telecommunication Union, 1999 (ITU-D Study Groups, First Study Period (1995-1998), Report on Question 2/2).

Internet service providers (ISPs) or their access to international gateways contributing to the higher costs of Internet access in these countries. In addition, the historical development of the Internet has led to a strong market dominance of a very few major international providers. Subsequently, ISPs in most developing countries are generally obliged to assume the full cost of an international leased telecommunications channel to a backbone provider. Another consequence has been the distortions in traffic that have hindered the development of strong regional Internet backbones and, in the case of certain developing countries, also national backbones and peering arrangements.

Other factors limiting access are inadequate or non-existent national policies to promote Internet connectivity and the use of information and communication technologies in improving public services. There is also a severe inequality of the populations of rural and disadvantaged communities particularly in developing countries with inadequate or non-existing public services such as electricity and telephone; others include economic and administrative constraints of public service institutions wishing to participate in the information revolution, and difficulties in obtaining the Internet domain names and/or addresses in many developing countries.

(b) Promoting multilingualism

Language constitutes the foundation of communication between people and is also part of their cultural heritage. For many people, language carries far-reaching emotive and cultural associations and values embedded in vast literary, historical, philosophical and educational heritage.

For this reason the users' language should not constitute an obstacle to accessing the multicultural human heritage available in cyberspace. Harmonious development of the information society is therefore only possible by encouraging the availability of multilingual and multicultural information.

The growing diversity of the user population in terms of different languages raises a host of technological challenges and calls for taking advantage of technologies which facilitate communication and access to information in as many languages and scripts as possible so as to ensure maximum self-expression, education, science, culture and communication.

(c) Facilitating access through development of public domain content

A significant amount of world human heritage lies in information content known as public domain information or the information commons. This enormous legacy of knowledge, mostly generated by governments, public institutions and international organizations exists in every country, every culture and every language. The facilitation of its provision and dissemination on the global information networks will substantially contribute to the goal of universal access.

Further, rapid advancement of innovations in information and communication technologies has sparked a race to lay claim to knowledge, resulting in the risks of appropriation and privatization of information which should be in the public domain. It is primarily the responsibility of the public institutions such as libraries, archives and governmental agencies to facilitate access to this type of information by encouraging among others private sector contributions and citizen participation.

(d) Applying provisions on intellectual property to the electronic environment

Maintaining a balance between intellectual property rights protection and access to information is a major challenge for the information society. This involves both national and international regulation. Certain exceptions and limitations to intellectual property rights, (e.g. limitations on the duration and scope of protection) might ensure adequate access to information without undermining copyright protection of literary, scientific and artistic works in electronic formats currently challenged by electronic piracy.

Users are also allowed exemptions reflecting the need to strike a balance between the private interests of the creators of intellectual content and the larger public interest, by providing not only for legitimate access to information and culture, but also for the dissemination of knowledge through education, research and libraries.

These factors must be fully taken into account in applying intellectual property rights to the digital environment of cyberspace. The elimination of legal uncertainty in this area is indeed one of the major challenges currently faced by the international community for the development of the global information society.

Many international treaties⁷ confirm the recently extended prerogatives of authors and holders of neighbouring rights, and further extension of the scope of their protection. These same treaties have adjusted limitations and exemptions as part of the process of the updating of rights.

However, much remains to be done in order to reach a consensus on practical ways to ensure adequate access to and transfer of information and knowledge while preserving prerogatives of authors, holders of neighbouring rights and databases.

III. RECOMMENDED MEASURES

(a) Facilitating access to telematics networks and services

M1 – The international community should recognize and support universal access to telematics networks and services as a contemporary and appropriate interpretation of the human right as defined in Articles 19 and 27 of the Universal Declaration of Human Rights.

M2 – The Internet should be considered by governments and international organizations as a public information utility service and not only as a “commercial product”. Solutions to facilitating access to Internet services are needed first and foremost at the policy level.

M3 – Concerned international organizations, particularly UNESCO in collaboration with the ITU as part of a wider United Nations system effort, should make an effort to promote the sharing of information and experience on the application of telematics networks and services in development. This includes the promotion of appropriate open technologies, the formulation and application of appropriate policies and regulations at the national, regional and international levels, and the strengthening of international support for capacity-building in the developing countries.

⁷ See in particular the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty, signed at Geneva on 20 December 1996. The Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society also serves to implement a number of the new international obligations.

M4 – Mechanisms should be established at the national, regional and international levels to ensure that telecommunication and Internet costs facilitate universal access to the Internet and its multilingual contents, with special consideration of exemptions for public service institutions, and for disadvantaged population groups. New models for public-private partnerships for financing and providing incentives for this access, including the reduction of financial barriers to the use of ICTs such as taxes and customs duties on informatics equipment, software and services, may also be considered.

M5 – Concessionary rates for Internet access in public service institutions such as schools, academic institutions, museums and public libraries should be considered by Member States and ISPs as a transitional measure towards low-cost access to cyberspace.

M6 – Member States should encourage collaboration among public service institutions on information and communication technology, as suggested in a joint study of the ITU and UNESCO,⁸ as a means of reducing the cost of access to Internet services.

M7 – Member States should encourage the development of information strategies and models that facilitate community access and reach out to all levels of society, including setting up community projects and fostering the emergence of local information and communication technology leaders and mentors.

M8 – On the principle of international solidarity, interconnection on a fair cost-sharing basis should be encouraged between national Internet peering points in developing countries (which bring together the traffic of private and non-profit ISPs) and peering points in other countries (whether developing or industrialized).

M9 – Regional organizations or forums should strengthen inter- and intra-regional networks, combining commercial and public service traffic. Serious thought should be given to the possibility of establishing high capacity regional backbones to connect each country within a multi-hub global network in which none dominates connectivity – as is already under consideration, for example, in the Asia and the Pacific region.

(b) Promoting multilingualism

M10 – Member States and intergovernmental international organizations should reaffirm and promote the respect and use of all languages in cyberspace, to contribute to the preservation of the richness and diversity of the universal human heritage and to peaceful coexistence, objectives that are enshrined in many international declarations and conventions and in many national constitutions.⁹

M11 – Member States should adopt policies and develop support schemes to promote local and indigenous production of Internet content.

⁸ ITU and UNESCO. *The Right to Communicate - At What Price? Economic Constraints to the Effective Use of Telecommunications in Education, Science, Culture and in the Circulation of Information*. Paris: UNESCO, May 1995 (CII-95/WS/2).

⁹ Universal Declaration of Human Rights, 1948; International Covenant on Civil and Political Rights, Article 27, and International Covenant on Economic, Social and Cultural Rights, 1966; United Nations Declaration on the Rights of Persons belonging to National, Ethnic, Religious and Linguistic Minorities (Resolution 47/135 of 18 December 1992); and many other regional intergovernmental and international NGO declarations.

M12 – The developers of Internet content should broaden language diversity in cyberspace by creating contents, and means to find, access and process them, in all widely used languages as well as in other languages at the local, national and regional levels, including less used languages.

M13 – In order to prevent all forms of linguistic segregation in access to cultural and scientific information and knowledge, technical, financial and educational resources should be provided by the public and private sectors at local, national, regional and international levels to ensure the creation, preservation and maintenance of national and multilingual websites.

M14 – Member States and intergovernmental and non-governmental international organizations should adopt appropriate strategies to develop, and disseminate online, freely accessible language education materials (in full observance of established and binding international obligations, such as the Revised Berne Convention).

M15 – Member States and international intergovernmental and non-governmental organizations and ICT industries should encourage the participation of specialists in collaborative research and development on, and localization (adaptation) of operating systems, search engines and web browsers with extensive multilingual capabilities, as well as the development of online dictionaries and terminologies. Software should preferably be developed and made available in an open source environment.

M16 – Member States and international intergovernmental and non-governmental organizations and ICT industries should support international cooperative efforts to develop automated translation services accessible to all, free or at a nominal charge, and to encourage the development of intelligent linguistic systems such as those performing multilingual information retrieval, summarizing/abstracting and speech understanding.

M17 – Member States should formulate strong national policies on the crucial issue of language survival in cyberspace. International assistance to Member States in framing and implementing language policies, designed to promote mother tongues and language teaching, should be strengthened while respecting cultural diversity on the global information networks and reinforcing national and international solidarity.

M18 – International organizations, in particular UNESCO, should maintain and promote an international collaborative online observatory on the different existing policies and regulations relating to multilingualism and multilingual resources and applications. Such a portal should create and make accessible, free of charge, a database on current experiences, standards and technical recommendations, software products and ongoing innovations bearing on computerization of languages.

(c) Facilitating access through development of public domain content

M19 – Member States should establish the right of universal access, within their respective jurisdictions, to “public domain information”, covering all the information essential for citizens in a modern democratic society (e.g. statistics, laws and regulations, information on health, security and the environment), to be defined by each State without prejudicing the existing rights of authors and copyright holders and without risk of appropriation by private concerns for profit-making. Simultaneously, the international community should recognize that protection of copyright and related rights is essential to intellectual creation.

M20 – Member States and international intergovernmental and non-governmental organizations should encourage legislative measures, such as freedom of information laws, protected disclosure policies and regulations on the digitization, archiving and online accessibility of public and government-held records, taking appropriate account of national security concerns. These measures should be based on common fundamental principles and standards that will facilitate interoperability in the emerging global information society.

M21 – Member States and international intergovernmental and non-governmental organizations should identify and promote at the national, regional and international levels, and for all cultural and linguistic communities, the repositories of information and knowledge in the public domain which constitute the common heritage of humanity and should be freely accessible by all.

M22 – Member States and international intergovernmental and non-governmental organizations should promote cooperative arrangements which balance the interests of the public and private sector in order to ensure universal access to and free flow of information in the public domain between the developing and the industrialized countries, and between the disadvantaged and the information-rich communities. Appropriate incentives should be provided to encourage private-sector contributions to generating information and facilitating access to it.

M23 – Member States and international organizations should support funding initiatives to enable public institutions to undertake the preservation and digitization of public domain information, and to adopt appropriate standards and systems for information exchange, portability, interoperability and online accessibility. These institutions should be encouraged to make the results available on global information networks.

M24 – Member States should develop and nurture “human capital” for the information society, including measures for distance education, integrated education, ICT training and skills-based programmes.

M25 – Member States should find ways to assist their citizens to make the attitudinal changes required for ICT literacy, including popularizing and building trust and confidence in the implementation and use of ICTs.

M26 – Member States and UNESCO should encourage cooperation among the different international governmental and non-governmental organizations (FAO, UNDP, UNEP, WHO, World Bank, etc.) with a view to building up a universally accessible body of knowledge, particularly for the benefit of developing countries and disadvantaged communities, from the massive amount of information produced through development projects and programmes.

M27 – UNESCO should encourage the compilation of an international inventory of legislation, regulation, plans of action and programmes on the generation and dissemination of public domain information in close collaboration with leading organizations in this domain such as WIPO.

M28 – Best practices as well as voluntary, self-regulatory professional and ethical guidelines should be encouraged, without any obstacles to freedom of expression, regarding the activities and content of information producers, users and service providers. All ICT training should include training in ethical awareness and standards and not just on technical competence.

(d) Applying provisions on intellectual property to the electronic environment

M29 – Member States and international intergovernmental and non-governmental organizations should:

- (1) reaffirm and promote the basic principles embodied in international intellectual property conventions;
- (2) encourage reflection on the means to reach an adequate consensus between the interests of authors and copyright holders and those of the public in the spirit of Article 27 of the Universal Declaration of Human Rights and in close cooperation with interested parties;
- (3) suggest, when appropriate, exceptions or limitations to the protection of intellectual property rights (in particular those relating to the purposes of education, science and critical review) or other appropriate arrangements;
- (4) encourage rightholders to make sure that those exceptions or agreements are not compromised by inappropriate technical measures to restrain access or ensure security.

M30 – Member States are encouraged in their national and international deliberations on matters of intellectual property to ensure free access to public domain information which is essential for citizens in a contemporary democratic society.

M31 – Member States, UNESCO, intergovernmental and non-governmental organizations should encourage the updating of national provisions concerning intellectual property and their application to the electronic environment while taking full account of the international body of work on intellectual property. Particular attention should be paid to the need to protect copyrighted works against unlawful practices while, at the same time, ensuring through appropriate policies that the potential of information networks to expand and widen public access to information is fully exploited. Member States and UNESCO should promote partnerships and the rights of peoples to benefit from scientific and technological progress.