

# Fair Culture – A Key to Sustainable Development





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# Abbreviations

Adecine	Agencia del Desarrollo del Cine y Audiovisual Bolivianos, Bolivian Film and Audiovisual Development Agency
ACTED	Agency for Technical Cooperation and Development
ATOs	Alternative Trade Organizations
BBDA	Bureau Burkinabé des Droits d'Auteurs
BMZ	Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung, German Federal Ministry for Economic Cooperation and Development
CARIFORUM	Caribbean Forum
CCI	Creative and cultural industries
CESCR	Committee on Economic, Social and Cultural Rights
CIRAD	French Agricultural Research Centre for International Development
CMO	Collective Management Organizations
CNIL	Commission nationale de l'informatique et des libertés, National Commission on Informatics and Liberty
COVID-19	Coronavirus SARS-CoV-2
DAC	Development Assistance Committee of the OECD
DSA	EU Digital Markets Act (under negotiation)
DMA	EU Digital Services Act (under negotiation)
EFTA	European Fair Trade Association
EPA	Economic Partnership Agreement
EU	European Union
FINE	Informal Alliance of the Fair Trade Organizations FLO, IFAT (now WFTO), NEWS! and EFTA
FLA	Fair Labor Association
FLO	Fairtrade Labelling Organization International
FTAO	Fair Trade Advocacy Office
GAFAN	Google, Apple, Facebook, Amazon and Netflix (shorthand for these and other multinational corporations that dominate platforms for creative industries)
GIZ	Deutsche Gesellschaft für internationale Zusammenarbeit (GIZ) GmbH
GPEDC	Global Partnership for Effective Development Co-operation
EFTA	European Fair Trade Association
FTAO	Fair Trade Advocacy Office
HRC	Human Rights Council

ICESCR	International Covenant on Economic, Social and Cultural Rights
IFAT	International Federation for Alternative Trade
IFCCD	International Federation of Coalitions for Cultural Diversity
IFCD	International Fund for Cultural Diversity
ILO	International Labour Organization
IMCINE	Mexican Institute of Cinematography of Mexico, Instituto Mexicano de Cinematografía
INTPA	Directorate-General Directorate-General for International of the European Commission
MERCOSUR	Mercado Común del Sur, Southern Common Market
NDICI	Neighbourhood, Development and International Cooperation Instrument (newly proposed financing instrument by the European Commission)
NEWS!	Network of European World Shops
NFRD	Non-Financial Reporting Directive
OECD	Organisation for Economic Co-operation and Development
OIF	Organisation internationale de la Francophonie
RECAM	Reunión Especializada de Autoridades Cinematográficas y Audiovisuales del Mercosur
SERRV	Sales Exchange for Refugee Rehabilitation Vocation
SDG	Sustainable Development Goals
SWAG	Screen Women's Action Group
UCCN	UNESCO Creative Cities Network
UCLG	United Cities and Local Governments
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNGPs	UN Guiding Principles on Business and Human Rights
UQAM	Université du Québec à Montréal
WFTO	World Fair Trade Organization (WFTO)
WOMEX	Worldwide Music Expo

# Preface

“All over the world, over the centuries, people developed economic and trade relations based on mutual benefit and solidarity. Fair Trade transfers these ideas to today’s challenges of international trade in a globalised world.” – The International Fair Trade Charter

The aim of the study presented in this publication is to transfer the spirit of Fair Trade quoted here towards the cultural and creative industries and to offer concrete tools for its use. The study has been implemented between summer 2020 and summer 2021. It was funded by the German Federal Ministry for Economic Cooperation and Development, commissioned by the German Commission for UNESCO and carried out by a team led by Prof Dr Véronique Guèvremont, UNESCO Chair on Diversity of Cultural Expressions at the University of Laval in Canada.

**The study explores options of “Fair Culture”, i.e. the transfer of the concept of Fair Trade, its values and principles, to the cultural sector and the creative industries.** For the first time, the study provides a scientific foundation for the “Fair Culture” idea and results in recommendations for action for international cooperation.

**The study is based** on the almost universally **ratified international law developed by UNESCO**, according to which cultural and creative industries and audio-visual goods and services have a dual nature: They are cultural and economic goods/services at the same time, as laid down in the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions of 2005, hereinafter 2005 Convention. Another important frame of reference is the United Nations **2030 Agenda** for Sustainable Development: Culture and the creative industries strengthen identity and social cohesion; above all, they offer enormous income and employment potential and thus future prospects for sustainable development.

The **cultural and creative industries** worldwide are characterized by great diversity and dynamism. They are among the fastest-growing sectors of the global economy. The sector consists of several different branches, each with its own unique character; from music and film to architecture, fashion and design, literature, performing and visual arts. The film industry is shaped by entirely different framework conditions than the book market is; the same applies to the video game market, the art industry, the fashion industry, the theatre or the music market. At the same time, the different sectors are tied to a national and/or linguistic space to varying degrees, and depend to varying degrees upon the division of labour or upon mobility. Digitalization is changing all sectors, in different ways and at different speeds, however. In addition, the Covid-19 pandemic has hit the cultural and creative industries particularly hard and made a reorientation necessary for the entire sector.

This study investigates the relevant **stakeholders in the cultural and creative industries** and presents their roles: Governments; creative professionals in the Global North and the Global South such as artists, producers, musicians, authors, etc.; private sector and globally active multinational corporations; finally, consumers in the Global North and the Global South.

The study provides contributions to the development of comprehensive, fair and sustainable exchange and trade relations in the cultural and creative sector - **Fair Trade in Culture**. Its basic assumption is that the concept of fair trade, which has been developed over the last 30 years, can also guide the development of fair relations for exchange and trade in the cultural sector.

**The goal of developing fairer cultural relations**, including fairer trade relations, is **legally binding** for all States Parties to the UNESCO 2005 Convention, including all EU Member States and the European Union itself. The Convention mentions an important commitment for this purpose: Article 16 on preferential treatment for cultural goods and services from the Global South.



**“Fair Culture” in the sense of transferring appropriate elements of the Fair Trade concept to the cultural sector and creative industries can be a central instrument for fair trade and fair working conditions in this particular sector.** The results of the study support this working hypothesis. The study clearly shows that “Fair Culture” encompasses much more than just preferential treatment according to the above-mentioned Article 16; it is also about fair working conditions, mobility, the strengthening of markets in the Global South itself, South-South cooperation, human rights due diligence by the corporate sector, certification, protection of intellectual property and the amount of fees on digital platforms.

Since 2007, the **German Commission for UNESCO (DUK)** has been the officially designated German contact point for the implementation of the 2005 Convention. Since 2007, DUK has investigated the South-North dimension of the Convention and provided its own impulses. DUK has developed the “Fair Culture” concept, and since 2018 has led the dialogue on “Fair Culture” with partners in various international fora: at the Berlin Talents of the Berlinale, at the international music fair WOMEX in Finland and the Frankfurt Book Fair. In 2019, DUK presented the concept at the Conference of the Parties to the 2005 Convention and received very positive feedback, especially from numerous representatives from the Global South.

Since 2017, the **Federal Ministry for Economic Cooperation and Development (BMZ)** has been supporting the creative industries in partner countries of German development cooperation with the aim of improving training opportunities and creating more jobs and higher incomes. “Fair Culture” complements BMZ initiatives such as the government textile label “Green Button”, which advocate for fair and sustainable supply chains, underpinned with strong political and civil society commitment. In 2021, the German government set a milestone for more justice in international trade by passing the Supply Chain Act. These measures support the Decade of Action proclaimed by the United Nations to implement the Sustainable Development Goals of the 2030 Agenda.

Extensive scientific and political experience was used for this study. The author **Prof Dr Véronique Guèvremont** and her team conducted 33 interviews with experts from trade, politics, fair trade and business as well as with representatives of various cultural organizations and associations (see Annex II List of interview partners) as part of this study. A peer reader panel made additional recommendations on the text. The author herself, a Professor of Cultural Law at the Law Faculty of the Université Laval, was already involved in the development of the 2005 Convention and is a member of the UNESCO Expert Pool of the 2005 Convention for the period 2015-2022.

This **study targets stakeholders in international and development cooperation.** The study is also aimed at other ministries, associations and funding institutions that can or want to contribute to the implementation of a future “Fair Culture” model based on their competence and expertise. On the basis of this study, the development of concrete next steps and practice-related measures is possible, e.g. in capacity building or funding policy.

In addition, this study provides momentum for further necessary analytical work. Above all, further interdisciplinary discourse is necessary to concretize the recommendations for action with regard to individual sectors and individual world regions.

The **overall result of the study is clear:** developing comprehensive, fair and sustainable trade and exchange relations is possible for cultural goods and services. **“Fair Culture” is possible. And necessary.**





# Recommendations for action<sup>1</sup>

The following recommendations for action can be developed based on the results of the study “Fair Culture – A Key to Sustainable Development”.

With the “Fair Culture” principles, the study proposes new approaches based on experiences with Fair Trade in order to optimally leverage the potential of culture and creative industries (especially in the Global South) in line with the 2030 Agenda for Sustainable Development.

To this end, this study systematically examines the concept of “Fair Trade” and translates it into steps for promoting “Fair Culture”, namely in the triad of “Fair Cultural Trade”, “Fair Cultural Cooperation” and “Fair Cultural Partnerships”. The study identifies **six basic principles for Fair Culture**: equal access to markets, premiums for reinvestment in the cultural and creative economy value chain, fair remuneration of artists and cultural professionals, capacity building, public awareness, as well as gender equality and inclusiveness. In addition, the study proposes **six actions**, all of them intended as joint North–South endeavours: Adopting a charter, involving major global cultural and creative sector alliances, defining a Fair Culture label and certification process, developing options for imposing a fee or premium for online cultural content platforms, reflecting due diligence standards applicable to multinational corporations; and developing an implementation plan for Article 16 of the UNESCO Convention on the Diversity of Cultural Expressions (“2005 Convention”).

The study proposes approaches to promote Fair Culture according to these six principles and the six actions; they are primarily addressed to **International Cooperation**, i.e. governments and their implementing agencies, but also to governments of the Global South.

For the **German contribution to International Cooperation** in this field, the steps recommended by the present study are concretized in **recommendations for action** below. Both political and operational-technical measures are proposed, which must fit together coherently. Fair Culture is a cross-departmental task in all six fields of action.

Fair Culture, according to the concept elaborated in the present study, requires various coherent actions on the part of various stakeholders. The following are some examples of the **diversity of stakeholders** at government level in Europe and Germany:

- Fair Culture includes the special **consideration of culture and creative industries** from the Global South in **bilateral and multilateral trade agreements** and the protection of this sector through exceptions or preferential treatment in market access to the EU. Thus, this is a mandate for the European Union (EU) within the framework of the trade foreign policy communitarized at the EU level; with regard to Germany, it is a mandate primarily for the respective lead ministry, generally the Federal Ministry for Economic Affairs and Energy (BMWi). The Federal Ministry for Economic Cooperation and Development (BMZ) should also support such special consideration in accordance with the fourth pillar of the reform concept “BMZ 2030”<sup>2</sup> (fair trade). Since Germany as well as all EU member states and the EU itself are parties to the 2005 UNESCO Convention, such consideration of culture and the creative industries is even a binding obligation under international law.<sup>3</sup>
- Fair Culture requires other interventions as, for example improved **artist mobility**, with implications above all, in Germany, for the Federal Ministry of the Interior, for Construction and Home Affairs

1 Formulated by the Secretariat of the German Commission for UNESCO on the basis of the study by Prof. Dr Guèvremont.

2 <https://www.bmz.de/de/entwicklungspolitik/reformkonzept-bmz-2030>

3 Compare the first focus area presented in Chapter IV of the present study, The Implementation of Preferential Treatment to Facilitate Access to Markets in the Global North.

(BMI), the Federal Foreign Office (AA), and the Federal Government Commissioner for Culture and the Media (BKM). In this case as well, the decisive negotiations, for example on visa facilitation, are part of the communitarized EU policy and take place in Brussels. The Federal Ministry of Labour and Social Affairs (BMAS) is responsible for the social security of artists working temporarily in Germany.

- Fair Culture also requires the **regulation of the digital space and the digitally active multinational corporations** that play such a central role for the cultural and creative industries. Once again, the EU is responsible first and foremost. As regards Germany, all the ministries already mentioned are involved in the relevant negotiations, and others as well, such as the Federal Ministry of Transport and Digital Infrastructure (BMVI). Specifically important are the EU Digital Services Act (DSA) and the EU Digital Markets Act (DMA), whose adoption is pending. Questions also arise concerning the regulation of artificial intelligence (AI) and the use of algorithms, for example as regards the presentation of audio-visual productions on platforms and their dependency on the country of production and consumption.<sup>4</sup>

If Germany and the EU were to take action in these three exemplary fields, in a targeted, visible and coordinated manner, a major step would have been taken. Market access would be significantly simplified. However, “fair” trade relations and “fair” exchange would still be a long way off.<sup>5</sup> **Fair trade is not just freer trade with the Global South, it is decidedly fairer trade.**

In **other sectors** (food, textiles, etc.), fair trade structures have succeeded for decades in achieving **far more than just simplified market access**: Fair trade strengthens the suppliers, their personal and institutional environment, and their resilience against crises. Fair Trade also advocates for strong markets in the Global South. At the same time, Fair Trade sensitizes consumers in the Global North about global injustice.

Fair trade needs to be addressed across sectors; thus, Fair Culture is also an **important topic of Development Cooperation**. Fair trade is one of the four pillars of the reform concept, entitled “BMZ 2030”, for the German Federal Ministry for Economic Cooperation and Development (BMZ). In the case of cultural and creative industries, the first priority is to recognize and address the specific structures and requirements of their actors (organizations, small and medium-sized enterprises and creative workers themselves). This includes strengthening capacities in the Global South and South-South cooperation. If the BMZ were to act committedly at an inter-ministerial level for Fair Culture, this would be a coherent and visible contribution to the implementation of the recommendations of the OECD DAC Peer Review<sup>6</sup> published in June 2021 as well – especially with regard to Recommendation 1 on improved whole-of-government coherence.

The present study defines an **action plan for Fair Culture** with six actions that are necessary for an effective implementation of Fair Culture. The main focus here is on an international, decidedly **North-South dialogue on Fair Culture**. The central demand formulated by the present study is: Do not formulate principles and rules of Fair Culture in the Global North “for” the Global South and avoid a perpetuation of colonial patterns. These six actions of the study are about a structured, joint understanding of the best possible steps in promoting Fair Culture.

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4 Compare the third focus area presented in Chapter IV of the present study, The involvement of multinational companies in a new form of partnership aimed at promoting the status of artists and respecting cultural rights of all.

5 Compare the second focus area presented in Chapter IV of the present study, The Adoption of Core Principles for Fair Culture to Strengthen Capacities and Develop Local and Regional Markets in the Global South.

6 OECD Development Co-operation Peer Reviews: Germany 2021, June 2021. <https://www.oecd.org/dac/peer-reviews/oecd-development-co-operation-peer-reviews-germany-2021-bb32a97d-en.htm>

The study has achieved clear added value: **The space of options for an effective promotion of Fair Culture is now structurally well-defined.** The study thus provides options for a targeted and practicable partnership programme in the sense of Sustainable Development Goal (SDG) 17 of the 2030 Agenda (promoting the development of international partnerships to achieve the Agenda goals), which must be developed jointly with partners from the Global South. This programme can partially be negotiated and implemented bilaterally, however, multilateral negotiation spaces are required in general. These include the EU and UNESCO.

The study also leads to additional, concrete recommendations for North-South cooperation. These measures, in a way **“concrete recommendations for action for German Development Cooperation”**, are discussed below.

All the measures listed below must comply with the principles of the Global Partnership for Effective Development Co-operation; above all, measures must be designed and implemented based on demand and in dialogue with the partner countries (including in the languages of the partner countries). Likewise, all measures must be systematically evaluated in the sense of results-oriented management. It is recommended:

## 1. Capacity building

The global project “Cultural and Creative Industries”, commissioned by the BMZ from the Gesellschaft für Internationale Zusammenarbeit (GIZ) and the Goethe Institute, with its focus in the initial phase until 2023 on Iraq, Jordan, Kenya, Lebanon, Senegal and South Africa, offers a suitable starting point for intensifying measures in the upcoming years such as training or the strengthening of interest groups in the field of Fair Culture.

In the case of non-state actors (the creative workers themselves, but also their networks and sectoral associations, as well as cultural and creative economy infrastructure including cultural centres and festivals), the present study identifies the need for capacity building. This is particularly relevant for strengthening the cultural and creative industries in the following areas, in order to foster creative workers’ income, employment and resilience against crises:

- Strengthening South-South cooperation, in particular in such cases where it is already in place within specific sectors; transferring and scaling such initiatives to other states or sectors; examples: transnational network of digital cinemas “Red de Salas”, “solidarity publishing” of the International Alliance of Independent Publishers.
- Legal advice and training on contract negotiation for creators and their representative bodies, especially vis-à-vis clients such as commercial platforms and streaming providers.
- Training for creative workers on how to exercise the right to collective bargaining and the right to freedom of association in their home countries.
- Business and marketing training for creative workers and their representative organizations for differentiated sales promotion measures in their own countries, in neighbouring countries and in the Global North.

According to the recommendations of the OECD DAC Peer Review and in line with the obligations under the international law of the 2005 Convention (Article 7.1), as well as building on the UNESCO publication “Gender & Creativity: Progress on the Precipice” from 2021, these capacity building measures should also always foster the empowerment of female creative workers.

For state actors, i.e. governments of partner states and their subordinate authorities, capacity building is needed in the following areas, among others:

- Support for the creation and implementation of legal frameworks for the growing creative industries, especially in copyright law:
  - Firstly, to break with the often-prevailing public opinion that art and culture are irrelevant and/or free, and instead foster the understanding of culture as an economic factor.
  - Secondly, to counter “streamlining” of products and services through platforms.
- Support for the recognition of artists and creators as creative workers, above all in order to ensure social security for artists and creators.
- Support for formats that promote more intensive exchange and trade of cultural goods and services between countries of the Global North and South (festivals and events, etc.).
- Support for the expansion of specialized training (at universities or academies, but also through technical and vocational education and training as well as certification), possibly through exchange programmes, especially for female creative workers.
- Further research, together with partner countries, on the possible effectiveness of developing a financial contribution from major cultural content platforms – be it a tax, a fee or other forms of payment calculated on the basis of the revenues generated by these enterprises – to be collected and reinvested in the cultural ecosystems of the Global South; including on the question whether and how re-investing such financial contributions in interventions and projects at the social, cultural, creative economy level is feasible and useful.
- Cooperation in public relations work, especially for award initiatives, in order to promote innovation and pioneering spirit or private-public partnerships for Fair Culture and in order to effectively present them to the wider public.

## 2. Fostering European and international consensus on Fair Culture

The European Union has the political competence for trade of EU Member States with partner countries; this has already been emphasized at the beginning of these recommendations for action. Thus, exchange among EU Member States and beyond is necessary, not only because of this political competence, but also in order to generate sufficient interest and foster market size.

Such exchange is necessary beyond individual issues that EU Member States; e.g. Germany’s, lead ministries negotiate in Brussels. Stimulating and continuing such a more comprehensive exchange could be a task for a ministry such as BMZ that can advocate a holistic vision of Fair Culture, i.e. vis-à-vis both the Global North and the Global South.

Discussions could be held in Brussels at the formal and informal meetings of European development ministers. The issue should accordingly also be on the agenda in discussions with DG International Partnerships (INTPA) and its bodies, for example in the context of the utilization of the Neighbourhood, Development and International Cooperation Instrument (NDICI). Such discussions promise to lead to useful outcomes, even beyond a broader consensus on Fair Culture; they could lead to detailed outcomes such as the specification which creative industries sectors might be prioritized, which regional priorities might be defined, and which concrete support measures might be needed.

A multi-stakeholder process might lead, at least, to a preliminary European agreement and appears to be particularly relevant for the creation, testing and (market) introduction of a Fair Culture Charter and, in possible combination, a Fair Culture label, which are identified as priorities in this study.

In addition, the United Nations and its specialized agencies are important fora for these concerns, especially UNESCO and UNCTAD. The World Trade Organisation is relevant as well.

### **3. Establishing German consensus on Fair Culture**

In the Global North, Fair Culture cannot only be promoted in Brussels and other places of international negotiations, but must also be fostered at the national level.

There is obvious leeway in transposing EU law and EU directives into national legislation. Such leeway can be used, for example, in the national regulation of multinational digital platforms. This applies above all to compliance with human rights due diligence along the value chain of cultural and creative industries. One example of labelling compliance with certain social and ecological standards is the government textile label “Green Button” initiated by the BMZ.

Whenever Germany and its partner countries negotiate and adopt bilateral agreements, including cultural agreements, this offers additional opportunities for increased commitment to Fair Culture and capacity building in the cultural and creative industries. Such bilateral agreements should explicitly reference co-production and co-distribution. In the case of amendments to existing bilateral (cultural) agreements, the respective lead ministry can advocate for the inclusion of Fair Culture principles. This also applies to the intersection of cultural and creative industries with digital technologies and to third-country regulations.

### **4. Dialogue and partnerships with the private sector and civil society in Germany**

The success of Fair Trade has shown that dialogue between partners requires many different stakeholders as well as increasingly interwoven stakeholder networks. If Fair Culture is to be successful, the concept must also mobilize economic activity in the Global North - if only because of its purchasing power.

Thus, for German Development Cooperation, it can be an additional task to create multi-stakeholder platforms to bring together private sector stakeholders from the Global North and the Global South, if only initially temporarily. For example, this could be promoted by Engagement Global or the Agentur für Wirtschaft und Entwicklung (AWE). Such stakeholder platforms might specifically address creative entrepreneurs such as producers from the Global South, their associations/interest groups/umbrella organizations/agencies, plus intermediary platforms, multinational digital platforms, festivals/events, etc. as well as governments and civil society from all regions of the world. Such stakeholder platforms can also be sector-specific (books, film, etc.) or region-specific. Following the example of the *Forum on Sustainable Cocoa*, such platforms could also be consolidated in a *Forum on Fair Culture*.

Offers such as the Frankfurt Book Fair’s invitation programme should be further strengthened and expanded - possibly with public funding - and replicated in other sectors. Similarly relevant initiatives can be implemented at the level of museums (e.g. MuseumsLab / Agency for International Museum Cooperation), the art trade and artists’ programmes.

Finally, the promotion of Fair Culture should be complemented by suitable educational initiatives in Germany in order to create public awareness among consumers for the need for action, also in the sense of Global Learning/Education for Sustainable Development.

# Fair Culture – A Key to Sustainable Development

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## Executive Summary

This study reflects on how a "Fair Culture" concept can stimulate commercial and non-commercial exchange of cultural goods and services, promote the mobility of artists and other cultural professionals, improve international cooperation and solidarity, strengthen local and regional markets, create jobs, support achieving the Sustainable Development Goals (SDGs) and involve multinational enterprises in a new form of partnership aimed at promoting the status of artists and fulfilling cultural rights for all. The "Fair Culture" concept, in essence, refers to the intended application of "Fair Trade" principles to some or all sectors of creative and cultural industries.

This study has been funded by the German Federal Ministry for Economic Cooperation and Development, commissioned by the German Commission for UNESCO and implemented/executed at the UNESCO-Chair on the Diversity of Cultural Expressions, Université Laval (Québec). It contains specific recommendations for bilateral and multilateral development cooperation frameworks of the Global North, in particular that of Germany. At the same time, in order for the Fair Culture concept to be successful, many more stakeholders need to be mobilized. Therefore, these specific recommendations are embedded into an all-encompassing framework of recommendations, based on globally agreed international law.

In this study, Fair Culture is considered to be based on three distinct, but interdependent

pillars, each of which is necessary to promote more balanced cultural exchange:

1. fair cultural trade;
2. fair cultural cooperation, including capacity building, and;
3. fair cultural partnerships with the creative and cultural industries (CCI) sector of the Global South, also involving multinationals of the Global North. The overall objective is to reflect on various means that can be considered to make cultural relations more equitable and sustainable.

More specifically, this study aims to:

- identify new avenues and help establish new frameworks that accompany countries of the Global South in developing their own frameworks for the promotion of the exchange of cultural goods and services and strengthening the capacities of CCIs such as to promote artists and cultural professionals, improve their remuneration and their conditions of creation, and facilitate their participation in global cultural exchanges, while also contributing to the development of local and regional markets;
- assess the possible implications of such avenues and frameworks for policies of the Global North, or agreed between the Global South and the Global North, including development cooperation policies, such as capacity building initiatives;
- impel a new vision of cultural exchange, cooperation and international solidarity



to protect and promote the diversity of cultural expressions;

- encourage multinational enterprises from the Global North to improve their business activities and models as well as due diligence standards so that they respect, among others, cultural and intellectual property rights and promote the special status of artists and creative entrepreneurs, become actively involved in the protection and promotion of cultural expressions from developing countries and support the consolidation of local markets; and,
- raise public awareness of the importance of protecting and promoting cultural expressions, including CCIs, from around the world, while identifying new avenues to promote more specifically artists, cultural professionals and creative entrepreneurs from the Global South.

This study first looks at the challenges that CCIs in the Global South are facing, recalls the main national and international commitments of states, in particular to the 2030 Agenda and UNESCO'S 2005 Convention, and lists relevant initiatives to incentivize and regulate the activities of the private sector. It then presents a definition of and reflection on the concept of Fair Culture inspired by the fair trade movement, evaluates the transposability of fair trade principles in the cultural sector, and assesses the potential benefits of this transposition. Finally, this study suggests a way

to move forward, by mobilizing stakeholders from the Global North and the Global South around a Fair Culture movement.

Three priority areas for implementing the concept of Fair Culture are identified: the implementation of preferential treatment in South-North relations while highlighting the need to support local and regional markets; the adoption of core principles for fair cultural relations; and the involvement of multinational enterprises in a new form of partnership aimed at promoting the status of artists and creative entrepreneurs, and respecting cultural rights of all. These priority areas mainly address stakeholders in the Global North as they represent maybe the most important lever for enhancing the capacities of CCIs in the Global South.

The study finally proposes six actions to launch the Fair Culture movement, the first of which is to create a Fair Culture Charter, while the five other actions – involvement of major cultural alliances; definition of an international framework (including a certification process); creation of a multi-stakeholder working group for fair compensation by cultural content platforms; launch and reflection on a due diligence standard; and the development of an implementation plan for Article 16 of the 2005 Convention – aim to specify the application of Fair Culture principles in the different CCI sectors and for the various stakeholders.

# I. Introduction

The year 2021 has been declared the *International Year of Creative Economy for Sustainable Development* by the United Nations General Assembly. The objectives of this initiative are to raise awareness, promote cooperation and networking, encourage sharing best practices and experiences, enhance human resource capacity, promote an enabling environment at all levels and tackle the challenges of the creative economy (UNGA, 2019). The year 2021 also marks the 20th anniversary of the UNESCO *Universal Declaration on Cultural Diversity* which recognizes that cultural diversity “is one of the roots of development, understood not simply in terms of economic growth, but also as a means to achieve a more satisfactory intellectual, emotional, moral and spiritual existence” (Art. 3). This special attention given to cultural diversity, the creative economy and sustainable development takes place in the extraordinary context of a pandemic that is having devastating effects on culture, cultural rights, artists and cultural professionals, and cultural and creative industries worldwide (Isernia and Giovanni Lamonica, 2021; HRC, 2021a; OECD, 2020; UNESCO, 2020a). The ResiliArt campaign launched in 2020 by UNESCO highlighted the dramatic impact of this global health crisis on artists and the entire cultural value chain, which has plunged the world into a state of *cultural emergency*.<sup>7</sup>

In some countries of the Global South, CCIs are strong and resilient enough to recover by their own means, but in others efforts are warranted due to the informal nature and prevailing fragility of many CCIs. The priority to strengthen CCIs is in line with the pre-existing need to rebalance the flow of cultural goods and services, one of the main objectives laid down in the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions adopted on 20 October 2005 during UNESCO’s 33rd General Conference (hereinafter the 2005 Convention). Almost universally ratified by UNESCO’s Member States as well as the EU, the principles, values and mechanisms of this Convention provide an extremely relevant framework to guide the

operationalization of any more specific intervention such as the one under scrutiny in this study.

However, although the 2005 Convention has contributed to strengthening the capacities of developing countries in terms of creation, production, dissemination, distribution and access to diverse cultural expressions, commercial and non-commercial cultural exchanges remain unbalanced and “with the exception of China and India, developing countries have played a minor role in the export of cultural goods and services” over the last decade (Deloumeaux, 2018). And while there is no doubt that the countries of the Global South abound in creativity and talent, their artists and CCIs remain largely under-represented. The growing influence of the web giants – a small handful of multinational enterprises (or multinationals) mostly from developed countries – also makes the rebalancing of cultural exchanges even more challenging today, especially when we consider the fact that in the Global South, “many countries lack infrastructure and are unable to consolidate a market for cultural goods and services in the digital environment” (Kulesz, 2017a). The CCIs have several key characteristics that are laid down in section II.A of this study that further compound their specificity when it comes to strengthening the access of the Global South.

All parties to the 2005 Convention have a shared responsibility to address this situation, which can be a threat to the diversity of cultural expressions. At the same time, the developed countries have specific duties, in particular to facilitate commercial and non-commercial cultural exchanges with developing countries by granting preferential treatment to their cultural goods and services, as well as to their artists and other cultural professionals.<sup>8</sup> Another duty

<sup>7</sup> On 15 April 2020, World Art Day, UNESCO launched a global movement, ResiliArt, with an inaugural virtual debate in partnership with the International Confederation of Societies of Authors and Composers (CISAC). The movement aims to shed light on the far-reaching impact of COVID-19 on the cultural sector. Within a year, 270 debates in 110 countries were completed. For more information, see: <https://en.unesco.org/news/resiliart-artists-and-creativity-beyond-crisis>.

<sup>8</sup> Preferential treatment is the opposite of the principle of reciprocity. Because the principle of reciprocity in international relations demands equality between what is given and what is received, the concessions offered may engender a cost that is relatively higher for a developing country than for a developed country. In this sense, equality of treatment can translate into inequality in the real burden borne by each of the parties when entering into legal relations. This is why the notion of “preferential treatment” appeared in international economic law in the 60’s. While “Preferential treatment” is a notion not commonly used within UNESCO, it is enshrined in Article 16 of the 2005 Convention and represents one of the most binding commitments of this treaty. For developing countries to reap the full benefits, it is desirable that preferential treatment be accompanied by capacity building measures.

according to the Convention is to support CCIs in countries of the Global South as appropriate, which could mean, for example, to build capacities and to develop local and regional markets. Unfortunately, preferential treatment is not yet close to being properly implemented by those developed countries that have ratified the 2005 Convention, as evidenced by their periodic reports on the implementation of the 2005 Convention and successive studies conducted on cultural clauses in trade agreements. Any reflection on the rebalancing of cultural exchanges should thus take into account this binding obligation with which developed parties to the Convention must comply and this, even if efforts must also be made to stimulate trade between countries of the Global South.

Beyond this commitment of the state parties, it is also necessary to take into account the critical role of the private sector, and more specifically multinational enterprises, which are not bound by international public law and the rules of the 2005 Convention as governments are, but can play a crucial role in achieving their objectives. Indeed, some of these companies from the Global North have the potential to transform CCIs in the South in both positive and negative ways. While they can contribute to the emergence and recognition of local talent, to the creation and production of new cultural expressions, as well as to the dissemination of these at the local, national and international level, these few so-called multinationals can also impact local markets in a negative way or harm their emergence and consolidation. In this sense, these multinationals can either stimulate or hinder the cultural development of groups and societies that provide them with important sources of revenue. Their activities can contribute to the respect of the fundamental rights of millions of individuals, or constitute an obstacle to their fulfillment.

## Two movements impacting fair trade relations

The growing understanding of the need to protect the respect of fundamental human rights in international trade has stimulated the emergence of various initiatives over the last decades. These include monitoring multinational enterprises and raising public awareness of the impact of globalization on the situation of workers involved in various sectors, including precarious work. Two movements are of particular interest in the context of this study.

The first one is the fair trade movement, which has given rise to a new form of international partnership aimed at reducing inequities, respecting labour standards and increasing access of goods from countries of the Global South to markets of the Global North.<sup>9</sup> This move-

<sup>9</sup> According to Fairtrade International, in 2017, global fair trade sales climbed 8% to €8.5 billion (US\$9.74 billion).

ment essentially involves the private sector and mobilizes a vast network of producers, distributors and consumers. As such, the concept of fair trade brings added value to securing rights and complementing other forms of aid deployed for the benefit of developing countries. This movement has generated new approaches and changes of mentality in the way international trade is conceived, first in the traditional handicrafts and agricultural sectors, then in such fields as mining, viticulture, textiles and more recently in the tourism industry. Transposed to the sector of CCIs, the fair trade movement could bring a new dynamism to trade, cooperation and partnership in order to strengthen the capacities of developing countries and their own market, protect the fundamental rights of artists and other cultural professionals while improving their mobility and access to the international market.

The second movement is the recognition of due diligence standards, at the national, regional and international levels, aimed at making enterprises, and especially multinational enterprises, responsible for the impact of their activities, in particular with respect to human rights. In the context of this study, which seeks to identify new ways to rebalance cultural exchanges between the Global North and the Global South, it is essential to look at multinational enterprises, whose activities may have consequences for the strengthening of CCIs, the development of national and local cultural markets or the fair remuneration of artists and other cultural professionals. Audiences who wish to have access to a diversity of cultural expressions, including those of national and local origin, may also be concerned. At stake is the fulfillment of the cultural rights for millions of individuals, but also the respect and promotion of the economic and social rights of the artists and other cultural professionals. While the transformation of CCIs and the digitalization of the economy exerts a strong pressure on this diversity, and in particular on the remuneration of artists, the 'GAFAN' business model (Google, Apple, Facebook, Amazon, Netflix) may also have some responsibility here.<sup>10</sup> This reinforces the idea that a reflection on how to monitor the activities of these multinational enterprises and engage with them in a dialogue on the respect of fundamental human rights – including artistic rights – is highly relevant.

Taking into account this double movement, this study examines the added value of the concept

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This growth is believed to have put an extra €178 million (\$204 million) in the hands of 1.6 million farmers and workers (UNCTAD, 2019).

<sup>10</sup> The GAFAN – Google, Apple, Facebook, Amazon and Netflix – and similar global Internet enterprises have the specificity of developing their own global content delivery networks to which the access is free (the profit generated then comes from advertising) or granted to a very low cost (subscription that gives access to the catalogue). These models exert a strong downward pressure on the remuneration of artists and other cultural professionals. See: CNIL, 2015.

of “Fair Culture” for achieving the Sustainable Development Goals, while implementing the 2005 Convention. The “Fair Culture” concept, in essence, refers to the intended application of “Fair Trade” principles and values to some or all sectors of CCIs. This study reflects on how this concept can more specifically stimulate commercial and non-commercial exchange of cultural goods and services – and in addition, promote the mobility of artists and other cultural professionals, foster job creation, improve international cooperation, strengthen local and regional markets, and involve multinational enterprises in a new form of partnership aimed at promoting the status of artists and fulfilling cultural rights for all (e.g. social security).

On this basis, we therefore consider the concept of Fair Culture to be based on three distinct, but interdependent pillars, each of which being necessary to promote a more balanced cultural exchange. These pillars are: 1. fair cultural trade; 2. fair cultural cooperation and; 3. fair cultural partnerships involving multinationals and the CCI sector of the Global South. Drawing inspiration from the definition of fair trade presented below in Part III, we consider that fair cultural relations should be based on dialogue, transparency and respect and aim to achieve sustainable development and greater equity in cultural exchanges.

It is the thesis of this study that several principles of fair trade can indeed guide the promotion of fair cultural relations. Thus, the study explores how and to what extent this could be realized. These fair trade principles could mobilize all partners in the cultural value chain and potentially lead to an increase in the income of artists and cultural professionals from the Global South, the deployment of long-term support measures for their creative and cultural industries and the improvement of their access to the international market. The concept of Fair Culture could also increase the awareness, first among consumers in the Global North of the importance of having access to cultural expressions that have been created, produced and disseminated in a manner that respects the status of the artist in developing countries, second within the cultural value chain and therefore also in the countries of the Global South.

This study also explores, incidentally, the complementarity between the fair trade movement and the due diligence standard, which more specifically targets the behaviour of multinational enterprises with respect to human rights. Since these stakeholders are not bound by the 2005 Convention or by international human rights law, it is crucial to identify other tools to urge them to take into account the impact of their activities on the well-being of artists and other cultural professionals, and more generally on the diversity of cultural expressions and the fulfilment of cultural rights of individuals. In this regard, the states of origin of these enterprises may have a responsibility to monitor the activities of these actors, and the ongoing

work to formally impose a due diligence standard to multinational enterprises provides fertile ground for our reflection on the Fair Culture concept.

Thus, inspired by the fair trade movement and the due diligence standard introduced for multinational enterprises, the overall objective of this study is to clarify various means that can be considered to make cultural relations more equitable and sustainable. More specifically, this study aims to:

- identify new avenues and help establish new frameworks that accompany countries of the Global South in developing their own frameworks for the promotion of the exchange of cultural goods and services and strengthening the capacities of CCIs such as to promote artists and cultural professionals, improve their remuneration and their conditions of creation, and facilitate their participation in global cultural exchanges, while also contributing to the development of local and regional markets;
- assess the possible implications of such avenues and frameworks for policies of the Global North, or agreed between the Global South and the Global North, including development cooperation policies, such as capacity building initiatives;
- impel a new vision of cultural exchange, cooperation and international solidarity to protect and promote the diversity of cultural expressions;
- encourage multinational enterprises from the Global North to improve their business activities and models as well as due diligence standards so that they become actively involved in the protection and promotion of cultural expressions from developing countries and support the consolidation of local markets; and,
- raise public awareness of the importance of protecting and promoting cultural expressions, including CCIs, from around the world, while identifying new avenues to promote more specifically artists and cultural professionals and creative entrepreneurs from the Global South.

This study is based on a review of the literature covering multiple fields of study, in particular fair trade and cultural cooperation. More than 300 sources have been consulted, including scientific articles, books, collective works, reports from international organizations and NGOs as well as organizations in the fair trade and cultural sectors, and international legal instruments, and theses over the course of four months. In addition, more than thirty artists, cultural professionals and experts from some twenty countries, most of them from the Global South, working in the fields of fair trade, international trade, cultural cooperation and CCIs

sector, were interviewed between the months of November 2020 and March 2021 (see Annex II, List of Interviews).

This study first looks at the challenges facing the cultural and creative sector in the Global South, recalls the main commitment of states in terms of international cooperation and solidarity, and lists relevant initiatives (Part II). It then presents a reflection on the concept of Fair Culture inspired by the fair trade movement, evaluates the transposability of fair trade principles in the cultural sector and assesses the potential benefits of this transposition (Part III). Finally, this study suggests a way to move forward, by mobilizing partners from the Global North and the Global South around a Fair Culture movement (Part IV).

Funded by the German Federal Ministry for Economic Cooperation and Development and commissioned by the German Commission for UNESCO, this study contains in its Part IV specific recommendations for international and bilateral development cooperation frameworks, in particular those established with Germany. At the same time, in order for the Fair Culture concept to be successful, many more stakeholders need to be mobilized. Therefore, these specific recommendations are embedded into an all-encompassing framework of recommendations, based on globally agreed international law.







## II. Achieving greater equity in the cultural sector

### A. Rethinking cultural cooperation to respond to local needs and realities

The UNESCO *Declaration of Principles of International Cultural Co-operation* was adopted by the UNESCO General Conference in 1966, the first such declaration by UNESCO ever. The Declaration emphasizes “the right and the duty” of every people to “develop its culture” (Art. I) and supports the idea that cultural cooperation should be carried on “for the mutual benefit of all the nations practicing it” (Art. VIII). The Declaration also lays down the principle of “develop[ing] the various branches of culture side by side and, as far as possible, simultaneously, to establish a harmonious balance between technical progress and the intellectual and moral advancement of mankind” (Art. II). More importantly, the Declaration insists on the necessity of respecting the originality of each culture (Art. VI).

Although more than half a century has passed since the adoption of this Declaration, its principles remain highly relevant. On the one hand, the issue of development has become central to cultural relations and cooperation projects have increased dramatically in recent decades, several of which have had a significant impact. On the other hand, many of these projects have not necessarily contributed to sustainable cultural development. Indeed, cultural cooperation between the Global North and the Global South has produced mixed results in terms of economic, social and cultural impacts.

Countries from the Global South have considerable capacity to create and produce commercial and non-commercial cultural expressions, including goods and services, that meet local demand but whether this demand is actually met by local products depends both on the quality of the environment in which artists and other cultural professionals operate, and on competition from global markets (d’Almeida and al., 2004; OIF, 2013a; OIF, 2013c Guèvremont and Otasevic, 2018). Thus, all indications point to a need for sustainable and equitable international collaborations that will enhance the skills and expertise of cultural actors, professionalize the cultural sector, support the acquisition of materials, de-

velop contacts and networks on a regional and international scale, and remove barriers to trade so that cultural expressions, including goods and services, from the Global South can truly take part in the global market. Access to finance is often crucial, but might also not suffice in some cases. CCIs, as well as artists and other cultural professionals, may have additional and comparatively pressing needs, such as training, experiences, facilities, equipment and technology to create, produce, distribute, disseminate and give access to cultural goods and services that satisfy local and regional demands, and if possible meet international standards and facilitate their mobility.

Taking into account several studies focussing on the presentation of good practices in international cultural cooperation, such as the UNESCO’s 2015 and 2018 Global Report on the 2005 Convention, as well as the UNESCO *Policy Monitoring Platform*,<sup>11</sup> the subsequent short section focuses on identifying issues – not necessarily new but definitely present today – that should be considered in the deployment of a Fair Culture movement and the identification of relevant guiding principles to promote its three pillars (trade, cooperation and partnership). This section also takes into account other reflections on fair cultural cooperation that have emerged over the last few years (DutchCulture, 2019; Nurse, 2019; Baltà Portolés, 2019; DutchCulture, 2018; van Graan, 2018; Hampel, 2016), as well as general initiatives aimed at enhancing international cooperation, such as the Global Partnership for Effective Development Co-operation.<sup>12</sup> Furthermore, based on research and interviews conducted for this project, this section identifies eight aspects or realities to be taken into account when promoting Fair Culture.

<sup>11</sup> This platform currently displays 4310 policies and measures from Periodic Reports of 116 countries submitted between 2012 and 2020. Online: <https://en.unesco.org/creativity/policy-monitoring-platform>.

<sup>12</sup> See <https://www.effectivecooperation.org/>.

## The informal nature of the cultural and creative sector<sup>13</sup>

The first reality to consider is the informal nature of the CCIs. According to the report *Cultural times. The first global map of cultural and creative industries*, “informal CCI sales in emerging countries were estimated to total US\$33b in 2013 and to provide 1.2 million jobs” and “performing arts are the biggest employers in the informal economy” (EY, 2015). Employment in the informal cultural economy in Africa, Latin America and Asia-Pacific in 2013 accounted for 56% in performing arts, 31% in the book sector and between 3 to 7% in the gaming, music and movie industries.

The informal economy is particularly characteristic of the African market for cultural goods and services, which employs approximately half a billion people. The informal economy in the CCI sector thus plays a major role in the creation, production, dissemination and distribution of cultural expressions. Informal distribution networks or informal contracts between artists and private sponsors provide audiences with access to a diversity of cultural expressions. However, although millions of jobs result from this, this “informality” is also a reflection of a lack of recognition of artists and cultural professionals. This is not without consequences for the sustainable development of the cultural sector as “unrecognized” artists and other cultural professionals may not meet the requirements set by certain policies and measures from which they could benefit. Grants and other support programs are primarily aimed at structured and visible industries.

As a result, it is the microenterprises, associations and clubs that replace and play the roles of large cultural institutions in many cultural sectors in the Global South. This informal structure allows national cultural expressions to emerge quickly, cheaply and with minimal formalities, but this reality places artists and other cultural professionals in a vulnerable position. And unfortunately, public authorities often have limited financial capacity and expertise to help them move from an informal setting to professionalization (UNESCO-UNDP, 2013; Forson, 2017).

## The shortcomings of intellectual property protection systems

A second reality is the absence of a copyright regime or the non-implementation of laws and regulations in this area, as well as the ineffectiveness of the fight against piracy. “In

<sup>13</sup> In this and subsequent sections, the study discusses world regions such as “Africa” in a generalized way. The authors are fully aware that generalizations are almost never possible and are not intended as such. The authors insist that “in Africa” is always to be an abbreviation of “in many cases typical of countries on the African continent.”

Asia-Pacific, Africa and Latin America, informal trading of pirated cultural goods and services (usually at lower prices) without any payment to authors is widespread” (EY, 2015). This reality may be considered as part of a more general deficit of regulatory frameworks and technical infrastructure that hinder the development of cultural and creative sectors and, subsequently, the diversity of cultural expressions.

However, the right of everyone “to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author” (ICESCR, Art. 15.1(c)) is a fundamental right that should be recognized by appropriate laws; the failure to do so is not only a denial of this right, but also an inaction that has a direct impact on CCIs, artists and other cultural professionals. Unfair remuneration and piracy reduce the income of creators, producers and distributors, and have a dissuasive effect on foreign investors. In addition to the piracy of works, the piracy of distribution channels may have major consequences on cultural ecosystems. For example, in Côte d’Ivoire, 46% of households access television via an informal distribution network, resulting in an estimated loss of 183 million euros per year for the audiovisual sector. This represents an amount that is not reinvested in the audiovisual sector, neither in production nor in technology (Damiba, 2017).

## Outdated tax systems

For CCIs to contribute fully to the economy of a state and the international exchange of cultural goods and services, it is essential that the economic architecture takes into account the specificity of this sector, which includes a fiscal regulatory framework that can stimulate the development of these industries (UNESCO, 2012). However, in many countries of the Global South, the tax system is generally outdated, and particularly unsuitable for the digital economy. Indeed, several states have not developed a fiscal policy that encourages investment in the cultural industries. Royalty systems and reinvestment in the creation and production of cultural content are almost non-existent. Moreover, the high taxation of certain imported goods used by the CCIs compromises the development of this sector. Equipment necessary for the creation and production of cultural expressions generally does not benefit from exemptions or facilities designed to make their acquisition easier. In several African countries, for instance, customs taxes on inputs and equipment can vary from 40% to 110% (OIF, 2013a; OIF, 2013, b).

## The persistent need for training and professionalization

“Human creative talent is everywhere, but a career in the cultural industries requires levels of education and skills which challenge the



educational resources of the Global South in all the ways we know” (O’Connor, 2019). As stated in a recent study on the creative economy in the Global South, “three pillars of knowledge – technical-scientific, cultural-creative and entrepreneurial pillars – is fundamental to the development of talent, considering that the first two allow introducing new topics of knowledge to the creative sectors and the latter turns them into products and services valued by the market and society” (Vieira de Jesus, Kamlot and Correia Dubeux, 2020).

Despite all the projects carried out to date to train artists and other cultural professionals and to strengthen the capacities of CCIs, deficits or inadequacy of training programs is a major issue in several regions of the Global South that still need to be addressed. The increasing use of digital technologies in the CCIs has also changed the skills profile of many jobs, requiring training systems to adapt (ILO, n.d.). Without qualified human resources to increase their potential and maximize the return on their investments, CCIs are struggling to develop. The lack of training for cultural entrepreneurs and the often informal nature of management methods constitute other technical and cultural constraints that prevent the development of medium- and long-term strategies with sufficient capacity to integrate local, sub-regional and international market logic (Nгнаoussi Elongue, 2018).

## The limited size of local and national markets

A fifth reality is the relatively limited size of the local or national market, especially in Africa and in the Arab world (UNESCO-UNDP, 2013), or the absence of regional markets, which penalizes the profitability of domestic cultural products, with the exception of certain goods or services from certain regions, such as Nollywood or Bollywood films (Deloumeaux, 2015), or television programs from Mexico or Brazil (EY, 2015). A limited market may have several impacts on the CCIs. Artists may leave their region to access a bigger market, in Europe or North America for instance. Or they may turn to industries in the Global North to produce and distribute their works, which could have a positive impact if it enhances their visibility but could also hinder the prosperity of industries from their country of origin. The example of African authors who choose to publish their books in European publishing houses has been mentioned in some of this study’s expert interviews.

A limited market is also a factor that affects the remuneration of artists and cultural professionals, which increases their vulnerability or makes them abandon their profession as creators. Digital technologies can, however, increase access to a wider market, but only if platforms are easily accessible, offer real visibility for artists to reach local, national or even regional and international audiences, and promote fair remuneration.

## The lack of recognition of the status of artists

A sixth reality is the lack of recognition of the special status of artists and their precarious financial and social situation which render sustainable cultural development difficult. To confer a status to the artist is to recognize a set of economic, social and cultural rights in an array of policies and measures. However, in the countries of the Global South, it is common to see artists who encounter several difficulties related to their status: they do not enjoy the rights recognized by international conventions, their work is not considered as a profession that can benefit from social protection and the collective management of their copyrights is often not very effective.

In many countries, governments are not insensitive to this reality and legal and institutional frameworks are set up in order to recognize the status of artists and take into account the atypical form of their professional activity. However, the insufficient budget granted to the cultural sector, the limited economic capacity to offer social security programs and the lack of expertise and infrastructure to eradicate piracy, especially in the digital age, make the implementation of these policies difficult.

Progress is being made in some states. For example, in 2020, Senegal adopted a bill that qualifies artists as cultural workers, as defined by the International Labour Organization (ILO). This text reaffirms the fundamental rights of artists and cultural professionals and specifies the framework for professional collaboration contracts, as well as the conditions for state support (Neil, 2019). Kenya has incorporated measures for artists into its national cultural policy to provide fair remuneration for creative work. This policy includes partnering with the private sector to support artists and their work through tax breaks in return for private sponsorship of Kenyan artists. In addition, Kenya is working on a bill to recognize the social and economic status of artists. Some collective management organizations also play an important role in strengthening the socio-economic conditions of artists. The Bureau Burkinabé des Droits d’Auteurs (BBDA), for example, has set up a social welfare system for senior artists through the Fonds d’aide aux membres âgés. This fund allocates on a quarterly basis to 50 elderly creators living in precarious situations the sum of 100,000 FCFA (the equivalent of €146.50) (Sidibé, 2020).

## Obstacles to the mobility of artists and other cultural professionals

Obstacles to the mobility of artists also impede the full realization of their economic, social and cultural rights. While the responsibility is shared by the international community as a whole, it

is clear that the countries of the Global North have much to do to address the barriers that arise from their own laws and policies. In recent years, however, public safety issues, terrorist threats, and global refugee crises have made mobility even more difficult and complex (van Graan, 2018). In addition, artists generally do not receive any preferential treatment to access markets in developed countries (Neil, 2019), although granting such treatment is a binding commitment under Article 16 of the 2005 Convention. The majority of measures to stimulate mobility are financial and aim to support artists' participation in cultural events, training or networking activities (Art Moves Africa, 2018). But mobility is more than just a financial issue. Several projects are based on one-off funding – as opposed to phased or long-term funding – which “can be less effective and even counterproductive, for it fails to appreciate that collaboration is a fragile, fraught and intractable process, which finds artists entering previously uncharted territory” (van Graan, 2018).

While financial aid is necessary for the mobility of artists from the Global South, more targeted actions must also be deployed to ease administrative procedures and facilitate their entry into the territory of countries in the Global North. These issues are rarely treated from a cultural point of view, but rather as a migratory problem. It is also a trade issue since artists and other cultural professionals are “service providers” covered by trade agreements (under mode 4 – movement of persons).<sup>14</sup> But while they may be targeted by commitments aiming at the liberalization of “cultural services” – which would promote their mobility – developed countries are reluctant to make such commitments. Other tools must therefore be considered, at least in a complementary manner.

## The lack of representation and recognition of women artists

Finally, it must be emphasized that the situation of women artists is still very fragile and requires special support in order to enhance their contribution to the development of CCIs. In the absence of formal recognition of women's contribution to the diversity of commercial and non-commercial cultural expressions, including goods and services, any action in favour of the status of the artist remains incomplete. According to the 2018 UNESCO Global Monitoring Report on the diversity of cultural expressions, the presence of women in various professions and cultural industries has not

<sup>14</sup> Commitments in trade agreements covering services are usually structured around four “modes of supply”: cross-border trade (Mode 1), consumption abroad (Mode 2), commercial presence (Mode 3), and temporary movement of natural persons (Mode 4). For instance, an artist traveling abroad to perform in a festival is considered to be a service provider and could therefore benefit from trade commitment undertaken under Mode 4.

exceeded 4% in the majority of African countries (Mali, South Africa, Togo, Mozambique and others) (Deloumeaux, 2018). In West Africa, women in the music industry account for less than 30% of employees in most occupations in the sector. Of those who are employed, 90% are costume or hair stylists and 60% are choreographers. In other “developing countries and transition economies, women creators are more likely to be found in crafts and the visual arts”, two sectors that have generally poor protection of intellectual property rights and weak institutional support (EY, 2015).

Another difficulty for women artists is access to financing. For example, African women are more likely than African men to start a business: 1 in 4 women would choose to explore entrepreneurship. However, African women artists face serious difficulties in accessing financial services and are less likely to receive formal funding from private investors (Tokunboh, 2020). As for the use of the Internet to participate in cultural life, the gap between men and women is obvious: only 23% of women artists use the Internet. This can be explained by the lack of skills and the absence of the necessary equipment.

Considering all these issues and challenges, it is relevant to briefly examine the tools that have been developed so far to stimulate cooperation and cultural exchanges or those that could eventually be mobilized to promote the sustainable development of CCIs, as well as the fulfillment of artists and other cultural professionals in the Global South, for the benefit of all.

## B. Optimizing the implementation of the most relevant legal instruments and exploring new avenues

### Relevant policy instruments

In the framework of UNESCO, but also within other multilateral or regional organizations, states have adopted legal instruments that recognize the specific role of artists in societies and promote cultural diversity. Two of these instruments are highly relevant for our reflection on the implementation of Fair Culture. The 1980 *Recommendation concerning the Status of the Artist* (the 1980 Recommendation) and the 2005 *Convention on the Protection and Promotion of the Diversity of Cultural Expressions* (the 2005 Convention). Although both have stimulated important progress in the field of cultural policies and promoted cultural exchanges between the Global North and the Global South, the monitoring of their implementation shows that efforts still need to be made to improve the situation

of artists and other cultural professionals in developing countries and to strengthen their CCIs. Some of the commitments arising from these instruments deserve to be recalled and taken into account in the context of this study.

Obviously, there are many more legal instruments relevant for the purposes of this study. They include the 1966 United Nations Covenant on Economic, Social and Cultural Rights as a universally recognized framework of the rights concerned in this context. Since the Covenant does not address artists and stakeholders of the CCI sector, its analysis does not add further specificity to this study; however, it adds further legitimacy.

## 1980 UNESCO Recommendation concerning the Status of the Artist

While the *1980 Recommendation* celebrated its 40<sup>th</sup> anniversary in 2020, this instrument today seems more important than ever. As underlined in a recent OECD report, “Creative jobs often come in precarious forms of employment, and the COVID-19 crisis has highlighted how such jobs often fall through the cracks in terms of public support” (OECD, 2020). Since the ICC sector is afflicted by structural vulnerabilities (Isernia and Lamonica, 2021), artists do not enjoy the same level of protection as many other workers in a society. The recognition of their status is a crucial step to promote their rights and artistic freedom in their own country and abroad. The protection of their copyright is also a fundamental condition to ensure fair remuneration.

On this matter, it becomes urgent to reinforce the protection of artists in the digital environment and to properly implement the *1980 Recommendation*. As mentioned in a recent report on the implementation of this instrument, “there is a global consensus that artists have lost income overall” with the digital shift (UNESCO, 2019), “while techno companies are making unprecedented amounts of money from the marriage of culture with technology, creating an economic imbalance” (Neil, 2019). There is also a huge imbalance in income distribution. For instance, in the music sector, 5% of artists receive 95% of royalties, “previously 20% of artists were receiving 80% of royalties.”

Such a gap could be even more pronounced in the digital environment as it has been reported that 1% of artists generate about 90% of all music streams, while the remaining 99% produce only 10% of plays (The Music Network, 2020). Other concerns are arising concerning the availability and discoverability of local content on digital platforms, which have a direct impact on the remuneration of artists, but also on local market and cultural exchanges. Finally, despite some positive developments, it is generally more difficult for artists from the Global

South to travel to the Global North today than it was in 1980 (Neil, 2019), which inevitably limits the artistic freedom of some artists.

Although each state is individually responsible for the implementation of the *1980 Recommendation* concerning the Status of the Artist, international cooperation can strengthen the capacities of developing countries to adopt and implement the policies necessary for the recognition of this status, while more balanced cultural exchanges may improve the social and economic conditions of artists. In this sense, the *2005 Convention* can play an important role, in addition to mobilizing states around the issues of protecting and promoting the diversity of cultural expressions.

## 2005 UNESCO Convention on the Diversity of Cultural Expressions

One of the main objectives of the 2005 Convention is “to encourage dialogue among cultures with a view to ensuring wider and balanced cultural exchanges in the world” (Article 1(c)). Another objective is “to strengthen international cooperation and solidarity in a spirit of partnership with a view, in particular, to enhance the capacities of developing countries” (Article 1(i)).

To this end, the *2005 Convention* contains an important mechanism for international cooperation and solidarity, including commitments that are among the most binding of this treaty. This is the case of Article 16, which commits developed countries to “facilitate cultural exchanges with developing countries by granting, through the appropriate institutional and legal frameworks, preferential treatment to artists and other cultural professionals and practitioners, as well as cultural goods and services from developing countries.” Article 16 gives rise to an obligation of result which means that the mere fact that a developed country makes efforts to facilitate exchanges, if these do not produce concrete results, is not enough to fulfil its obligation under Article 16. To date, developed countries have adopted few preferential treatment measures consistent with Article 16.

Free trade agreements may contain preferential treatment measures that meet the requirements of Article 16, as evidenced by the *EU-Cariforum Economic Partnership Agreement* (EPA) adopted in 2008, to which a Protocol on Cultural Cooperation is annexed that makes explicit reference to this provision of the 2005 Convention. However, a study published in 2019 noted some important obstacles to the implementation of this protocol, such as the persistent visa requirement challenges, the difficulties in accessing financing for priority sectors like audiovisual, performing arts and publishing sectors, and the lack of mutual recognition of professional qualifications (Burri and Nurse, 2019). The vast majority of other free

trade agreements concluded since the adoption of the *2005 Convention* do not grant any form of specific preferential treatment to the cultural sector or facilitate the mobility of artists and cultural professionals. Moreover, the parties to the *2005 Convention* must also implement Article 16 in the digital environment, which is also slow to materialize.

Much remains to be done by the Global North to facilitate access to their cultural markets by countries of the Global South. Capacity-building measures must also be renewed, in all regions, not only to enhance cultural exchanges but also – and even more importantly – to foster local markets and stimulate local demand. Article 14 of the *2005 Convention* insists on the need to foster the emergence of a dynamic cultural sector in developing countries by, *inter alia*, the strengthening of the cultural industries, capacity-building, technology transfer and financial support. Article 15 focuses on “the development of partnerships, between and within the public and private sectors and non-profit organizations, in order to cooperate with developing countries in the enhancement of their capacities in the protection and promotion of the diversity of cultural expressions.”

Another cooperation mechanism established by Article 18 of the *2005 Convention* that can be mobilized to strengthen the capacities of developing countries is the *International Fund for Cultural Diversity* (IFCD). As stated in Article 3 of its financial regulations, the IFCD provides a mechanism for the parties to the *2005 Convention* to “support cooperation for sustainable development and poverty reduction, especially in relation to the specific needs of developing countries, in order to foster the emergence of a dynamic cultural sector, in accordance with Article 14 of the Convention.”

Over the last decade, the IFCD has supported 120 projects in 60 developing countries, for an investment reaching approximately US\$ 9M. This contribution is important, but it must also be assessed in light of the total number of projects submitted and not funded. In 2020 for instance, 1027 projects have been submitted but only six were funded. This fund has so far been financed mainly by voluntary contributions from the parties to the Convention, which are not sufficient to support all the projects that would nevertheless warrant international assistance. Between 2010 and 2020, the sum of annual voluntary contributions has even decreased despite the rise in the number of contributing countries (UNESCO, 2021). In this sense, and although innovative projects have been supported by the IFCD, the results can be considered disappointing. However, it should be kept in mind that the IFCD may receive other types of contributions, a point to which we will return in the formulation of recommendations in the last part of this study.

In the context of the pandemic and the devastating effects on the cultural sector, the imple-

mentation of the commitments presented above has become crucial. It is nevertheless necessary to go further. On the one hand, existing cooperation measures must be improved. The study “Cultural and Creative Industries Supporting Activities in Sub-Saharan Africa. Mapping and Analysis” calls, for instance, for more bottom-up programs and new approaches to get closer to local needs, contexts and priorities (Ivo Franco and Njogu, 2020). On the other hand, private sector partners must be mobilized, including the “web giants” (GAFAN) who have become both responsible for amplifying inequities – in particular by trying to avoid any form of taxation or contribution to independent funds to support cultural production (Bernier, 2020) – and those who benefit the most from them, especially since the beginning of the pandemic. As underlined by the OECD, “some cultural and creative sectors, such as online content platforms, have profited from the increased demand for cultural content streaming during the various lockdowns imposed by governments around the world due to the Covid-19 pandemic, but the benefits from this extra demand have largely accrued to the largest firms in the industry” (OECD, 2020).

Given this trend and the possible long-lasting effects of the pandemic on the CCIs, this study takes into account the fact that multinational enterprises play a determining role in the evolution of the diversity of cultural expressions and looks at recent initiatives to monitor their behaviour, particularly with regard to cultural rights.

## Regulation of multinational enterprises: a new avenue for the cultural sector

Private sector partners should be involved in international cooperation for development, as reflected in some initiatives launched by the international community over the last decade. A highly relevant example is the Global Partnership for Effective Development Co-operation (GPEDC) established in 2012 that brings together governments, bilateral and multilateral organizations, civil society, the private sector and representatives from parliaments and trade unions. Its 2020-2022 Work Programme focuses on three strategic priorities, namely promoting development effectiveness to accelerate the implementation of the 2030 Agenda, building better partnerships and leveraging monitoring for action, which are to be implemented in accordance with the *Kampala Principles on Effective Private Sector Engagement in Development Co-operation*. The five mutually reinforcing principles, developed by the GPEDC as an answer to the 2016 Nairobi Outcome Document, are: 1. inclusive country ownership; 2. results and targeted impact; 3. inclusive partnership; 4. transparency and accountability; 5. leave no one behind.<sup>15</sup>

<sup>15</sup> See: <https://www.effectivecooperation.org/landing-page/action-area-21-private-sector-engagement-pse>.



Such principles are relevant in the cultural sector and could guide multi-stakeholder initiatives that aim to promote equity and diversity, support local artists and professionals, local production and local consumption, and rebalance cultural exchanges. This includes digital platforms, which must offer fair remuneration to artists and cultural professionals, and contribute to the development of strong cultural and creative industries in all countries where they target audiences, and particularly in developing countries. As mentioned in the introduction, one objective of this study is to encourage private sector partners from developed countries conducting activities in the Global South to play an active role in the protection and promotion of local cultural expressions and to support the consolidation of local and regional markets.

It seems also important, however, to look beyond such active involvement in cooperation projects, and consider the tools that could be mobilized to monitor the activities of the private sector, in particular multinational enterprises, to prevent any behaviour that may constitute a threat to basic human rights, which include cultural rights for all, as well as social and economic rights of artists. In this regard, CCIs could potentially learn from recent initiatives towards fair and sustainable supply chains in other sectors or other movements that generally aim at imposing a due diligence standard on multinational enterprises.

As stated in the *Fribourg Declaration on Cultural Rights* (2007), “cultural diversity cannot be truly protected without the effective implementation of cultural rights” and the “respect for diversity and cultural rights is a crucial factor in the legitimacy and consistency of sustainable development based upon the indivisibility of human rights” (Preamble, para. 4, 6). The full promotion of and respect for cultural rights, which encompass the right of everyone to take part in cultural life and artistic freedom (see *International Covenant on Economic, Social and Cultural Rights* (1966), Art. 15) “is essential for the maintenance of human dignity and positive social interaction between individuals and communities in a diverse and multicultural world” (CESCR, 2009). Cultural rights also include the right to the protection of the moral and material interests linked to the works that result from one’s artistic work. The *2005 Convention* is based on the *Principle of respect for human rights and fundamental freedom*, with states that “[c]ultural diversity can be protected and promoted only if human rights and fundamental freedoms, such as freedom of expression, information and communication, as well as the ability of individuals to choose cultural expressions, are guaranteed” (Art. 2.1).

Although states are primarily responsible for the respect, protection and fulfilment of cultural rights, other stakeholders also have a key role to play in ensuring that these rights are fully realized, including private enterprises conducting activities in the cultural and creative industries. The concept of Fair Culture must therefore take into account the necessary respect of human

rights by multinational enterprises who are investing in countries of the Global South, conducting some business activities from abroad or even just targeting their audiences. It is also essential to look at the way the home state of these enterprises should be involved in monitoring their business activities and investment abroad in order to ensure their compatibility with the due diligence standard.

The movement to establish a due diligence standard for multinational enterprises is not new, but initiatives in this direction have multiplied over the last decade. It was in 1976 that the OECD members adopted the *Declaration on International Investment and Multinational Enterprises*, revised several times since then (1979, 1984, 1991, 2000 and 2011). Attached to the declaration are the *Guidelines for multinational enterprises* (OECD, 2011), which take the form of several recommendations addressed by governments to multinational enterprises to strengthen the basis of mutual confidence between these enterprises and the societies in which they operate and to enhance the contribution to sustainable development made by multinational enterprises (Preface, para. 1).

The Guidelines state that “enterprises should respect the internationally recognised human rights of those affected by their activities” (Part II.A, para. 2) and “avoid causing or contributing to adverse human rights impacts” (Part IV, para. 2). The Guidelines even go further, suggesting that the enterprise should “[e]ncourage local capacity building through close co-operation with the local community, including business interests, as well as developing the enterprise’s activities in domestic and foreign markets, consistent with the need for sound commercial practice” (Part II.A, para. 3). It should be noted however that observance of the Guidelines by enterprises is voluntary and not legally enforceable. Published in 2018, the *OECD Due Diligence Guidance for Responsible Business Conduct* specifies that “[d]ue diligence addresses actual adverse impacts or potential adverse impacts (risks)” related to human rights (OECD, 2018) and provides practical support to enterprises on the implementation of the OECD Guidelines.

Other voluntary standards for enterprises regarding due diligence adopted in 1977 and updated in 2017 are found in the *ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy* (hereinafter the *ILO Tripartite Declaration*). These principles are directed at governments, employers’ and workers’ organizations, and multinational enterprises. The first article points out that “the advances made by multinational enterprises in organizing their operations beyond the national framework may lead to abuse of concentrations of economic power and to conflicts with national policy objectives and with the interest of the workers.” This declaration aims to encourage the positive contribution that multinational enterprises can make to economic and social progress and the realization of decent work for all (Article 2).

To this end, all parties concerned by the ILO *Tripartite Declaration* “should respect the *Universal Declaration of Human Rights* (1948) and the corresponding *International Covenants* (1966) adopted by the General Assembly of the United Nations as well as the *Constitution of the International Labour Organisation* and its principles according to which freedom of expression and association are essential to sustained progress” (Article 8). As for enterprises, including multinational enterprises, the ILO *Tripartite Declaration* states that they “should carry out due diligence to identify, prevent, mitigate and account for how they address their actual and potential adverse impacts that relate to internationally recognized human rights” (Article 10.d). The follow-up mechanisms of this instrument include a regional report on the promotion and application of the Declaration prepared for each of the ILO regional meetings (every four years). This report, based on inputs received to a questionnaire sent to governments, employers’ and workers’ organizations, informs a special session during the ILO regional meeting. This system provides a tripartite dialogue platform to discuss further promotional activities at the regional level.

The UN also conducted highly relevant initiatives to promote responsible business activities. The UN *Global Compact* launched in 2000 is based on ten principles related to human rights, labour, environment and anti-corruption. Principles 1 and 2 state that “[b]usinesses should support and respect the protection of internationally proclaimed human rights” and “make sure that they are not complicit in human rights abuses.” Open to any company, the UN *Global Compact* is a voluntary initiative designed to stimulate change, promote corporate sustainability and encourage partnerships.

A more comprehensive framework for action was put in place in 2011 when the UN *Guiding Principles on Business and Human Rights* (UNGPs) were unanimously endorsed by the Human Rights Council (HRC, 2011). The 31 guiding principles outline the duties and responsibilities of governments and business enterprises with regard to the risk-averse impacts on human rights linked to business activity. These principles are grounded in recognition of: states’ existing obligations to respect, protect and fulfil human rights and fundamental freedoms (Part I); the role of enterprises as specialized organs of society performing specialized functions, required to comply with all applicable laws and to respect human rights (Part II); and the need for rights and obligations to be matched to appropriate and effective remedies when breached (Part III) (UNGPs, General principles). Part II, related to the role of enterprises, contains four principles referring specifically to the human rights due diligence to be conducted by enterprises (Principles 17 to 21), the first one stating that “[i]n order to identify, prevent, mitigate and account for how they address their adverse human rights impacts, business enterprises should carry out human rights due diligence” (Principle 17).

Although all these initiatives have had positive effects, particularly in helping to raise awareness of human rights issues among multinational enterprises, the voluntary nature of the principles – including the UNGPs – have been widely criticized by academic and civil society organizations due to non-compliance on the part of the actors involved (Faracik, 2017). This probably explains why an International Legally binding Instrument on *Transnational Corporations and Other Business Enterprises* is currently being elaborated by an open-ended intergovernmental working group established in 2017 (HRC, 2017), an initiative supported by several governments, trade unions and NGOs.

Among these organizations is *Fairtrade International* which stated that “voluntary instruments for responsible business conduct have proven insufficient in addressing the structural causes of human rights violations” and called for mandatory human rights due diligence regulation (Fairtrade International, 2020). It also asked for explicit guidance on the right to decent livelihoods, and on the need for living incomes and wages to be understood as fundamental human rights in that context.

The second revised draft of the *International Legally Binding Instrument on Transnational Corporations and Other Business Enterprises* containing 24 articles was released in August 2020 and discussed during the sixth session of the working group (HRC, 2021b). In the report of this working session, the process to develop the instrument has been qualified as an opportunity, in the wake of the COVID-19 pandemic, to develop binding human rights standards to ensure a socioeconomic recovery that leaves no one behind and that builds social cohesion, in line with the *2030 Agenda for Sustainable Development* (para. 3). However, while the second draft treaty puts mandatory due diligence at the heart of its approach, it should be noted that it does not contain direct obligations for transnational corporations and other business enterprises.

Indeed, under Article 6, “State Parties shall regulate effectively the activities of all business enterprises domiciled within their territory or jurisdiction, including those of a transnational character” (para. 1) and “require business enterprises, to undertake human rights due diligence proportionate to their size, risk of severe human rights impacts and the nature and context of their operations” (para. 2). Article 6 adds that the failure to comply with such duty “shall result in commensurate sanctions, including corrective action where applicable, without prejudice to the provisions on criminal, civil and administrative liability” (para. 6).

On the one hand, this approach can be criticized since the treaty will not lead to international harmonization of the due diligence standard for multinational enterprises. But on the other hand, this treaty would have the advantage of creating an obligation for states to establish a national regime aimed at impos-

ing a due diligence standard on enterprises under their jurisdiction and to apply sanctions in case of non-compliance. It is worth noting that Fairtrade International suggested applying such a regime to “all companies regardless of their size, with appropriate support for small and medium-sized enterprises” and to request these companies to “consider the rights of particularly vulnerable groups or individuals such as women, children and youth, migrant workers, indigenous peoples, and persons with disabilities.”

These advances in international law are complemented by initiatives undertaken at the regional and national levels that are worth mentioning. In addition to binding legislation and voluntary initiative undertaken to address human rights violations in critical sectors (timber, mines, garment and leather industries), the EU adopted in 2014 the Non-Financial Reporting Directive (NFRD) (EU, 2014) which requires large companies to prepare a non-financial statement containing, *inter alia*, information on environmental matters, social and employee-related matters, and respect for human rights. This statement should include information on the due diligence processes implemented by the undertaking, also regarding, where relevant and proportionate, its supply and subcontracting chains, to identify, prevent and mitigate existing and potential adverse impacts (Article 1).

In addition to this measure, several indicators suggest that a mandatory due diligence system could be put in place at the EU level in the coming years. First, a substantial report published in 2020 concluded that the due diligence voluntary approach was insufficient (EU, 2020). Second, the European Commissioner for Justice, Didier Reynders, announced on 29 April 2020 that the Commission was committing to introducing rules for mandatory corporate environmental and human rights due diligence, as part of a Sustainable Corporate Governance initiative. Third, towards the end of the German EU Council presidency, the Council called in December 2020 for a proposal from the Commission for an EU legal framework on sustainable corporate governance, including cross-sector corporate due diligence obligations along global supply chains.

Finally, at the national level, and in addition to sectoral laws (e.g. in the field of mining) or laws aimed at certain vulnerable groups (e.g. children) in various countries, France and Germany have moved forward with cross-cutting bills on due diligence. France adopted in 2017 its *Law on the duty of vigilance*, which requires large companies to establish and effectively implement a due diligence plan. This plan must provide for reasonable vigilance measures to identify risks and prevent serious violations of human rights and fundamental freedoms, the health and safety of individuals and the environment, resulting from the company’s activities. The law specifies that the breach of the

defined obligations engages the responsibility of the companies, which will have to repair the damage that the execution of these obligations would have allowed to avoid. As for Germany, a draft Act on Corporate Due Diligence in Supply Chains (due diligence law) (in German *Entwurf eines Gesetzes über die unternehmerischen Sorgfaltspflichten in Lieferketten*) has been adopted by the cabinet in March 2021 and passed parliament in summer 2021.<sup>16</sup>

All the due diligence initiatives that have been developed at the international, European and national levels show both a real concern on the part of international organizations, states and civil society about the negative effects of some activities carried out by multinationals abroad with regard to human rights and their willingness to develop tools to better control these activities and generate changes in behaviour. The particularities of these measures are that they target private sector partners, which are not directly bound by international legal instruments on human rights. It is therefore through the formulation of a due diligence standard that changes in the behaviour of these stakeholders have historically been encouraged. And from now on, compliance with these standards could be enforced by means of binding norms and also with sanctions for non-compliance.

The draft treaties envisaged at the international and European levels herald a new form of international cooperation aimed at imposing on multinational enterprises an obligation to respect human rights, regardless of the territory in which their activities are conducted. These draft treaties thus translate a form of international solidarity with regard to the respect of human rights, which is enshrined in the United Nations Charter and international legal instruments on fundamental rights and freedoms. By committing themselves to monitor the behaviour of their own companies, states will implement Article 74 of this Charter, which provides that “Members of the United Nations [...] agree that their policy [...] must be based on the general principle of good-neighbourliness, due account being taken of the interests and well-being of the rest of the world, in social, economic, and commercial matters.” In addition, they will simultaneously implement Article 2.1 of the *International Covenant on Economic, Social and Cultural Rights* stating that “[e]ach State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, to achieve progressively the full realization of the rights recognized in

<sup>16</sup> The German government agreed on the draft Act on Corporate Due Diligence in Supply Chains (due diligence law). The Federal Cabinet adopted the draft legislation on 3 March 2021. See: <https://www.bmz.de/en/development-policy/supply-chains> and [https://www.bmas.de/SharedDocs/Downloads/DE/Gesetze/Regierungsentwuerfe/reg-sorgfaltspflichtengesetz.pdf;jsessionid=B82ECD6FD43916C702418AA2E9FE2DCF.delivery1-replication?\\_\\_blob=publicationFile&v=2](https://www.bmas.de/SharedDocs/Downloads/DE/Gesetze/Regierungsentwuerfe/reg-sorgfaltspflichtengesetz.pdf;jsessionid=B82ECD6FD43916C702418AA2E9FE2DCF.delivery1-replication?__blob=publicationFile&v=2)

the present Covenant by all appropriate means, including particularly the adoption of legislative measures.”

Considering all these developments regarding the due diligence standard for multinationals and the obligations of international solidarity with respect to economic, social and cultural rights, it seems most relevant to reflect on how developed countries should ensure that their cultural and creative industries operating in the Global South respect, protect and promote the cultural rights of everyone (a topic that will be

further developed in Part IV of this study). Such an approach is perfectly in line with a movement aiming at promoting the concept of Fair Culture. However, it is not sufficient to strengthen the cultural and creative industries of the Global South, to professionalize this sector and to develop sustainable local and regional cultural markets. Nor is it sufficient to operate a real rebalancing of cultural exchanges. To achieve these objectives, other approaches must be considered, including the transposition of the concept and principles of fair trade to the field of culture.







# III. Towards a fair culture concept

The fair trade movement has given rise to a new form of international partnership, involving the private sector and seeking to reduce inequities and promote the access of goods from the Global South to markets in the Global North. Subject to adjustments and adaptations, this movement could inspire the emergence of a similar concept and movement in the cultural sector that would provide similar benefits. The next section will provide a brief overview of the fair trade movement and assess the possibility of transposing the concept into a Fair Culture concept. Social, economic, organizational and environmental benefits of fair trade will be introduced as well as the contributions of fair trade to the Sustainable Development Goals.

## A. Overview of the fair trade movement

### 1. How the fair trade movement developed

#### Emergence of the movement

The origins of fair trade can be traced back to the post-war years, when Christian mission-driven NGOs in Europe and North America began trading directly with economically disadvantaged communities in the Global South, selling handicrafts produced by disadvantaged artisans in direct-purchase projects (Diaz Pedregal, 2006; Fridell, 2004). In the United States, these efforts were led by the Christian Anabaptist-Mennonite organizations *Ten Thousand Villages* (formerly *Mennonite Central Committee Self Help Crafts*) and *SERRV International* (*Sales Exchange for Refugee Rehabilitation Vocation*). *Ten Thousand Villages* began marketing handicrafts from communities in Puerto Rico, Palestine and Haiti in 1946. The main objective of these organizations was then to generate employment and better incomes in the targeted regions. Fair trade presented the idea of marrying solidarity and trade, the world of international cooperation and lucrative business. It was then called “solidarity trade” (Diaz Pedregal, 2006). Around the same time, charities in Europe – most notably *Oxfam UK* and the Dutch Catholic group *Fair*

*Trade Organisatie* (originally known as *S.O.S. Wereldhandel*) – began importing handicrafts from producers in Eastern Europe to support their economic recovery (Nicholls and Opal, 2005 in Lemay, 2007).

In the mid-1960s, the discourse on fair trade became increasingly political and radical. It posed as an “alternative” to conventional trade and refused to be considered as “aid” to poor countries: this was the launch of the famous slogan “Trade, not Aid” at the *United Nations Conference on Trade and Development (UNCTAD)* in 1964 (Diaz Pedregal, 2006). At the conference, representatives of countries from the Global South called on countries from the Global North to stop providing short-term, *ad hoc* financial aid and to implement real trade policies with poor countries instead (Bucolo, 2000). It is generally asserted that this event was the first expression of the countries of the Global South against aid and for reforms of the international trade system (Lemay, 2007).

In the following decades, small-scale solidarity trade practices expanded and extended to new regions and products. These NGOs developed *Alternative Trade Organizations (ATOs)* and initiated the import and sale of fair trade handicrafts through mail-order catalogues (Bennett, 2020; Fridell, 2004). ATOs mainly served two functions: 1) advocating for the establishment of trade rules that would be more advantageous for the countries of the South, and 2) setting up alternative marketing channels that would allow them to achieve on a small scale what they claimed at the international level (Balineau, 2010). This commercial orientation marked the transition from solidarity trade to alternative trade, as it became no longer a question of making an occasional solidarity purchase at a church but of claiming and building another type of trade. In 1969, the first fair trade “world shop” was established in Brekelen, Netherlands, which was soon followed by the opening of the MCC’s first *Ten Thousand Villages* retail store in the United States in 1972 (Fridell, 2004). Around that time, fair trade started expanding to raw materials, especially coffee. Multiple world shops were subsequently created, serving as distribution points, but also privileged places for information and awareness-raising (Bucolo, 2000).

## From an alternative to a reformist movement

Towards the end of the 1980s, the movement became more structured with the creation of the *European Fair Trade Association (EFTA)* in 1987. Even today, the EFTA includes the oldest and most important organizations specialized in importing fair trade products in Europe: *Oxfam*, *Solidar' Monde*, etc. In 1989, the *International Federation for Alternative Trade (IFAT)* was created. Renamed *World Fair Trade Organization (WFTO)* in 2009, the association initially consisted of 40 ATOs (Balineau, 2010). Then, in 1994, the world shops created their own European network, the *Network of European World Shops (NEWS!)*. However, despite this development, the movement was starting to run out of steam. World shops remained mostly frequented by activists who were already convinced of the interest of this type of commercial exchange. Fair trade was still confined to a very narrow market “niche” and its action with communities of producers in the South remained limited, with small sales volumes (Diaz Pedregal, 2006).

This realization led Nico Roozen, of the NGO *Solidaridad*, and a Dutch priest, Francesco Van der Hoff Boersma, to imagine the solution of labelling. The objective was to create a guarantee system so that consumers can find products that respect fair production and marketing standards in their usual place of purchase, mostly supermarkets (Balineau and Dufeu, 2012). The first label was thus created in 1988 in the Netherlands under the name *Max Havelaar*, after a fictional Dutch character who opposed the exploitation of coffee pickers in Dutch colonies. Other labels followed: *Max Havelaar* in Belgium (1990) and in Switzerland and France (1992), *TransFair* in the United States (1993) and *Fairtrade* in the United Kingdom (1994). In 1997, the various national labelling initiatives formed an umbrella association called *Fairtrade International* (initially *Fairtrade Labelling Organization International*, or *FLO*), with a mandate for coordination, organizational support, practice verification and product certification (Lemay, 2007).

## FINE and an official definition of fair trade

In 1998, the major fair trade networks (FLO, IFAT (now WFTO), NEWS! and EFTA) formed an informal alliance called *FINE* (an acronym created from the first letter of each of the four associations), with the role of enabling these networks and their members to share information and cooperate at strategic levels on crucial issues affecting the future of the fair trade movement, such as advocacy, campaigning, standards and monitoring (Mohan, 2010). In 2001, they drafted an official definition of fair trade:

- Fair Trade is a trading partnership, based on dialogue, transparency and respect, that seeks greater equity in international trade. It contributes to sustainable development by offering better trading conditions to, and securing the rights of, marginalized producers and workers – especially in the South.
- Fair Trade Organizations, backed by consumers, are engaged actively in supporting producers, awareness raising and in campaigning for changes in the rules and practice of conventional international trade.<sup>17</sup>

This definition shows that fair trade is a multidimensional concept, involving a commercial practice, a development project and an ambition to change the rules of world trade (Huybrechts, 2007). The statement suggests fair trade operates both “in and against the market,” as it “work[s] through market channels to create new commodity networks for items produced under more favorable social and ecological conditions and simultaneously work[s] against the conventional market forces that create and uphold global inequalities” (Raynolds, 2009).

Redfern and Snedker (2002) highlighted six goals that flow from this definition of fair trade:

- improving the livelihoods and well-being of producers by improving market access, strengthening producer organizations, paying a better price and providing continuity in the trading relationship;
- promoting development opportunities for disadvantaged producers, especially women and indigenous people, and protecting children from exploitation in the production process;
- raising awareness among consumers of the negative effects on producers of international trade so that they exercise their purchasing power positively;
- setting an example of partnership in trade through dialogue, transparency and respect;
- campaigning for changes in the rules and practice of conventional international trade, and;
- protecting human rights by promoting social justice, sound environmental practices and economic security.

## The debate on mainstreaming

One of the great debates within the fair trade movement has been the question of the part-

<sup>17</sup> See WFTO Europe, online: <https://wfto-europe.org/about-fair-trade/>. Known as the “FINE Definition”, this text was adopted in 2001 by Fairtrade Labelling Organizations International (FLO), International Federation for Alternative Trade (IFAT), Network of European World Shops (NEWS) and European Fair Trade Association (EFTA).

nership with large corporate firms, otherwise known as mainstreaming. The creation of labeling initiatives that led to the sale of fair trade products in supermarkets resulted in a growing consumer interest in these products. This, in turn, has drawn the attention and participation of large corporate firms.

The corporatization of fair trade is often associated with the entry into the market of Starbucks. Pressured by international labour rights groups for some time, the company agreed to sell fair trade coffee in all of its U.S. stores. But while purchases by corporate firms have substantially increased the volume of fair trade sales, enhanced the visibility of the movement, and augmented the financial benefits flowing to producers and waged labourers (Jaffee, 2010), this partnership has raised many questions about the motivations of these firms and created debate and discord among the partners who have been involved in the movement from the beginning.

Some see the phenomenon as a capture of an alternative market by large firms, which threatens to weaken the standards and dilute the underlying principles of the movement. The question was raised as to whether these firms were gaining credibility with concerned consumers by selling fair trade products without significantly changing their buying practices, given that the amount of fair trade products sold represents a tiny percentage of their overall sales (Low and Davenport, 2005). Jaffee (2010) argues that “the first significant instance of cooptation and dilution in the U.S. fair trade setting was the decision to lower the bar for entry into the certification system.” Starbucks entered the FLO system with approximately 1% of its purchases at fair trade terms, but since then, some of the mass-market coffee transnationals have entered the market at even lower percentages.

The risk is that large corporations engage “fair-washing,” reaping substantial image benefits while barely engaging in fair trade. This has brought proponents of the alternative movement to request that a distinction be made between vendors who commit to selling only fair trade and those who sell only a small proportion of their total sales under labeled fair trade conditions (Barrientos et al., 2007). Another issue is that “the large firms who dabble in fair trade at token levels are able to subsidize the additional costs of their fair trade purchases with profits from their conventional sales, thus undercutting the retail prices of the 100% fair trade firms, who are not able to externalize their social costs in a similar fashion” (Reed in Jaffee, 2010).

Barrientos et al. (2007) argue that the market-led expansion of fair trade and the volume requirements of major retailers have forced FLO to rapidly increase the integration of estate and plantation suppliers of fresh produce and raised questions about the future of fair trade’s small-producer base. While fair trade was originally designed as a system that benefited

small and marginalized producers, the recent incursion of these big players into fair trade “has compounded the fears of those critical of plantation certification and has unsettled the small-scale farmers who have traditionally produced the bulk of fair trade items” (Barrientos et al., 2007). Some have argued that certification of plantations can give the fair trade seal to corporate “bad actors” with deeply problematic histories of labour rights violations (Jaffee, 2010). Another worry is that high volumes and economies of scale will undoubtedly favour plantations over cooperatives.

This disagreement led FLO’s largest adherent, *Transfair USA*, to leave the organization in 2012 to launch a parallel label. While FLO still believed that certification should generally be restricted to small producers, *Fair Trade USA* (formerly *Transfair USA*) wanted to keep expanding the market to help more producers and workers and believed that the scope for that is limited if mainstream retailers are not more involved (Elliott, 2012; Redfern and Snedker, 2002). Fair Trade USA began offering certification to plantations using hired labour and smallholder producers that were not organized in cooperatives (as the FLO standards require).

It is difficult to say whether mainstreaming is a good or bad thing when it comes to fair trade. As Low and Davenport (2005) argue, on the one hand, “[i]solated from the mainstream risks irrelevance, and will not deliver the extent of change that is necessary to meaningfully assist producers. Uncritical engagement with mainstream business risks absorption and dilution of the movement.” Nevertheless, some of these same questions will inevitably arise in the process of developing a Fair Culture concept, as multinational enterprises have been increasingly involved in the creation, production, distribution and dissemination of cultural products and services.

## Sectors covered by fair trade and related initiatives

As previously mentioned, the fair trade movement started with handicrafts. Fair trade then moved to coffee, the first FLO-certified product in 1988. Today, FLO lists as many as 20 products covered by their certification on its website,<sup>18</sup> from bananas to gold and sports balls.

In the textile sector, various parallel initiatives and labels have seen the light of day, especially after the collapse of the Rana Plaza garment factory in Dakha, Bangladesh in 2013. Among others, the independently certified state-run

18 These are: bananas, carbon credits, cocoa, coffee, composite products, cotton, flowers and plants, fruit and juices, gold and precious metals, herbs and spices, honey, nuts and oils, quinoa, rice, sports balls, sugar, tea, textiles, vegetables, wine and wine grapes. See: <https://info.fairtrade.net/product> (accessed 2 April 2021).

“Green Button” textile label was initiated by the *Federal Ministry for Economic Cooperation and Development (BMZ)*, under which a company must comply with as much as 46 social and environmental criteria. The *Fashion Transparency Index* (Fashion Revolution, 2020) is another example, particularly with regard to raising consumer awareness, as it reviews 250 of the biggest global fashion brands and retailers and ranks them according to how much they disclose about their social and environmental policies, practices and impacts.

In a similar vein, the *Fair Labor Association (FLA)* combines the efforts of business, civil society organizations, as well as colleges and universities to promote and protect workers’ rights and to improve working conditions globally through adherence to international standards. The *FLA Charter (2021)* sets participation criteria for companies, retailers and suppliers, affiliation criteria for colleges and universities, and accreditation criteria for independent external monitors who conduct assessments so that consumers can be assured of the integrity of the products they buy. Companies that join the FLA commit to the ten *Principles of Fair Labor and Responsible Sourcing* (and/or Production) and agree to uphold the *FLA Workplace Code of Conduct* in their supply chain (Fair Labor Association, 2012).

The Egyptian *SEKEM initiative* (founded in 1977) is also to be mentioned in this context as it seeks to tackle major societal challenges in Egypt such as climate change, resource scarcity and extreme poverty, through sustainable human development, that integrates economic, societal and cultural life. Among other things, the initiative established Biodynamic agriculture to respond to environmental, social and food security challenges, builds successful business models in accordance with ecological and ethical principles and advocates locally and globally for a holistic approach for sustainable development. It also helps support the economic processes and strengthen the cooperation between science and arts through introducing its employees to language and artistic exercise, with the goal of rolling out its artistic impulse to the wider public in Egypt.<sup>19</sup>

Other initiatives like ethical tourism, sustainable tourism and even fair trade tourism are also worthwhile to be examined for Fair Culture in that they are as close as fair trade has been from covering services. The first fair tourism certification programme was launched by *Fair Trade in Tourism South Africa* – today known as *Fair Trade Tourism* – and included criteria such as fair remuneration, decent working conditions, a fair sharing of revenue and respect for cultural traditions and the environment (Trade for Development Centre, 2017).

19 In 2011, SEKEM received the “IMPACT Business Award” from BMZ and the German Society for International Cooperation (GIZ) for their innovative business solutions to combat climate change.

## 2. The benefits of fair trade

Benefits of fair trade can be divided in four categories: economic, social, organizational, and environmental. In addition to these benefits, fair trade also contributes to the achievement of several *Sustainable Development Goals*.

### Economic

The most obvious economic benefit is an increase in revenues and financial stability. While the issue of whether or not the minimum guaranteed price<sup>20</sup> has a genuine impact is debated in fair trade literature – mostly because in times of high market prices the minimum guaranteed price equates to the market price – it is mostly agreed that the social premium<sup>21</sup> does have an impact. Higher incomes for cooperatives, in turn, reduce poverty among producers.

Another benefit is better access to credit, which allows producers to obtain inputs and eventually spend the entire season without having to resort to pawnbrokers. When combined with a long-term relationship with buyers and fairer prices (premium and minimum guaranteed price), these benefits will help producers better plan their development, invest higher shares of spending on long-term investments, and make them more resilient to economic shocks.

Fair trade has provided an access to producers and groups with whom traditional firms were not interested in doing business. Certification has also increased the size of the fair trade market since certified products can be incorporated into conventional supply chains. However, the question of whether mainstreaming (i.e. participation in fair trade of multinational businesses in the North and plantations in the South) is truly beneficial to southern producers is subject to debate. This debate needs more scientific evidence in order to reach a meaningful conclusion – still today it can substantially enrich the conceptualisation of “Fair Culture.”

### Social

Literature tends to assert that the social benefits of fair trade are as important, if not more important than economic benefits. This claim is based mostly on the benefits provided by

20 The “minimum guaranteed price” is also often referred to as “minimum price” or “floor price.” FLOCERT uses the former term and defines it in its Glossary as “the minimum price that must be paid by buyers to producers for a product to become certified against the Fair-trade Standards.” See <https://www.flocert.net/glossary/fairtrade-minimum-price/>.

21 The premium is “an extra sum of money, paid on top of the selling price, that farmers or workers invest in projects of their choice. They decide together how to spend the [premium] to reach their goals, such as improving their farming, businesses, or health and education in their community.” See: <https://www.flocert.net/glossary/fairtrade-premium/>.



the premium, also rightly referred to as “social premium.” According to fair trade principles, producers should invest the premium in social, environmental and economic developmental projects to improve their businesses and their communities. This practice can also be meaningfully re-assessed, of particular high importance is the involvement of target communities into investment decision-making.

Participation in fair trade is said to have a positive impact on producers’ self-confidence, self-esteem and well-being. Furthermore, it provides them with familial stability, reducing the likelihood that a producer will resort to migration to provide for his family, and can foster better education for younger members of their families since increased revenues mean children won’t have to provide additional workforce or income.

Work conditions, while less a priority to fair trade as economic and social aspects are better for workers employed in a fair trade organization since fair trade requires that ILO standards be met as a minimum if local labour laws are in-existent or not as stringent. Fair trade has been successful in promoting gender equality, allowing women to have access to paid work, providing them with social benefits that have positive effects on their empowerment, and in some cases even challenging social norms and roles in the household.

A less mentioned, but noteworthy benefit is fair trade’s contribution to the cultural revival of indigenous communities. Among other benefits, studies have highlighted the recovery of ancestral agricultural practices, support for artisanal and other income-generating activities, and restored pride in being indigenous.

## Organizational

Organizational benefits have also been an important feature of fair trade. Capacity building is one of the most important impacts of fair trade according to the literature. Producer cooperatives gain in efficiency, learning to position themselves in markets with higher added value. In addition, the high standards of fair trade, as well as the installation of new infrastructures in some cases, allow producers to ensure a better quality of their products.

Another important benefit relates to democratic governance. Fair trade contributes to the strengthening of organizations by increasing the level of trust that members place in them. Changes have been perceived in the way producers participate and collaborate in production, processing and marketing. Furthermore, producer organizations have an increased capacity to dialogue with public authorities and to propose policies to support the sector. They have been able to develop partnerships with NGOs and new contact networks with other participants in fair trade.

The fair trade label contributes to raising consumer awareness, bringing to the forefront disadvantaged rural populations, long-neglected and unrepresented. Through fair trade, the voice of small producers and isolated rural populations are now heard at higher levels. In the North, fair trade organizations have also conducted advocacy work to bring about more equitable trading practices along the entire supply chains of large companies.

## Environmental

Finally, in terms of environmental benefits, fair trade provides the means to support the transition to sustainable production and consumption patterns. Remunerative prices or long-term commercial commitments, for example, facilitate the change of a sector, for instance of an agricultural system towards agroecological models. Moreover, strict regulations on the use of chemical products help to preserve biodiversity.

## The contribution of fair trade to the Sustainable Development Goals

Fair trade contributes to several of the 17 Sustainable Development Goals, which were adopted as part of the 2030 Agenda for Sustainable Development by all United Nations Member States in 2015.

SDG 1 (No Poverty) and SDG 2 (No Hunger) are at the heart of fair trade. The minimum price provided for by fair trade standards protects producers from market fluctuations and provides them with a more stable income. They can invest in their business, ensure long-term food security for their families and communities, and pay a decent wage to their farmworkers. Cooperatives invest a large part of the premium in strengthening their organization and providing support and services to their members and, by extension, to their communities. Working with marginalized farmers and artisans and helping to build capacity contribute to income growth in developing countries, thus contributing to SDG 10 (Reduced Inequality). Fair Trade seeks greater equity in international trade by linking the goals of those in the North seeking greater sustainability and justice to the needs of those in the South who need these changes most.

Fair trade also supports SDG 8 (Decent Work and Economic Growth) by supporting better employment conditions covering hours of work and overtime, contracts and temporary work, timely compensation and fair wages, and workers’ rights such as collective bargaining and freedom of association. It also prohibits child and forced labour. Fair trade’s global campaign for trade justice, supported by thousands of cities, schools, universities, local governments and religious organizations, as well as millions of

consumers, contributes to SDG 12 (Responsible Consumption and Production). It helps consumers make sustainable choices that ensure that producers get fairer prices, thereby strengthening their ability to implement sustainable production patterns.

Fair trade supports SDG 5 (Gender Equality) by helping women to participate equally in the decisions of their organizations, to earn better wages – and equal pay for equal work – and to diversify their incomes. Fair trade standards prohibit sex discrimination, sexual harassment, and gender-based violence set rules for parental leave, and provide rights for pregnant and nursing women. Fair trade provides opportunities for women and other under-represented groups in skilled professions or management positions.

Fair trade also contributes to SDG 16 (Peace, Justice and Strong Institutions), since its standards provide that cooperatives must be democratic, transparent and inclusive. For example, they decide for themselves how to invest the premium. The premium can be invested by the cooperatives in social projects, such as education (SDG 4 – Quality Education), health (SDG 3 – Good Health), as well as sustainability (SDG 11 – Sustainable Cities and Communities). The premium allows farmers to become more resilient to extreme weather conditions and crop diseases, therefore contributing to SDG 13 (Climate Action). More generally, fair trade cooperatives practice and promote responsible resource management and environmentally sustainable practices, including reducing, reusing, recovering and recycling materials wherever possible. Finally, Fairtrade International and other fair trade organizations work with governments to establish fairer trade practices, essential for sustainable economic growth, thus supporting SDG 17 (Partnership for the Goals).

## B. From fair trade to Fair Culture

The objective of this section is to address these principles based on fair trade literature and assess which ones are more likely to bring about changes in behaviour in the cultural sector, give a new impetus to cultural cooperation and involve the private sector. This assessment takes into account interviews that have been conducted with several artists, cultural professional and cultural experts. In addition, several noteworthy examples are presented throughout this section to highlight good practices that are in line with some of the principles discussed.

### 1. How do fair trade principles translate into Fair Culture

A dozen principles can be drawn from fair trade literature, one of which is not always explicit, but underlies the fair trade movement, namely that

of market access for producers from the Global South, especially marginalized producers. While some principles are more relevant for fair trade partners in the Global North (buyers, importers, and distributors) and others for organizations in the Global South (producer cooperatives, small producer organizations and plantations), all fair trade partners must be guided by the following principles:

- the payment of a just price (a minimum guaranteed price, supplemented by a social premium);
- direct trade (with no or as few intermediaries as possible);
- a long-term commitment (to ensure financial stability and foster sustainable development of producer organizations);
- access to credit (a pre-financing of up to 60% of contract value);
- technical support and training;
- consumer awareness (raising awareness in the North of the importance of buying fair trade products);
- compliance with labour standards (at least meeting international standards of ILO or of the country if they are higher);
- local development (use of the premium for the benefit of the community);
- democratic and transparent organization (producers are grouped in cooperatives);
- non-discrimination (including gender equality); and,
- respect for the environment.

### Market Access

Access to market is central to the fair trade concept, although as previously mentioned, not often referred to in fair trade literature. However, the International Fair Trade Charter (Fair Trade Advocacy office, 2018) and the FINE definition made it clear that fair trade aims to improve the livelihoods and well-being of producers by improving market access, in particular for marginalized and disadvantaged producers.

## The International Fair Trade Charter

The Charter “seeks to help Fair Trade actors explain how their work connects with the shared values and gener-ic approach, and to help others who work with Fair Trade to recognise those values and approaches.” Its objectives are to support the work of fair trade organizations in raising awareness among consumers and citizens of the importance and impact of fair trade; to facilitate collaboration among fair trade organizations by connecting their specific missions and strategies with the common philosophy of the movement, and to promote collaboration with the solidarity economy, organic agriculture movements and others that fight for similar goals to the fair trade movement; and, to enable others who work with fair trade organizations (in government, academia or the private sector) to recognize the values and approaches that unite the global movement (FTAO, 2018).

Access to market would of course remain at the heart of a Fair Culture concept, which includes a commercial dimension through the notion of preferential treatment, but also a fair cultural cooperation component and a component aimed at involving multinational enterprises through fair cultural partnerships.

Physical access for artists from the Global South to countries of the Global North, for performances or residencies for example, remains a challenge, in particular for reasons related to visas. It must be noted that obstacles to the mobility of cultural professionals are likely to become further distorted by new requirements such as COVID passports, which will disadvantage citizens from countries of the Global South where vaccine access could be limited or delayed. Not only access to markets of the Global North for artists and cultural goods and services of the Global South remains a challenge, but paradoxically access to local and regional markets can be quite limited now that digital technology has facilitated the exchange of cultural goods and services from all over the world.

”Market Access” in the fair trade concept revolves mostly around South-North exchanges, or at least did so in the beginning.<sup>22</sup> However,

<sup>22</sup> Nowadays, there are North-North and South-South exchanges of fair trade products. In fact, several local fair trade markets have seen the light of day in countries like South Africa, Mexico and Brazil. However, most fair trade commodities in countries of the Global South are intended for export, in part because for a fair trade market to exist, there needs to be a middle class significant enough to create a demand for fair trade products.

local and regional markets are critical due to the specificities of CCIs (cp. II.A), and would be a central aspect of a Fair Culture concept. This will be discussed in part IV of this study (“Area Two”).

## The Red de Salas Digitales de MERCOSUR

The network is a program of Reunión Especializada de Autoridades Cinematográficas y Audiovisuales del Mercosur (RECAM) to further the development of MERCOSUR cinematography as an instrument of cultural integration in the region. Its objective is to contribute to the circulation of audiovisual content from and in MERCOSUR, in order to strengthen the collective imagination of the region. At the same time, it encourages attendance at movie theaters in the cities and towns of each country and brings MERCOSUR audiovisual production closer to the community. The selected films provide an overview of the regional production panorama and its filmed realities.

This cultural dissemination circuit is currently made up of theaters in Argentina, Brazil, Paraguay and Uruguay. The programming is managed by a Regional Programming Coordinator located in the city of Montevideo, which coordinates the national hubs, in dialogue with each of the cinemas that make up the circuit.

Source: <http://mercosuraudiovisual.org/contenidos/que-es-la-red-de-salas-digitales-del-mercosur>



It can be argued that digital technology has democratized access to markets by enabling artists from everywhere in the world to publish content online. As set forth by Lydia Deloumeaux (UNESCO, 2017), “[d]igital distribution platforms, exchange networks and export strategies, mostly in the audiovisual sector, are helping global South countries enter the international market of cultural goods and services.” In Senegal, one interviewee in the film sector told us that young people have appropriated digital technologies and have started to work with small cameras or phones to produce videos that they broadcast on the Web. In a country where people are very connected to local content, easily accessible technologies certainly present an advantage. Of course, the issue of monetization of these initiatives and this content remains a challenge in terms of fair remuneration (discussed below).

However, the reality is that marginalized artists do not have the same access in practice to global markets, let alone local markets. Many artists live in countries that still lack access to bandwidth or where the cost of access to the Internet is prohibitive. Furthermore, this question of access to the Internet does not only concern the creator who wants to put music or videos online; it also affects the possibility for the audience to consume this content. An initiative called Internet.org, by Facebook, was created in 2013 to respond to that issue and guarantee connectivity to millions of persons. Through the FreeBasics app, Facebook gave access for free to its network, as well as some services provided by third parties. While it facilitates connectivity, this initiative is flawed since it only provides access to content available on Facebook and to applications that have agreed to be part of the program. Such schemes therefore undermine net neutrality and access to a diversity of content since they assign priority to a certain type of data and content (see Kulesz, 2016).

Another issue, as previously mentioned, is that this democratization of access to markets through digital technology does not in reality translate into equal access, since discoverability<sup>23</sup> on digital platforms is another matter completely. For artists from the Global South, it can seem like digital technology brings even more competition for attention, since content produced by artists from the Global North – and especially renowned ones – is now easy to access online in countries of the Global South.

23 Discoverability refers to the capacity to easily discover an item, whether it be an application or a piece of content (Canada Media Fund, 2016).

## Retina Latina digital platform

Retina Latina is a public digital platform for the dissemination, promotion and distribution of Latin American films for the citizens of the Latin American region, free of charge. The platform is developed by six cinematographic entities in the region: the Bolivian Film and Audiovisual Development Agency (Adecine), the Institute for the Promotion of Creativity and Innovation IFCI (Ecuador), the Directorate of Audiovisual, Phonography and New Media of the Ministry of Culture of Peru, the Mexican Institute of Cinematography of Mexico (IMCINE), the ICAU-Directorate of National Cinema and Audiovisual of Uruguay, and the Directorate of Cinematography of the Ministry of Culture of Colombia, in charge of the coordination and technical secretariat. It received additional support from the Inter-American Development Bank and UNESCO’s International Fund for Cultural Diversity (IFCD).

This joint initiative aims to strengthen regional cooperation through the organization of a capacity building workshop that was, for example, put in place to train young filmmakers from Latin America and the Caribbean on the creation of new business models for film distributions. The platform also aims to increase the presence of Latin American films in regional and international markets, by providing free access to its content in the region, but also by opening 8% of its catalogue to the rest of the world. Latin American films are therefore given the opportunity to be viewed in countries such as Germany, the United States, Spain, Switzerland, France, etc. The platform contributes to a more balanced flow of North-South and South-South cultural goods and services, as well as the sustainable development of the region’s film industry. It also wants to differentiate itself from other platforms focused on the commercialization of cinema, by being committed to cultural rights in the circulation of Latin American cinema.

Source: <https://en.unesco.org/creativity/policy-monitoring-platform/retina-latina>

Algorithms also play a major role in the discoverability of content and shaping users' taste, at the expense of an access to a greater diversity of content. In the music sector, the issue of access to playlists on digital platforms is a significant one, because what is presented to a user when listening to a playlist is a series of songs of different artists that have been chosen either by a person or an algorithm. But who decides on the content of that playlist? Who decides what music is visible on the streaming services? These are issues of market access that a Fair Culture initiative could aim to address.

## Payment of a just price

The first principle that comes to mind when thinking about fair trade is that of fair price or fair remuneration. The fair price has two aspects: the minimum guaranteed price and the premium (discussed below in the local development principle). The basic guaranteed price – or floor price – while being fixed with reference to the market price, cannot fall below a certain threshold. The objective is to guarantee a minimum price for the products, regardless of the vagaries of the market (Abdelgawad, 2003). The fair price guarantees a fair wage and covers the costs of sustainable production and living (European Commission, 2009). At FLO, the guaranteed minimum price is calculated for each product within FLO working committees (bringing together producers, buyers, fair trade organizations), based on average production costs per geographical area and the quality of the finished product (Diaz Pedregal, 2006). Unlike the FLO system, the WFTO fair price is not a fixed minimum price; it is rather determined by consultation between all stakeholders and must allow for an acceptable remuneration taking into account the local standard of living, without being too far from the market price (Balineau, 2010).

The issue of fair remuneration remains one of the central concerns for the cultural sector, and even more so in this era of digital platforms. Not only fair remuneration is what enables artists to keep creating, but as an interviewee bluntly expressed it, it is central to artistic freedom, as it allows artists to create what they want, and not what is too often dictated by funding partners or commercial stakeholders. But unfortunately, many artists struggle to live from their art, and sometimes end up abandoning the profession. This reality is nothing new. Artists have long been the weakest party to contract negotiations, have been confronted with difficulties in obtaining royalties due to the deficiency or lack of intellectual property rules or absence of penalties for copyright infringement, or victims of the wrongful idea that art must be free.

Piracy is a major challenge for the book, music and film sectors, and the consequences for copyright infringement are minimal. An interviewee told us that in Kenya, before the revision of the Copyright Act last year, the heaviest fine for piracy was \$4000 and nobody was ever con-

victed for such an offence. In other words, people were incentivized to go to the informal market, rather than buy the legitimate product. In many countries, the high price of cultural products, especially in the book sector, contrasts with the low purchasing power of the local population, which again invites piracy. One solution to this problem may lie in such an initiative as solidarity pricing, where those affluent pay what they can to subsidize those who cannot pay as much, in order to arrive at a fair median for the producer. This could be applicable to almost all creative goods and could indeed be a very interesting avenue.

## The Fair Trade Book and solidarity co-publishing

The International Alliance of Independent Publishers' attributes the Fair Trade Book label to works published in the context of international publishing agreements that respect each other's particularities, what is referred to as fair co-publishing. Fair co-publishing enables publishers to share costs linked to intellectual and physical production of books, ensuring an economy of scale, and to exchange professional know-how, while respecting the publishers' cultural contexts and identities.

Because of a compensation rule that allows disadvantaged publishers to pay lower costs than other publishers, a "fair trade book" sold for €15 in France will be for instance sold for €8 in Morocco and €5 in Cameroon. In other words, unlike other fair trade products, a "fair trade book" will not necessarily imply a higher price for the consumer. The cost repartition is based on geographic location, which means that consumers are charged an affordable price and that producers are guaranteed a fair repartition of the added-value. This means that a French or Canadian consumer, through his or her purchase of a "fair trade book," indirectly supports the purchase of the same book by a Benin or Malian reader, for a price adapted to his or her buying power.

Source: <https://www.alliance-editeurs.org/the-fair-trade-book?lang=en>

Contracts are also often unfavourable to artists, especially smaller artists or artists from the Global South. In the music sector, contracts with record companies can sometimes be characterized as exploitative, not only with regard to the revenue that artists get from their music but also, according to an interviewee, because some artists lack the knowledge required to understand what is in those contracts, or because contracts contain exclusivity clauses that prevent artists from going elsewhere. As for the revenue in the music industry, digital platforms have made the situation worse for small artists, not only for reasons we have mentioned previously (discoverability of content), but also because of the way those platforms redistribute the money. While it is true that artists that are not self-produced do not deal directly with those platforms but rather with record companies and that the cut that digital platforms retain is not so high (about 20% according to an interviewee), their distribution method is problematic. On major distribution platforms, the money spent by a consumer on a subscription is not paid directly to artists he or she is playing. Instead, the money collected forms a giant pool, and is paid out to artists according to the number of streams they accrue, even if the consumer has never listened to them. Some artists represent 5% of the total listening, others 4%, 3%, 2%, etc. But as you go down in popularity, you get percentages that are so low that the corresponding remuneration is insignificant. A recent poll by the Ivors Academy and Musicians' Union in the United Kingdom found that "82% of respondents earned less than £200 from streaming, from all of their music across all platforms in 2019" (Ivors Academy, 2019). This means that a majority of musical artists have to rely on touring to earn their living, which has been severely impacted by the pandemic. Finally, accompanying musicians should not be forgotten when thinking about musical artists, as fair remuneration of principal artists does not necessarily translate into fair remuneration of musicians.

## Alternative models of digital music platforms

The main alternative to the "common pot" remuneration model at the moment is the user-centric model, which allows for the user's subscription fee to be distributed according to his or her actual listening (to the artists he or she listens to), instead of ending up in a big pot that will be distributed according to the market share of each artist. SoundCloud has adopted this model for part of its catalogue – artists who monetize directly with SoundCloud – as of 1 April 2021.

Other interesting models are also being developed and tested. Primephonic, a classical music platform, uses a pay-per-second model, which remunerates the rights holders according to the listening time, so as to counter the disadvantage that classical music composers face on platforms today (according to current platform models, a 10-minute classical music piece and a 3-minute pop song receive the same royalty; yet in one hour, pop song can be listened to more times than a classical music piece).

Sonstream (United Kingdom) uses a pay-per-play model where users pay £0,03 per listening and £0,025 goes to the rights holder. Resonate (Germany) developed a stream-to-own model that charges the user for the first nine listening of the song (the average cost of a download), after which he or she becomes owner of the song and can listen to it indefinitely. Audius (United States) is developing a system to set a per-listening rate or a monthly subscription.

Bandcamp operates in a similar manner, however the artists can leave the choice of what amount to pay to the consumer or fix a minimum price for a track or album. They can also sell merchandise and other items through the platform (vinyl, or a t-shirt, ticket or cassette). As per its Fair Trade Music Policy, Bandcamp keeps a 15% share on digital items and a 10% share on physical goods, the rest going directly to the artist or their label.

Another important issue that needs to be taken into account is the fair payment of other professionals in the cultural value chain. Multinational enterprises are increasingly involved in the exchange of cultural products and services, and in doing so, they have disrupted cultural values chains. In the book sector, for example, an increasing number of authors from the Global

South are edited by foreign publishing houses, making it very difficult for local publishing houses to survive, and therefore jeopardizing the career of many professionals along the way. The same goes for professionals in other cultural sectors.

## Direct trade

Direct trade is a central principle of fair trade, since the idea initially was to cut the middlemen so that producers could earn a greater share of the profits from their products' sale. The principle is that the importer from the Global North buys directly from the cooperative or the association of producers or artisans from the Global South, without intermediary, these two stakeholders being considered the heart of fair trade (Audebrand and Pauchant, 2008). Fair trade organizations and producers from the Global South are considered equal trading partners. Direct trade avoids stock market speculation and ensures that the producers themselves and not the intermediaries are the real beneficiaries of the trade (Abdelgawad, 2003; Drainville, 2007).

This principle is more difficult to transpose to the cultural sector, because of different realities among the various sectors that comprise it. In the music industry, for example, an interviewee argued that there is a need for a stronger connection between creators, performers and listeners. Digital platforms are often singled out as being the cause for the insignificant amount of money artists earn from their music, and not without reason. However, they still redistribute a significant amount of the revenue to the rights holders, that is, the artists, the composers and the record company. But record companies often keep most of this amount. Therefore, artists that deal directly with digital platforms, like Bandcamp, SoundCloud or other similar platforms (see box above) for example, tend to get a much more important share of the revenue. A move towards that kind of platform would be beneficial. However, as we mentioned above, direct trade can end up eliminating jobs, as is the case with multinationals in the book sector dealing directly with writers from countries of the Global South.

## Long-term commitment

Sellers and buyers participating in fair trade are committed to establishing a long-term, sustainable relationship in which the rights and interests of both parties are respected (Drainville, 2007). Concretely, when purchasing a product, the importer undertakes to purchase it more than twice from the same cooperative or association in order to ensure a certain consistency in the cooperative's sales (Équiterre, 2006). The goal is to promote sustainable and transparent relationships and not just encourage short-term profits, dominated by the ethos of perpetual growth (Audebrand and Pauchant, 2008). Producers can then benefit from a stable income and develop future projects, and eventually develop sustain-

able production methods (Abdelgawad, 2003; Charlier et al., 2006). The relationship is also established between producers in the Global South and consumers in the Global North through the promotion of fair trade (Charlier et al., 2006).

This principle would find relevance in Fair Culture, since long-term sustainable relationships would bring more stability in the lives of artists and cultural professionals. As van Graan (2018) wrote, it is fundamental that any cultural cooperation project allows for the development of fairer, better informed and more sustainable international and intercultural collaborations. According to a study on more equitable international artistic engagements, it is better to speak of partnership rather than collaboration in cultural matters, because a partnership "implies a sustained, mutually supportive alliance. Its value is seen by partners to reside in the longer-term and wider reciprocal benefits that will accrue, and, for that reason, it is better able to weather disappointments and reversals" (van Graan, 2018). A long-term relationship could also be conceived as the sustainable development of the artists' creative potential and other competencies, in the form of capacity-building activities or other measures aimed at the sustainable development of professional careers in the cultural sector. For instance, instead of simply inviting an artist to a festival or event and paying for his travelling expenses, could this opportunity be taken to invite artists to take part in workshops, or help them further develop their networks through activities that foster relationships between artists and cultural professionals on-site. These would go a long way in ensuring that artists can develop their full potential, providing them with tools and networks that will help them throughout their careers.

Building trust is also important to establishing a long-term relationship. The good practice of solidarity co-publishing (see box above) is a good example of how a partnership is built on trust, which is developed through adherence to common standards, the most important one in the book industry being the "independence" of publishers. In addition, from the point of view of the value chain, a contribution from multinational enterprises, in particular digital platforms targeting national and local audiences, to the creation of new local content – that is content produced in the country in which the profit that finances this contribution is generated – would contribute to a long-term relationship between these platforms and the value chain of the cultural sector to which they contribute. This reinvestment of profits could also finance capacity building activities, and thus foster the sustainable development of cultural sectors in the targeted country.

## Access to credit

Small producers and artisans in developing countries do not have access to affordable sources of credit, which hinders their profitability. Fair trade organizations that purchase products directly from producers must promise to provide finan-



cial assistance such as loans, prepayment, or by introducing producers to other sources of financing (Tadros, 2002). A payment in advance will allow the producer to acquire the raw materials necessary for the production without resorting to indebtedness (Gendron, 2004). The prepayment will usually vary from 40 to 60% of the total value of the contract (Abdelgawad, 2003).

This principle, if not conceived in a different way, would be difficult to imagine in a Fair Culture context. Several interviewees were of the opinion that credit is far from the realities of artists from the Global South. One interviewee, referring to the fact that artists in Mexico often work in an informal context, believed that it is impossible to talk about access to credit for projects that are not registered in the context of tax law. Access to credit is arguably easier for commodities like coffee or cocoa, where producers get advanced payment for inputs, than it is for a cultural product or service. While prepayment might work for certain forms of art where you can anticipate sales, the same cannot be said for every art form.

Another interviewee argued that credit is one type of financing, and a very limited one. If an artist or cultural professional wants to test out new music or wants to do research and development on a new collection or to make a new slate of films, credit will not be so helpful, because there is no way to guarantee that the process will succeed. Therefore, an artist could receive credit, but not be able to pay back the amount. However, credit could be conceived in another way. The same interviewee proposed, for instance, that an artist or professional in the research and development phase of a project be able to access R&D funds that would allow him or her to try out new things without going into debt. In other words, the principle of access to credit could be broadened to financing that is fit for purpose in the life of the artist and life-cycle of the work of the artist at a certain point in time. This financing could, of course, come from developed countries in the form of preferential treatment under Article 16 of the 2005 Convention, but also from international funds like the International Fund for Cultural Diversity, for instance as a form of distribution of the premium (as will be discussed later).

An interesting model of alternative financing is the Patreon platform, through which artists can let their fans become active participants in their work by offering them a monthly membership. The artist gives them access to exclusive content, community, and insight into their creative process, and in exchange, he or she obtains the freedom to do his or her work, and the stability needed to build an independent creative career. For their part, fans know that their money goes directly towards creating more of what they love.

Participatory funding, or crowdfunding, is another interesting innovation, which supports the financing of SMEs. In Africa, it is estimated that for the creative sector, participatory funding represents about 20% of the total funds raised

(Nurse, 2016). The types of projects that fall under the creative and innovation campaigns range from film and video, to performance art and events, to design, publishing and other projects. A good example of a participatory funding program that targets the creative sector is CitySoirée, an arts and entertainment platform in which musicians fund their projects through private concerts. The HEVA Fund is another African example (in Kenya and East Africa particularly) that addresses the issue of creating market synergies. Among other things, the Fund catalyzes early-stage business growth strategies, optimizes creative sector value chains, and provides working capital and cash flow solutions. HEVA has a fund for start-ups as well as a growth fund for more established companies (Nurse, 2016).

## Technical support and training

According to the WFTO (2013), organizations working directly with small producers must develop activities to help these producers improve their management skills, production capabilities and access to markets – local, regional, international, fair trade or mainstream. Furthermore, organizations which buy fair trade products through fair trade intermediaries in the Global South must assist these organizations in developing their capacity to support the marginalized producer groups that they work with. Organizations of producers in the Global South also seek to develop the skills and capabilities of their employees or members. In order to ensure the sustainability of fair trade, capacity building and empowerment target in particular small-scale and marginalized producers and workers in developing countries, their organizations as well as their respective communities (European Commission, 2009).

A majority of interviewees believed that capacity building is the most promising principle through which a Fair Culture concept could benefit artists and cultural professionals. There is a belief among interviewees that capacity-building is crucial because once artists have been empowered, the rest will fall into place. Capacity-building is much needed in the book sector, for example, where authors in African countries have increasingly turned to self-publishing because of a near absence of publishing houses interested in distributing works of fiction. However, they find themselves deprived of the right professional support in terms of reviewing their works and getting professional editors to give them constructive feedback that would help them develop their work further. The lack of training facilities like writers' residencies is also an issue in many countries. As one interviewee mentioned, it is one thing to have talent or potential as an author, but it is another to have that potential or that talent nurtured and harnessed in a way that it realizes its full potential.

When it comes to digital technology, an issue that has been mentioned several times during interviews is that of a lack of digital literacy. Many artists still don't have the capacity to understand how digital platforms work. Capacity-building activities could address issues like how to negotiate a proper contract with streaming platforms, how to better self-promote on digital platforms, how to work with aggregators on the Internet or other similar issues. A number of interviewees mentioned the strengthening of digital platforms in the Global South as one way to foster a greater diversity of platforms and move towards a better equity in the cultural sector.

## Digital Arts Academy (Tajikistan)

The Bactria Cultural Centre established a Digital Arts Academy in Dushanbe (Tajikistan) aiming at offering courses on digital creation (coding, animation, graphic design, web design, and video editing) and entrepreneurship training to Afghan and Tajik female cultural entrepreneurs under the age of 40. The project aimed to provide these women with new skills to help them become competitive on the digital job market, and take part in rebuilding Tajikistan and Afghanistan whose cultural and educational infrastructure were destroyed by conflict and war. This project had a long-term perspective as it plans on closely involving these women, once they graduate, in the development of new curricula, teaching and in mentoring future graduates from the Academy.

A creative digital campaign to help raise awareness of the role and creative capacities of women was also designed by the graduates to recognize for the first time the contribution of women to the digital arts scene of Central Asia. The Bactria Cultural Centre is a branch of the Agency for Technical Cooperation and Development (ACTED) created in 2012 to address the lack of access to culture, information and vocational training in Tajikistan and Central Asia. The project was supported by the "You are next | UNESCO-Sabrina Ho" initiative (2005 Convention) aimed at removing barriers to women's participation in the digital creative industries.

Source: <https://www.you-are-next.org/projects/digital-arts-academy-tajikistan/>

One interviewee suggested that capacity building should recognize that learning takes place in different forms and stressed the importance of being creative about what is meant by capacity building. She argued that a Fair Culture concept should look at both traditional and new innovative forms of capacity building. She pointed out the example of an apprenticeship system in eastern Nigeria where people wanting to go into trade or commerce serve a practitioner for some years. They work in their shops, they learn, they understand how bookkeeping works, how to source, how to sell, and then they graduate. When they graduate, the practitioner has to give them a settlement, which serves as a seed fund, with which they can then start their own business. Different forms of capacity building should also take into account how some local communities and the elderly usually undertake the transmission of knowledge.

## Public awareness

A significant role that fair trade organizations play is raising public awareness of the importance of buying fair trade, mainly by informing consumers and governments about the human costs associated with the production of goods from traditional trade and advocating for greater justice in world trade through changes in conventional business rules and practices. By providing information about the history, culture and living conditions of small producers and artisans, fair trade organizations contribute to greater multicultural understanding and respect between consumers and communities in developing countries (Tadros, 2002). Outreach activities are not only targeted at consumers, but also at citizens in general, businesses and policy makers (Audebrand and Pauchant, 2008).

A Fair Culture concept could play a significant role in raising public awareness of the issue of fair remuneration of artists and cultural professionals, although not in the same way that it has with regard to fair trade. According to several artists and cultural experts interviewed, in many countries, there is still an idea that art should be free or that the government should be in charge of supplying art for society. If there is one thing that the pandemic has made clear, it is that society relies very much on art in difficult times. Now more than ever, there is a need to emphasize that artists rely on remuneration and recognition of the importance of their work to continue to create. The same can be said of cultural professionals – technicians, distributors, marketers, studio managers, etc. – who contribute significantly to ensuring a product or service is available to an audience or consumer. Furthermore, as one interviewee stated, if the public does not recognize that art is intellectual property, then it will not be willing to pay for it.



## Worldwide Music Expo

Worldwide Music Expo (WOMEX) is the most international music meeting in the world and the biggest conference of the global music scene, featuring a trade fair, talks, films and showcase concerts. It takes place every year in October and gathers over 2 500 professionals, including 260 performing artists, from 90 countries. WOMEX aims to “support and strengthen the role of culture around the globe and to spread its values through the nurturing and promotion of creativity and art.”

In October 2019, during the Finnish EU Presidency, the German Commission for UNESCO and the Finnish Ministry for Culture and Education organized an interactive workshop on “Fair Culture,” entitled “60 minutes for Fair Culture.” During this session, experts and practitioners reflected on the application of the concept of “fair trade” to the music field.

Source: <https://www.womex.com/about/womex>

On digital streaming platforms, for instance, artists in general receive insignificant amounts or are sometimes not even paid at all when their music is streamed. Part of the problem, as one interviewee mentioned, is that the consumer does not really want to ask questions. They pay \$9.99 a month and they get access to a catalogue of 45 or 50 million tracks. Consumers are comfortable with that. Without awareness-raising campaigns about the way streaming platforms redistribute profits, there is a good chance that consumers will not change their listening habits. One interviewee suggested that the Fair Culture movement publish a report every year stating, for example, that a Zimbabwean artist needs to have 20,000 times more views to earn the same amount from a YouTube video than an artist from the Global North. Such a comparison could make public the levels of inequality between artists from the Global North and the Global South. This would, of course, require that platforms make this information public.

However, several specificities of the cultural sector call for a different conception of the public awareness principle. Similarly to what will be explained below regarding the label, public awareness would be twice as penalizing to an artist if his or her product was not qualified as fair, because he or she may not have enjoyed good conditions to create. Lack of recognition of a cultural product could send the message that this artist does not deserve the label, which would in turn send a negative message to the public. On the other hand, artists or their creations are not interchangeable, like a bag of

coffee or any other fair trade commodity. When a consumer likes an artist, likes a cultural product, he or she will not turn away from this artist or this particular product because the work is not qualified as fair.

This is why raising awareness of cultural products may have limited relevance. This principle could have a better impact if focusing on the other links of the value chain. For example, it could highlight what is a “fair” relationship between an author and a publisher, a musician and a digital platform. It could also emphasize what fair conditions are with respect to cultural events, cultural venues (concert halls, exhibition halls, etc.). Finally, awareness raising activities could seek to highlight the value of preserving diverse cultural expressions, thereby echoing the commitment to education and public awareness set forth in Article 10 of the 2005 Convention in that regard, as well as related elements (e.g. linguistic diversity), and the need for communities across the world to be able to exercise their cultural rights. The Fair Culture movement could also link with the advocacy work done around the presence of culture in the 2030 Agenda, for instance the platform #culture2030goal.

## Compliance with labour standards

This principle consists of guaranteeing the rights of producers and workers. According to FINE, fair trade actors must commit to providing a fair income (this “decent” income is not necessarily the minimum income in force), respecting safety, health and social conditions at work, respecting labour laws in force in the country and contributing to the respect of the fundamental rights of workers as defined by the United Nations, and applying the international labour standards defined by the International Labor Organization (in Balineau, 2010). Among the fundamental standards of the ILO conventions to which producers in the Global South are bound are respect for the freedom of association and union of the members of the group, the right to negotiate collective agreements, the prohibition of discrimination in employment based on political affiliation, religion and sex, and the prohibition of all forms of slavery, forced labour and exploitation, including the exploitation of children (Abdelgawad, 2003). If the country’s standards for working conditions are higher than the ILO’s, the organization must respect those (Johnson, 2001).

In the cultural sector, the main issue related to labour standards remains fair remuneration for artists; the informality of the cultural sector allows, in a way, companies, producers, promoters to pay what they think they can. An interviewee mentioned, for example, that in Senegal, musicians will sometimes be provided with a meal in exchange for a performance in small venues. But it is possible to imagine that Fair

Culture could, for example, require participating venues – performance spaces, theatres, exhibition halls, etc. – to ensure the fair remuneration of artists who perform on site. As for multinational enterprises, the principle of compliance with labour standards could be covered by the implementation of a due diligence standard as mentioned in the previous section. However, the conditions of work for artists could be considered as falling under the purview of states, since the *1980 Recommendation concerning the Status of the Artist* calls upon them to improve the professional, social and economic status of artists through the implementation of policies and measures. These policies and measures relate, among other things, to training, social security, employment, income and tax conditions, mobility and freedom of expression. There is a responsibility on the part of states to adopt and implement appropriate laws and regulation so that labour standards are respected on their own territory.

Policy makers, notably in Africa, are in the process of setting up a legal, political and institutional framework in order to regularize the professional status of the artist and to take into account the atypical form of their activity. Yet, challenges like the lack of funding for the cultural sector, the limited economic capacity to provide social safety net programs, and the lack of expertise and infrastructure to eradicate piracy, especially in the digital age make the implementation of these policies difficult, and there are often deficiencies in terms of monitoring the implementation of laws and policies. In that regard, there may be an opportunity for collaboration between states to help countries develop appropriate laws and regulations. However, this falls under a more classic form of cooperation, which is already strongly encouraged by the 2005 Convention, in the Sustainable Development Goal 17 (Partnerships for the Goals) of the 2030 Agenda, and the founding documents of the Global Partnership for Effective Development Co-operation (from the Busan agreement onwards).

## Local development

A central principle of fair trade is that a portion of the revenue from fair trade sales must be reinvested in the community in the form of local development projects. The fair trade premium is calculated according to transparent criteria and allows producers and their family to sustainably meet their basic needs and to finance social, economic and ecological projects (Abdelgawad, 2003; Drainville, 2007). This amount can, for instance, finance the construction of schools or hospitals, the training of personnel, the improvement of production or transition to organic production. Producers decide democratically how this premium will be allocated, but it is understood that it must serve the collective interests of the producer groups; these profits must be reinvested in productive investments that create jobs and in development programs of a

collective nature (Abdelgawad, 2003; Charlier et al., 2006).

It goes without saying that this principle, seen as a reinvestment in the cultural value chain, would be very relevant to a Fair Culture concept, and there are many ways in which a premium could be invested in the cultural sector. Many interviewees mentioned the lack of infrastructure in many countries of the Global South, whether it be availability of spaces like cultural centres, theatres, exhibitions spaces, schools and training centres, performances venues, or access to equipment, filming locations, software, etc. Part of the premium could be put into a fund that artists and organizations could apply to, for example, to buy equipment or subscribe to group licences to access a software.

There is also a great need for the development of digital infrastructure in many countries, starting with the availability of Internet connection in some regions. This presents an obstacle in the form of a digital gap between the Global North and the Global South that hinders the access to market of the latter. This could also translate into an investment in digital platforms in the Global South – new or existing – that could offer an alternative for artists looking for platforms with alternative business models. On that note, a West Africa cultural expert interviewed for this project mentioned a shift that is happening in this region, where the notion of what cultural infrastructure should look like is being reimaged. There are different notions of what a museum could look like, what arts training or what filmmaking training could look like. This is something that is being seen in different sectors, for example, with different sorts of new aesthetics in filmmaking, in more arts and public spaces, in countries like Senegal, Sierra Leone, etc. This is where the premium could stimulate innovation. It could be reinvested in research and development for new digital models, for instance, or new platforms that would be collectively owned, allowing for a rechanneling of the profits into a fund. In the film sector, one interviewee suggested that the premium be used to help directors that produce quality niche films, in the form of a balancing subsidy. For example, if a film has a certain success, the director would receive an amount that would support his or her next production.

The premium could also be conceived as a tax or fee – or other form of contribution – levied on major digital platforms to be invested in the creation and production of new local content, targeting more specifically smaller artists. This could help reduce the “value gap,” that is, the disparity between the value of creative content that is accessed and enjoyed by consumers on platforms, and the revenues that are returned to the people and businesses who create it. This gap occurs when organizations and businesses that use this content commercially do not compensate artists or creators adequately, resulting in their inability to earn a living from their work (Music Canada, 2016).

It should be noted that in a certain way, this conception of the premium already exists in certain cultural sectors, and especially in the countries of the Global North. Canada, for example, requires public broadcasters to pay a fee, the proceeds of which are reinvested in funds to support the creation of new Canadian content. The notion of “broadcaster” could soon be extended to include digital platforms under a new bill. France has amended its General Tax Code to impose a tax on foreign online cultural content broadcasting services and to allocate the revenue from this tax to the Centre national du cinéma et de l’image animée. These are just two examples, but inspiration could be drawn from national experiences to develop an innovative system linked to profits generated by the web giants.

To remain in line with the main purpose of the premium, digital platforms would not decide themselves where to reinvest this amount; the choice of what type of content should be supported would be left to associations or organizations (local, national or international) that would take these decisions in a democratic and independent manner.

The management of the premium could be done at the national level or multinational level. The first option would be that existing independent organizations in countries be in charge of collecting contributions, deciding on what project to finance or what type of activity to support, and redistributing or reinvesting the amounts accordingly. This would imply prior work to identify the relevant organizations for the cultural sectors concerned. However, without proper national legislation to require multinational enterprises to contribute to local cultural value chains through a reinvestment of a percentage of the profit generated by targeting the population of the country in which they operate, it is difficult to imagine such a redistribution scheme will see the light of day. Furthermore, while some countries have put in place mechanisms to collect fees from digital platforms, or have adapted existing mechanisms so they apply to the digital environment, others countries may not have the appropriate mechanisms to enforce reinvestment in cultural value chains, or may not have structures or authorities to manage these funds.

Therefore, the use of an international structure could be considered. The example of the IFCD is relevant in this regard, as financed projects are selected by a group of independent experts. However, the IFCD in its actual practice is not entirely effective, due to the small sums disbursed in the face of huge requests. It may also duly be argued that the informality of the cultural sector is not truly compatible with the bureaucratic requirements of multilateral organizations. In this sense, multilateral structures could ease their requirements to show greater flexibility and take into account the informality of the sector. An alternative solution at the multilateral level would be to work with major

international alliances and regional alliances in the cultural sector, as these organizations will have a better knowledge of the needs in their respective sector and region. These alliances could prove to be more user-centred, transparent and could promise a fast delivery of funds. Of course, a dialogue with these organizations should be initiated in order to assess the state of needs and the type of mechanism that should be put in place to receive funds and ensure a fair redistribution (see Action 2).

Another area where the premium could benefit artists and cultural professionals is social protections. As the ILO highlights, in most countries, “entitlement to social protection benefits under social insurance schemes is determined by the type of activity, contractual relation and labour income.” Characteristics of creative and cultural sector occupations<sup>24</sup> “often lead to sporadic social security contributions, which can have a significant impact on access to social protection benefits for CCI workers when a particular contingency occurs (such as maternity or sickness)” (ILO, 2021). A majority of artists are either self-employed, have open-ended contracts, temporary contracts or, in some cases, have no contract of employment or no knowledge about their contract. They therefore have no or restricted access to insurance. Private insurance is also too expensive for a majority of them, and many artists end up either finding a new career or retiring in poverty at the end of their artistic career. The premium could be invested into a fund to cover some form of social insurance. This is where the expression “social premium,” as it is often referred to in fair trade, takes on its full meaning. It must be noted that this kind of mechanism exists in collective management organizations (CMOs) that are well structured. However, where these CMOs are absent, or not structured well enough to perform such a task, independent funds could fill the gap and provide those social protection schemes. Another solution could be to provide capacity building to put in place sustainable CMO and union structures.

## Democratic and transparent organization

Producers and artisans participating in fair trade are required to organize themselves into cooperatives or associations to have control over the management of their assets and the sustainable development of their businesses.<sup>25</sup> Fair trade

<sup>24</sup> The ILO cites the following characteristics as reasons for lack or low social protection coverage in the creative and cultural sector: exclusion from social protection programs in law and practice, project-based and short-term engagement, irregular and varied types of remuneration, fluidity of employment relationships in CCI occupations, idle time in creative occupations, high risk of employment injury, and uneven union representation (ILO, 2021).

<sup>25</sup> Organization in groups is not required by every fair trade stakeholders. IFAT, for example, speaks of support to marginalized, disadvantaged, and poor producers,

organizations develop partnerships with mainly small businesses, cooperatives and democratically managed associations that have a positive impact on the lives of workers and their communities. Through this pooling of productive forces and resources, workers are able to access credit, reduce the cost of raw resources, and demand a higher and fairer price for their products. Workers therefore earn greater income, and over time, they reinvest this money in the development of community projects such as health clinics, day care centres, schools, etc. (Tadros, 2002).

The group must be based on a democratic and transparent process that allows each member to participate in the decisions that affect them, the direction to be taken and the sharing of benefits. It must also have a board of directors elected by the members and a general assembly in which each member has the right to vote. Special attention is given to the participation of the most excluded social groups, such as women and social and cultural minorities (Abdelgawad, 2003). Furthermore, the organization ensures that relevant information is provided to all its trading partners (WFTO, 2013). In fact, transparency must be respected at every stage of commercial relations between all partners, by imposing a reciprocal obligation to provide information on working conditions, wages, prices, and the production and distribution process (Abdelgawad, 2003). Transparency and traceability throughout the supply chain help guarantee appropriate consumer information (European Commission, 2009).

This principle would be very relevant to the cultural sector, to go along with the principle of reinvestment in the cultural value chain discussed above. There are many organizations in various CCI sectors in the countries of the Global South, although they are organized in a different manner than fair trade cooperatives, which are community-based. In some countries, they are regrouped in national Coalitions for Cultural Diversity, themselves part of the International Federation of Coalitions for Cultural Diversity (IFCCD).<sup>26</sup> Fair Culture partners could work with existing cultural and industry organizations and international associations that are democratically governed. These could be involved in decisions on the best way to use the premium.

A few interviewees mentioned the importance of capacity building. One in particular argued that organizations are very often run by well-endowed artists who also have a big voice in the industry and get elected to leadership positions without having developed capacities in governing such organizations. This poses a problem of accountability, since they are not always trained and prepared to run such an organization pro-

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without referring to the notion of grouping. Producers may then be family businesses, producer associations or cooperatives (Charlier et al., 2006).

<sup>26</sup> See: <https://ficdc.org/en/>.

professionally. Therefore, a first step might be to vet those organizations beforehand. A second interviewee suggested that it might be good to work with hubs that have systems in place, and that can play a good role in integrating Fair Culture ideas and principles in their capacity building programs. An example of a similar initiative is the “Global Project Culture and Creative Industries,” supported by the German Federal Ministry for Economic Cooperation and Development (BMZ). It supports existing cultural organizations such as culture centres and networks in six countries in the Global South, providing technical advice, imparting relevant skills, and access to new markets and financing schemes.

The principle of transparency would apply to the entire value chain as is the case with fair trade. The objective would be to make information public so that compliance with the principles of Fair Culture can be easily accessible. Industry, artists and cultural professionals associations could publish information about how they use the premium. The principle would also be applicable to private actors. Each platform participating could, for example, make public information about what percentage an artist gets for each sale or stream of his or her creation. The public could better understand what kind of business model these platforms have. Professional associations, trade unions, umbrella organizations, federations of creative entrepreneurs and other groups could also potentially play a role in helping identify needs at the sector level and engage in policy discussions with public authorities, as well as with donors and with national or multinational private enterprises, with a stronger negotiating position as organized groups.

## Non-discrimination and gender equality

In general, fair trade provides that organizations must not discriminate in hiring, remuneration, access to training, promotion, termination or retirement based on race, caste, national origin, religion, disability, gender, sexual orientation, union membership, political affiliation, HIV/Aids status or age (WFTO, 2013).

In regard to gender equality, fair trade promotes the autonomy of women, and requires that they be paid the same as men and that they be able to participate in decision-making (Charlier et al., 2006). The organization must have a clear policy to promote gender equality that ensures that women and men have the ability to gain access to the resources that they need to be productive as well as the ability to influence the wider policy, regulatory, and institutional environment that shapes their livelihoods and lives (WFTO, 2013). Furthermore, organizational constitutions and by-laws must enable women to take up leadership positions in the governance structure regardless of women’s status in relation to ownership of assets such as land and property.



The WFTO also requests that Fair Trade recognize, promote and protect the cultural identity and traditional skills of small producers as reflected in their craft designs, food products and other related services.

Women artists face significant challenges in the various cultural sectors, where they are under-represented, and especially when it comes to key creative roles and decision-making and leadership positions (UNESCO, 2017). Furthermore, disparities remain between women and men in terms of remuneration and access to financial and technical resources.<sup>27</sup> Finally, women, as well as LGBTQ2 and non-binary people, continue to suffer from gender-based violence in all parts of the world, a problem that “affects their ability to work and to participate safely in all aspects of life, including cultural life” (UNESCO, 2021). There has been an emerging focus on the issues of harassment and abuse across the world with the #MeToo movement, and initiatives in the cultural sector were launched in response.<sup>28</sup> There is no doubt that a principle of gender equality would be very relevant if all individuals are to participate on equal terms in all areas of cultural life and be protected from gender-based violence.

Non-discrimination would be especially relevant to ensure that the cultural expressions of national minorities benefit from the same treatment as other cultural expressions. The same goes for expressions in minority languages or expressions of indigenous peoples. There can be no Fair Culture, and more generally no cultural diversity, without non-discrimination policies.

## DigitELLES

DigitELLE is a project launched by a Senegalese NGO, Africulturban, specifically designed to combat stereotypes and empower women to fight against discrimination in the music industry. The project provides a comprehensive new digital training programme for 20 young female artists to strengthen their technical and artistic skills in music creation and production, and helps them establish micro-enterprises. Lack of operational and managerial knowledge was identified as an obstacle for their participation in the music industry.

A female entrepreneurial club, “DigitELLES\_my passion, my profession” was therefore created to fill this gap and provide personalized training. A four-day training on music business was put in place, in collaboration with Positive Planet International, to help these women develop their entrepreneurial projects. Overall, this project aims to help young women create micro-enterprises, boost their employment opportunities through appropriate training, and achieve financial independence. Africulturban also plans to launch an awareness campaign to combat stereotypes and empower women to fight against discrimination in the music sector. DigitELLES is an initiative supported by the “You are next | UNESCO-Sabrina Ho” initiative (2005 Convention) aimed at removing barriers to women’s participation in the digital creative industries.

Africulturban is also a partner organization of the “Global Project Cultural and Creative Industries,” supported by the German Federal Ministry for Economic Cooperation and Development and implemented by the Deutsche Gesellschaft für internationale Zusammenarbeit (GIZ) GmbH.

Source: <https://www.you-are-next.org/news/senegal-autonomiser-les-femmes-de-lindustrie-musicale/>

<sup>27</sup> For example, an analysis by FC Gloria – Frauen Vernetzung Film, a network of women in the Austrian film and audiovisual industry, of the distribution of funding resources among women and men in three central creative roles – scriptwriter, director and producer – between 2011 and 2015 revealed that only 22% of all public funding for cinema was allocated to films with female directors, writers or producers, while the disparity was even higher in films made for television, with just 12% of the funds allocated to projects involving a woman in at least one of the three positions (UNESCO, 2017).

<sup>28</sup> Sinematik Gak Harus Toxic (Cinema Doesn’t Have to be Toxic) campaign in Indonesia and Screen Women’s Action Group (SWAG) in New Zealand are good examples of initiatives aiming to end harassment and abuse in screen industries. See: UNESCO, 2021.



## Respect for the environment

Fair trade producers must maximize respect for the environment through the adoption of ecologically sustainable practices. Many fair trade organizations work directly with producers to develop products that use natural resources in a sustainable way and use technologies that respect the environment and minimize risks. This encourages communities to protect the natural environment for the benefit of future generations (Charlier et al., 2006; Tadros, 2002; WFTO, 2013).

While this principle may not be as central as other principles mentioned in the study, respect for the environment remains important, and the Fair Culture movement can play a role in working towards encouraging environmentally sound practices in the cultural sector. However, it should not be forgotten that means and resources in developing countries are often more limited, and therefore the pace of adaptation to environmental standards can vary between countries.

Some industries have a significant ecological impact: we can think about book printing and its polluting effects and impact on forests or cinema and its carbon footprint generated by energy intensity and toxic materials utilized (UNESCO, 2017). Digital technology has initiated a dematerialization of cultural products that will in the long-term have a favourable impact on the environment. This comes with a cost, however, since the uptake of digital technologies results in energy consumption and emissions – on the part of giants' server farms, for example – materials sourcing and toxicity, and electronic waste (UNESCO, 2017). An interviewee suggested on this subject that the Fair Culture initiative also play a role in raising awareness of the environmental cost of each song downloaded from Spotify. Another option would be that digital platforms involved in Fair Culture present the carbon footprint of each song, film or book that is downloaded or streamed on their platform. The imposition of a due diligence standard on multinational corporations, and its monitoring by states, would play a crucial role in supporting this principle. Finally, it is worth mentioning EarthPercent, a new music industry-affiliated charity founded by Brian Eno, designed specifically to engage businesses in assigning a small percentage of their income to climate charities (Music Business Worldwide, 2021).

## 2. Governance that finds inspiration in the fair trade movement

As we have mentioned above, fair trade was initially established among small-scale producers organized as cooperatives who were struggling to compete in a global marketplace against large-scale well-resourced plantations. However, standards were later developed to cover plantations that employ hired labour, as well as self-employed farmers under contract with a trading partner. While for cooperatives, standards require all members to participate in the decision-making, for large-scale plantations, special attention is given to respecting workers' rights, and providing social benefits (Commerce équitabile France, 2020).

There have been traditionally four groups of organizations that make up the fair trade movement, namely the producer organizations in developing countries (producers), the buying organizations in developed countries (importers, wholesalers and retailers), the umbrella bodies (WFTO, FLO, NEWS, EFTA) and a wide range of conventional organizations such as supermarkets that engage in fair trade (Moore, 2004). There are also a number of national labeling initiatives that represent the Fairtrade (FLO) system at the national level, mostly non-profit associations whose role is to put industrialists from countries of the Global North in contact with producers from the Global South to adapt international standards to the different countries, and to participate in the promotion of fair trade (Balineau et Dufeu, 2012).

In the labelling system, FLO is responsible for developing the various specifications that producers and other stakeholders must respect. For many years, it was directed by a board composed primarily of traders and the national labelling initiatives that together created the umbrella group. However, after a certain time, this approach was challenged by producers who were frustrated by the costs of meeting the standards and getting certified (Elliott, 2012). There was also no representation of producer organizations on the board. Francisco VanderHoff Boersma, one of the original actors in Fairtrade, noted in 2002 that “[f]or some time there was no democratic participation within the [Fairtrade] system.” He described Fairtrade as “a pyramid decision-making structure, where the top often does not communicate with the base” (in Sutton, 2013). In 2007, the FLO leadership decided to include representatives of producer organizations and subsequently expanded their role. The number of seats for certified producer organizations increased to four, one from each region, along with 5 representatives of labelling initiatives, 2 trader representatives, and 3 independent external experts. FLO further expanded the general assembly in 2011, so that representation is evenly divided between producer and labelling initiative representatives (Elliott, 2012).

Several criticisms regarding governance have been directed at FLO that could be relevant for a possible Fair Culture initiative. Dolan found in a research on a Kenyan Fairtrade tea factory that producer representation is a major challenge at both the international and local levels, asserting that fair trade is often “marked less by collaboration and consent than by patronage and exclusion” (in Sutton, 2013). Macdonald (2011) writes that the democratic credentials of the fair trade system have been widely questioned, due to significant structural power imbalances between participants from the Global North and the Global South that influence day-to-day dynamics of operational decision-making, as well as the broader strategic governance of the system. She adds that “the majority of positions on the FLO Board are held by fair trade stakeholders from consuming countries rather than producers, and many key negotiations and meetings still take place in the North.”

For Carimentrand et al. (2011), one of the issues with fair trade governance is that while it is the producers of the Global South who are at the origin of the creation of the first fair trade label, it is no longer the producers who, paradoxically, decide on the content of fair trade standards. They argue that in parallel with the expansion of the movement, the definition of the norms and standards that producers must meet in order for their products to be certified has become a point of tension, since over time producers have been increasingly subject to norms and conditions set in the Global North without their agreement. Another issue is that quality requirements and standards – especially environmental ones – are sometimes inappropriate for local conditions. Mohan (2010) criticizes the fact the fair trade requirements “may well reflect the subjective views of Western consumers and not the real needs of poor producers.”

These are criticisms to take into account if the Fair Culture initiative is to succeed. Artists and cultural professionals, as well as associations or artists and cultural professionals – including large international alliances, which are well-structured and organized – must be at the heart of decision-making, especially when it comes to decisions regarding the reinvestment of the premium, which must be taken by organizations whose management rests in their hands. But they must also be consulted on the content of the standards to ensure that they take into consideration the respective local realities of artists and cultural professionals, so that requirements can be met, and that beneficiaries do not feel the standards are imposed, but rather decided and agreed upon in consultation with them. This means that consultations should begin before the Fair Culture concept is decided upon – even before drafting a Fair Culture Charter (see Action 1) – and that consideration of the needs of target beneficiaries must be combined with lessons learned from the fair trade movement.

## Certification: what is the best model for the Fair Culture movement?

Fair trade has evolved from an alternative movement against the market to a movement within the market with the development of a fair trade label. This has enabled fair trade to gain greater access to the market as fair trade products could from that point be sold on the shelves of supermarkets, a move that some criticized as leading fair trade away from its origins.

Fairtrade International (FLO), the main labeling umbrella organization, manages the certification process through FLO-Cert, an independent company created by FLO and in charge of verifying that all stakeholders in the chain comply with the standards set by FLO. Its inspectors visit producer organizations and traders every year to verify that the standards are correctly applied (Balineau and Dufeu, 2012; Sutton 2014). The first fair trade buyer – the cooperative or the import/export company – is also the object of particular attention insofar as it pays the fair trade price and the development premium to producers (Balineau and Dufeu, 2012).

This model, referred to as the “third-party” model, provides the consumer with a higher guarantee, since the certifying organization is independent. However, it involves significant costs that can be a burden for producers.<sup>29</sup> Claar and Haight (2015), in a study seeking to evaluate if fair trade is worth the cost, criticize the fact that “the poor are asked to pay thousands of dollars in order to gain access to the FLO network and the price stability and the 20-cent social premium that participation offers.” Mohan (2010) argued that fair trade “has grown into a complex bureaucracy and an industry in itself. Consequently, it has to charge high certification fees to cover these costs, which eats up a major proportion of the Fair Trade price premium.” Furthermore, it has been noted that the inspector’s fees per half-day can amount to an average of between €400 and €500, and that charges are added for additional inspectors or supplementary travel days (Goodman, 2004). In the context of a Fair Culture initiative, the question of who will pay these certification fees will inevitably arise, especially when the main issue facing artists is the inability to earn enough revenue from their creation.

On the other hand, other fair trade models could serve as an example for alternative certification systems (such as those of WFTO and EFTA). For instance, a process based on participatory or cross-certification could be developed, where member organizations certify other member organizations. This could offer a less

<sup>29</sup> For instance, UNCTAD reports that in Vanuatu, annual audit costs for organic certification can range between \$2,000 and \$10,000, which is a steep fee in a country where the monthly minimum wage is \$290.

expensive alternative that provides participants with capacity building opportunities. However, participatory certification offers fewer guarantees to consumers that the standards are respected along the value chain. On the other hand, if awareness-raising activities were to be done within the cultural value chain instead of towards the consumer, then cross-certification would become an interesting option.

The issue of the label is where Fair Culture could move away from fair trade as it is known today. As mentioned earlier, the fair trade label applies to products, which bear the mark and are sold in conventional retail stores. However, this way of functioning in the cultural sector could be twice as penalizing for artists, as they do not always benefit from the best conditions to create. In that sense, penalizing artists who do not check all the boxes with regard to the standard would render the Fair Culture concept more harmful than beneficial. It is also important to keep in mind that the objective would be to certify the process of production, distribution, dissemination and access to cultural expressions, and not the artist or his or her creation. Therefore, the label would not be intended to apply to products, but to organizations, digital platforms, projects and events that could show that they respect the principles included in the Fair Culture Charter. This means that the Fair Culture label would, in a certain way, reflect the original approach to fair trade, where the whole store or organization selling fair trade products is certified. This could apply to different actors and steps along the cultural value chain.

On the subject of the value chain, it is also worth evoking the possibility that the label certifies part of the process, or certain steps along the value chain, similarly to what some initiatives have proposed. Fairphone, for instance, is a good example; knowing that it is not possible to produce a 100% fair phone, they are working to gradually incorporate fairer, recycled and responsibly mined material into their phones.<sup>30</sup> Therefore, this translates into a label that can be understood as a form of scale towards 100%. This can potentially increase industry and consumer awareness; enterprises can show better transparency and accountability by demonstrating that this or that step is done in a fairer and more responsible manner, which can be easier to trust for consumers than enterprises that claim to be 100% fair. Enterprises participating in Fair Culture could also be awarded a score, for example, rating how fair their value chain is.

## Public procurement policies and Fair Trade Towns campaign

A number of initiatives and policies have developed in Europe around Fair Trade over the years.<sup>31</sup> The city of Madrid, Spain, introduced procurement Regulation 2/2016 on including ethics and fair trade clauses in contracts, concessions and authorizations, which requires all public bodies of the municipality to include fair trade clauses and/or products in all contracts and authorizations whose purpose is the supply of food or catering services. The regulation makes it mandatory to include in all catering tenders at least a fair trade product.

The city of Ghent, Belgium, has worked towards raising awareness of fair fashion through initiative like the Fair Fashion Fest, which promotes fair textile through a fashion show, fair fashion market, lectures and workshops, as well as “Fair Fashion Labs,” spaces that allow entrepreneurs, researchers and civil society organizations to meet and share experiences (FTAO, 2019). Another Belgian city, Bruges, became the first city to bring its own fair trade chocolate bar to market, thus combining the local know-how and excellence in the field of chocolate with fair trade producers in the Global South.

The municipality of Saarbrücken, Germany, through its “Masterplan Fair Trade 20-Now,” has been organizing workshops, debates, and other initiatives to promote fair trade towards different stakeholders and in different areas. The city was also planning, as of 2019, an award for companies that are committed to fair trade. The city of Gothenburg, Sweden, went even further in the promotion of sustainable consumption patterns, by promoting sustainable lifestyles. The municipality has made available an online platform on changing attitudes and behaviours to its citizens to inspire them to think about how they can change their habits to contribute to sustainable development.

The European Commission, in December 2017, launched the first EU Cities for Fair and Ethical Trade Award, which aims to recognize and reward European local authorities that promote fair, ethical and sustainable trade practices. The first winner, in 2018, was the city of Ghent. Among other things, the award helped to raise awareness on sustainable consumption and production patterns, managed to create a network of cities willing to share examples of good practice on these issues, the “Sustainable Cities Network,” gave media attention to the role of local authorities in promoting sustainable development through trade, and provided a financial incentive for city led sustainable development cooperation projects (FTAO, 2019).

<sup>30</sup> See: <https://www.fairphone.com/en/story/>.

<sup>31</sup> The following municipal initiatives have been identified by the Fair Trade Advocacy Office (see FTAO, 2019).

The main example of how civil society organizations, local businesses and local authorities can promote fair trade at the local level is the Fair Trade Town Campaign. The first of these initiatives, launched in 2000 in Garstang, UK, aimed to involve the local community and seek its help in promoting the purchase and consumption of fair trade products in the town (FTAO, 2019; Helms, 2011). Today, more than 2000 local authorities in about 30 countries across the globe have committed to increasing their sourcing of fair trade products.<sup>32</sup>

A parallel could be drawn between the Fair Trade Towns campaign and the Sustainable Cities Network, and the UNESCO Creative Cities Network (UCCN), a network that was created with the aim of promoting cooperation with and among cities that have identified creativity as a strategic factor for sustainable urban development. The 246 cities in the network seek to place creativity and cultural industries at the heart of their development plans at the local level and cooperate actively at the international level. Like the Sustainable Cities Network, members of the UCCN commit to sharing their best practices among themselves. UCCN members also develop partnerships involving the public and private sectors as well as civil society in order to, among other things, strengthen the creation, production, distribution and dissemination of cultural activities, goods and services, develop hubs of creativity and innovation and broaden opportunities for creators and professionals in the cultural sector, thereby improving access to and participation in cultural life, in particular for marginalized or vulnerable groups and individuals.

The UCCN could also play a similar role to Fair Trade Towns in promoting fair cultural purchase and consumption at the local level, with a focus on the need to support marginalized and vulnerable artists and cultural professionals especially. They could also, for example, encourage and facilitate the creation of Fair Culture venues through incentives like financial support, subsidies, and promotion, in exchange of which these venues would respect Fair Culture standards in their relations with invited artists.

In the same vein, the Committee on Culture of United Cities and Local Governments (UCLG) is an interesting example of a platform that promotes the substantial integration of culture in approaches to local sustainable development and brings together cities across the world. Among other things, the Committee organizes

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<sup>32</sup> The five core criteria to become a Fair Trade Town are the following: 1) the local council needs to pass a resolution supporting fair trade; 2) a local fair trade steering committee needs to be set up, and meet regularly in order to increase awareness of and demand for fair trade products through education, outreach and events; 3) a range of fair trade products need to be available in local stores, cafes and other venues; 4) fair trade products need to be used by a number of local organisations such as schools, hospitals and offices; 5) the local campaign needs to attract media attention and visible public support (FTAO, 2019).

an International Award on Cultural Policies every two years – an initiative similar to the EU Cities for Fair and Ethical Trade Award. Among other actions, it hosts a database of good practices on “culture in sustainable cities,” convenes a global Summit on Culture every two years, runs programs to support the elaboration and implementation of cultural policies (Leading Cities, Pilot Cities and Culture 21 Lab) and has an advocacy campaign to promote culture in the 2030 Agenda and the Sustainable Development Goals. Interestingly, its Agenda 21 for Culture encourages international cultural cooperation – which it describes as an indispensable tool for the constitution of a supportive human community – “which promotes the free circulation of artists and cultural operators, especially across the north-south frontier, as an essential contribution to dialogue between peoples to overcome the imbalances brought about by colonialism and for interregional integration” (UCLG, 2004).

There is definitive potential for a transposition of fair trade to culture, although some adjustments will be required to adapt the concept to the realities of the cultural sector. While most of the principles that underlie fair trade remain relevant, a few core principles only will actually shape the Fair Culture concept.

In addition, Fair Culture would, just like fair trade, contribute to advancing several SDGs, starting with SDG 1 (No Poverty), SDG 2 (No Hunger), SDG 8 (Decent Work and Economic Growth) and SDG 10 (Reduced Inequality) by providing an equal access to market to all artists, ensuring fair remuneration to all involved in cultural sectors, and facilitating investment in the cultural value chain through a premium. It would also support SDG 5 (Gender Equality) by promoting equal participation and equal access to resources for men and women involved in the cultural sector, SDG 12 (Responsible Consumption and Production) and SDG 11 (Sustainable Cities and Communities) through the promotion of sustainable cultural consumption patterns that would ensure artists can continue to create and through networks of Fair Culture in cities, SDG 4 (Quality Education) by encouraging investment of the premium in cultural education and training infrastructure. Finally, it would contribute to SDG 17 (Partnerships for the Goals) through the work of organizations taking part in Fair Culture with governments to establish fairer trade practices in the cultural sector and, over time, to SDG 13 (Climate Action) by encouraging environmentally sound practices in culture.

At first glance, the fair trade concept appears to be transposable to culture. But to ensure it can effectively have a positive impact, it will be crucial to take into account mistakes and lessons learned from the fair trade movement, as well as to open a dialogue with target beneficiaries in order to obtain their input, which is necessary if the concept is to respond to their most pressing needs. With this in mind, what would be the next steps in the implementation of Fair Culture?







# IV. How do we move forward?

In order to move forward, the last part of this study reflects on the three priority areas that define the concept of Fair Culture (A) and identifies six actions that could be undertaken to implement the Fair Culture movement (B).

## A. Three priority areas for implementing the concept of Fair Culture

Each state has not only the right but also the responsibility to protect and promote the diversity of cultural expressions within its territory; this is not only a consequence of the UNESCO 2005 Convention, but of universal human rights treaties as well as other types of initiatives such as the Global Partnership for Effective Development Co-operation. In the case of parties to the 2005 Convention, it is even stipulated as a binding norm that policies and measures to protect and promote the diversity of cultural expressions, which are conveyed by cultural goods and services, shall be consistent with the provisions of this treaty (Art. 5). Compliance with the commitments of the 2005 Convention requires the establishment of appropriate institutional frameworks.

The same is true for the implementation of the 1980 *Recommendation concerning the Status of the Artist*, which aims to contribute to the full exercise of the rights recognized in the 1966 *International Covenant on Economic, Social and Cultural Rights*. On this last point, the Committee on Economic, Social and Cultural Rights made it clear that “[the] right to take part in cultural life can be characterized as a freedom. In order for this right to be ensured, it requires from the State party both abstention (i.e., non-interference with the exercise of cultural practices and with access to cultural goods and services) and positive action (ensuring preconditions for participation, facilitation and promotion of cultural life, and access to and preservation of cultural goods)” (CESCR, 2009, para. 6).

With respect to all these legal instruments, passivity is not an option for the parties to the 2005 Convention since the actions of any other stakeholder will never be fully in a position to compensate for the lack of development and implementation of appropriate public policy

action. Obviously, the means at the disposal of states will vary and will depend on the human, financial, professional and technological resources available. But in any case, each state must assume its fair share of responsibility, in accordance with the resources and means at its disposal. Except in extraordinary circumstances, failure to do so can only be the result of a lack of political will – or sometimes a lack of understanding of the importance of culture as an enabler and driver of sustainable human development – that can never be replaced by actions coming from other states or other stakeholders.

In order to support the efforts of countries whose means and resources may be more limited and, above all, not to undermine such efforts, concrete and effective actions must be carried out simultaneously in *three complementary areas* that have the potential to reinforce each other in rebalancing an international flow of goods and services, cultural exchanges:

- The effective implementation of preferential treatment under Article 16 of the 2005 Convention, including the adoption of measures to improve the mobility of artists from the Global South, in order to facilitate access to markets in the Global North;
- The strengthening of the structures and the capacities of developing countries and the emergence of sustainable local and regional markets through a fair cultural cooperation that protects and promotes the diversity of cultural expressions and involves all stakeholders;
- The adoption of innovative measures aiming, on the one hand, to involve multinational enterprises in the achievement of the objectives of the 2005 Convention and, on the other hand, to monitor their activities in an independent and scientific manner in order to ensure their business practices and models are consistent with the due diligence standard and fully respect the economic, social and cultural rights recognized to each individual.

Without active and coordinated engagement in all three areas, there can be no rebalancing of cultural exchanges, as inaction in one area could potentially undermine efforts and resources deployed in the other areas. The launching of a Fair Culture movement, once it occurs, must imperatively embrace these three fields of action.

## First area – The implementation of preferential treatment to facilitate access to markets in the Global North

Article 16 on preferential treatment – a provision at the heart of the system of international cooperation set up by the 2005 Convention – is one of the most binding commitments of this instrument but has not yet been properly used and activated by the parties to the Convention until now. This article creates an obligation incumbent on developed countries, while the immediate beneficiaries of the commitment are developing countries parties to the Convention. A reflection aimed at rebalancing cultural exchanges and promoting Fair Culture cannot ignore this obligation or suggest alternative responsibilities that developed countries could assume. Their first responsibility is to respect their international commitments, which is why this study addresses preferential treatment as a priority.

According to the Operational Guidelines related to Article 16, preferential treatment should, among other things, contribute to the emergence of a dynamic cultural sector in developing countries, which is one of the main goals of our reflection on the Fair Culture concept. Such treatment has to be offered by developed countries, in case of Europe this includes the European Union (EU), through appropriate institutional and legal frameworks. Countries from the Global North should confer an advantage to countries from the Global South, so that they can benefit from the preferential treatment, without having to offer the same advantage in return. Preferential treatment therefore rests on the principle of non-reciprocity, a recognition of the unequal conditions in which the different parties to the Convention find themselves and the unequal means at their disposal to contribute to the protection and promotion of the diversity of cultural expressions.

Thus, to fall specifically within the scope of application of Article 16, a measure must meet five cumulative conditions:

1. be offered by a developed country;
2. benefit developing countries;
3. facilitate cultural exchanges;
4. relate to the cultural goods, cultural services and/or artists or other cultural professionals or practitioners of developing countries;
5. not require reciprocity. Such a measure can be implemented at the domestic level, or in multilateral, regional or bilateral frameworks or mechanisms.

These frameworks or mechanisms might be organized around the trade dimension, the cultural dimension, or a combination of the trade and cultural dimensions (Operational Guidelines on Article 16, paragraph 3.2). Preferential treatment may, for instance, derive from a free trade agreement, but it could equally be derived from other initiatives, such as a cultural cooperation agreement. In any case, the measures or initiatives must have the effect of facilitating cultural exchanges for the benefit of the countries of the Global South, thus stimulating the development of their cultural and creative industries.

Preferential treatment is therefore a tool for reaching an objective, namely the facilitation of cultural exchanges. In other words, preferential treatment is not an end in itself, but a means of achieving a result that consists of an exchange based on the movement or circulation of a cultural good, a cultural service, or an individual who may be an artist, a cultural professional or practitioner from a developing country.

With regard to preferential treatment built around the cultural dimension, the Secretariat of the 2005 Convention has proposed a non-exhaustive list of fourteen measures that fulfil, or could fulfil, the five conditions of Article 16 outlined above (UNESCO, 2020b):

1. Co-production agreements
2. Aid for production/post-production
3. Aid for distribution/broadcasting/screening
4. Aid for translation/subtitling
5. Fiscal measures
6. Festivals and other cultural events
7. Training
8. Encounters and networking
9. Support for civil society
10. Funds from public cultural bodies for mobility
11. Facilities for entering a territory
12. Artist residencies
13. Awards and other forms of recognition
14. Support for international initiatives

Although these tools already exist in most developed countries, very few are designed to specifically benefit cultural goods and services from developing countries, or their artists and cultural professionals. In addition, some of the existing measures – for instance some co-production agreements – are based on the principle of reciprocity and therefore cannot be qualified as preferential treatment under Article 16 of the 2005 Convention.

As for the preferential treatment built around the trade dimension, the best practices to date have been developed by the EU. Three trade agreements negotiated after the adoption of the 2005 Convention were complemented by

a cultural cooperation protocol referring explicitly to this treaty and aiming to facilitate the access of cultural goods and services from the other parties to the European market: the *EU-Cariforum Economic Partnership Agreement* (2008); the *EU-South Korea free trade agreement* (2011), and; the *European Union - Central American Association Agreement* (2012).

Unfortunately, the EU has not negotiated new protocols since then and no other similar practices have emerged.

Another option available to developed countries could be to include directly in the text of the trade agreement specific market access commitments to stimulate the flow of cultural goods or services, as well as the mobility of artists and cultural professionals from developing countries. For their part, developing countries should ensure that appropriate clauses are included in these trade agreements to preserve their sovereign right to adopt and implement the policies and measures necessary for the protection and promotion of their cultural expressions on their own territory (Guèvremont and Bernier, 2020). First, these policies and measures can be crucial to the development of their CCIs. Second, the strengthening of these industries may be crucial to enable them to take advantage of preferential treatment measures granted by developed countries.

Finally, the *Guidelines on the Implementation of the Convention in the Digital Environment*, adopted in 2017 by the Conference of Parties to the UNESCO 2005 Convention, have to be taken into account when interpreting Article 16. The principles laid down in these guidelines first serve as a reminder of the significance of certain objectives whose achievement requires the granting of preferential treatment. That is the case in particular with Principle 8.6, which deals with the promotion of “equitable access and balance in the flow of cultural goods and services in the digital environment, in particular through the application of preferential treatment provisions for works created or produced by artists and cultural professionals, enterprises and independent organizations from developing countries.” Here again, a connection can be made between the granting of such preferential treatment and the need to put in place appropriate frameworks for international cooperation. Principle 8.8 reiterates the importance of such cooperation, which, in the digital environment, may require to “enable greater and more affordable access to digital technologies, to develop related skills and competencies and to support mechanisms that are required for the emergence of dynamic cultural and creative industries in the digital environment.”

With specific reference to Article 16, the guidelines state that in order to implement that provision in the digital environment, parties may “improve the distribution of cultural goods and services in the digital environment produced by artists and cultural professionals, enterprises

and independent organizations from developing countries, including through artistic and cultural collaboration, co-production and co-distribution agreements” (para. 18.1) and “take into account the provisions of international trade agreements they have concluded and will conclude, and their respective mechanisms with a view to offering preferential treatment in favour of cultural goods and services from developing countries in the digital environment” (para. 18.2). Though not explicitly related to Article 16, other guidelines suggest “updating cultural cooperation agreements so that they take into account the impact of digital technologies, particularly in the implementation of co-production and co-distribution agreements” (para. 24.1).

There can be no Fair Culture without effective implementation of Article 16, including in the digital environment. The primary responsibility in this regard lies with developed countries, which must adopt the necessary measures to open their markets to the benefit of cultural expressions from developing countries, but also to allow the mobility of artists and cultural professionals. The actions to be undertaken to give life to the concept of Fair Culture will take this into account.

To fully enjoy the effects of preferential treatment, however, developing countries have their own responsibilities. They have to put in place national policies, as suggested in paragraph 2.3 of the Operational Guidelines related to Article 16. According to these guidelines, developed countries “should also assist” developing countries in putting in place such policies “to enable them to benefit from an efficient implementation of preferential treatment frameworks and schemes.” Developed countries should also assist developing countries upon request in building their own vibrant arts and culture sector, including the creative economy. The deployment of a fair cultural cooperation framework is therefore a domain of action that is inseparable from preferential treatment.

## Second area – The adoption of core principles for Fair Culture to strengthen capacities and develop local and regional markets in the Global South

Cooperation is at the heart of the 2005 Convention, as stated in its Articles 5, 12 and 14 to 19. Article 14 promotes cultural cooperation to foster the emergence of a dynamic cultural sector. Article 15 deals with collaborative arrangement, and provides for “partnerships between and within the public and private sectors and non-profit organizations, in order to cooperate with developing countries in the enhancement of their capacities in the protection and promotion of the diversity of cultural expressions.” These provisions, however, seem insufficient to actively engage private partners with other stakeholders. Complementary initiatives should thus be deployed.

As it has been argued above, the fair trade movement has shown that the participation of the private sector provides an alternative to more traditional international cooperation schemes between states. In Part III, the transposition of fair trade principles to culture was explored. Among these, a certain number of core principles would need to be put into practice to ensure fair cultural cooperation. Most of these principles are intended to be applied in the digital environment, keeping in mind that digital technology presents both an opportunity to boost cultural exchanges, and a risk of homogenization of cultural expressions largely due to the business model of the web giants.

## First principle: Equal access to markets

A first core principle would be that all artists benefit from equal access to markets. This principle translates, in reality, into a better access for artists from Global South to global markets, since the aim is to rebalance opportunities of access to market for developing countries, an objective in line with Article 16 of the 2005 Convention. While digital technologies have in theory democratized access to global cultural markets, the reality is that emerging artists and artists from the Global South continue to suffer from a limited access to global – and even local and regional – markets. This issue could be addressed in part through capacity building activities centred on digital literacy, self-promotion on the Web or the functioning of aggregators on the Internet.

The private sector could, through a premium or investment in a fund, help bridge the digital gap or lower the cost of access to the Internet and digital technologies for smaller artists, or support the creation of local cultural content. A Fair Culture concept could also contribute to bringing the issue of discoverability on digital platforms to the forefront and to highlighting the role that algorithms play in hindering access to a diversity of cultural content, and especially local content and content produced by non-mainstream artists. Since Fair Culture partners would be required to show transparency, it is crucial that the information on the functioning of these algorithms be made public. In this regard, the provisions relating to the transparency of recommender systems found in the proposal for a regulation on a *Single Market for Digital Services* (Digital Services Act) could be a source of inspiration for the application of the principle of market access in the digital environment (EC, 2020, Art. 29).

Finally, professional fairs and festivals in some sectors are good practices in terms of facilitating physical access for artists from the Global South to markets of the Global North. The Frankfurt Book Fair, for example, has adopted measures enabling publishers from developing countries to have access to the Fair, such as financial support for travel and accommodation as well as the provision of exhibition booths prominently placed

(see Invitation programme of the Frankfurt Book Fair). However, no matter how good these initiatives are, improving physical access to markets of the Global North depends to a large extent on the conditions for obtaining visas for artists and cultural professionals of the Global South. Furthermore, fairs and festivals can also facilitate access to local and regional markets for artists from the Global South, which is important as it provides them with an opportunity to expand their network in their country or region and reach new audiences in the process.

## Second principle: Reinvestment of a premium

The premium would be the main feature of the second principle, that of reinvestment in the cultural value chain, which will be central to Fair Culture. Collecting the premium from multinational enterprises involved in the creation, production, distribution or dissemination of cultural content should be seriously considered. Several ideas can be expressed here as to how this premium could be used, keeping in mind that these ideas and their implementation will need to be discussed with the partners in the Global South. As it has been said previously, there must be an investment in cultural infrastructure. There is a great need, in countries of the Global South especially, for spaces like performance venues, cultural centres, theaters, exhibitions spaces, training centres as well as access to equipment, software, and other tools. Cultural professionals could, for example, submit an application to receive funds to buy equipment or subscribe to software licences. Furthermore, digital infrastructure is now increasingly needed as the digital gap between countries of the Global South and the Global North presents an obstacle to equal access to cultural markets.

Organizations that take part in Fair Culture could contribute to financing digital platforms that agree to experiment alternative distribution models and favour the discoverability of content created by smaller artists over financially profitable content. In the same vein, the premium could also be used to invest in the production of local content, and more specifically to support the production of niche content.

Another interesting idea would be that the premium be invested into a fund that would provide a safety net or a social protection for artists and cultural professionals. Artists, as well as many cultural professionals, are self-employed, but in many countries, insurance is tied to formal employment. By adhering to an organization, they could therefore benefit from protections such as health insurance, unemployment or pensions, similar to the protections offered by collecting societies in some countries. In the end, however, all these ideas need to be debated in a transparent and open process with beneficiaries.



A key idea is that artists and cultural professionals' associations or organizations would decide democratically how to use the funds made available by the payment of a premium to better satisfy the needs of their respective sector. Such a premium could be invested into structures and collective incentives, however, a disbursement to individuals could also be conceivable in principle. It is foreseeable that challenges will arise with regard to redistribution of the premium, as not all sectors and countries benefit from strong and democratic organizational structures that could transparently decide on how to use the premium. Another difficulty that could arise is the issue of monitoring the use of the premium, that is, ensuring that the funds are invested as was decided by the organizations. A solution could be to manage the premium and monitor its use through structures appropriately modeled on the example of entities such as the IFCD, which can receive private contributions. However, the first objective should be to use the premium to incentivize the development of strong democratic organizations within specific sectors in specific countries, and through local means of governance, rather than multilateral organizations.

### Third principle: Fair remuneration

A third principle would be that of fair remuneration of artists and cultural professionals. Fair Culture partners should recognize that fair remuneration is imperative to ensure artistic freedom and social justice. While we acknowledge that determining what a fair price is for cultural products and services is a much more complex task than for commodities covered by fair trade, international associations of artists and cultural professionals should be consulted to determine what could be considered a fair remuneration according to the specificities of their respective cultural sector. But without getting into details of what fair remuneration is, various steps could be taken towards fairer remuneration. Discoverability of content, for example, is essential in ensuring that artists can develop an audience – in particular at the local level, but also at the regional and international level – and earn a reasonable income. Again a reflection on the role that algorithms play and on how digital platforms could promote content from smaller artists is necessary. There is a need to reassess remuneration models of major digital platforms and propose new fairer models.

Good practices from the music sector such as the user-centric or stream-to-own models could guide other sectors in their search for fairer income distribution models. A more direct relationship between stakeholders in the cultural chain – in specific sectors such as music for example – could also foster a greater income for artists.

However, other sectors could somehow be impacted negatively by a more direct relationship. As we have seen in the book sector, multination-

als have increasingly captured the market and led to a loss of employment for book professionals involved in different links of the value chain. While eliminating intermediaries can be beneficial where these intermediaries capture a large share of the profits without really contributing to the work's or the writer's development, professionals in the book sector do contribute to improving the quality of the writer's work and are essential in making literary works available to a local market. A sector-specific approach would therefore be recommended while reflecting further on the best actions to take towards fairer remuneration.

### Fourth principle: Capacity building

A fourth principle is capacity building, which is central to developing Fair Culture. The lack of capacity building opportunities in many countries is often what prevents artists from realizing their full potential. This issue can be linked primarily to insufficient or inadequate educational and training infrastructure.

Fair Culture partners could therefore contribute, through a premium, to financing capacity building activities that would take different forms depending on the specific sector in which they are involved. Training could, as previously mentioned, address the digital literacy gap and improve artists and cultural professionals' capacities to work with digital tools, equipment and platforms, and to understand how digital markets work. It could help artists and cultural professionals improve their business skills, financial literacy, or marketing and communication skills. Capacity building could also target associations and organizations of artists and cultural professionals, which will play an important role in managing the premium, for example. The strengthening of digital cultural platforms in the Global South would also fall under this principle of capacity building, and with some form of investment, this could lead to a credible and fairer alternative to major digital platforms.

### Fifth principle: Awareness building

If the Fair Culture initiative is to be successful, actors participating will have to invest time and energy in raising public awareness (fifth core principle). A major challenge in the cultural sector in general is that there is still a belief in many countries of the world that art should be free, or that it should be freely supplied by the state through the national budget. Yet – and the pandemic has given us a great example of this – society relies heavily on art, but artists and cultural professionals will not be able to live from their art unless they can earn a fair remuneration for their creation. This does not mean that pricing for cultural products and services must

be the same in every country, since purchasing power can vary greatly from one region to another. Public awareness-raising activities will have to take into account the specificity of each sector and each region. The public awareness principle could not only address the insignificant amount of revenue artists often receive for their work – from digital platforms for example – but also the significant inequalities between the conditions of work and remuneration of artists in the Global North and those in the Global South. In that regard, a principle of transparency – underlying all Fair Culture principles – would allow the public to access information on how artists and cultural professionals are remunerated by an organization participating in Fair Culture.

## Sixth principle: Gender equality and inclusiveness

A sixth principle, gender equality and inclusiveness, would complete this list of core principles as an underlying principle of Fair Culture. The situation of women artists and cultural professionals across the world remains fragile and requires particular support. Women are still underrepresented in a majority of cultural sectors – in particular in key creative roles and decision-making and leadership positions – and disparities remain in terms of remuneration and access to resources. Furthermore, without equal participation of women in all areas of cultural life, we cannot achieve a genuine diversity of cultural expressions. Nor can we achieve it without inclusiveness, as we must ensure that the needs and interests of artists and cultural professionals belonging to minority or Indigenous groups are taken into account.

While the central idea behind Fair Culture is to involve private sector partners who would voluntarily submit to the aforementioned core principles, this initiative alone may not suffice to alter the behaviour of multinational enterprises like web giants, who play an increasingly important role in the cultural sector. In this regard, Fair Culture could extend to the application of due diligence standards to ensure that multinational corporations behave in a way that respects rather than undermines the diversity of cultural expressions.

## Third area – The involvement of multinational enterprises in a new form of partnership aimed at promoting the status of artists and respecting cultural rights of all

A common trend emerges from the interviews conducted for this study around the globe in 2020 and 2021 in the context of the pandemic and from the many studies conducted in recent years on the theme of cultural and creative industries: an alarming observation about the activities carried out by certain large multinational-

al enterprises that constitute a real threat to the diversity of cultural expressions. Of course, digital technologies offer tremendous opportunities for creation, production, distribution, dissemination and access to a diversity of cultural expressions. This is widely recognized. However, “the digital economic model is centred on seeking the highest profitability for creative works through powerful intermediaries, the internet giants also known as ‘GAFAN’ (Google, Apple, Facebook, Amazon, Netflix), who hold a dominant position and whose natural vocation is not to defend and support creative diversity” (Rogard, 2016). This is a threat for the diversity of cultural expressions, the respect and fulfillment of cultural rights, including artistic freedom. The case of these web giants draws our attention to the fact that multinational enterprises operating in the CCI sector can have a significant impact on the development of fair cultural relations. Thus, monitoring their market activities – inspired by international, regional and national instruments establishing standards of due diligence for multinational enterprises – should be one of the priority areas of action of a Fair Culture movement.

In some cases, setting up a structure for exchange and consultation between all stakeholders can be a preliminary step to explore alternative methods and tools to improve practices and behaviours. In this regard, it is worth mentioning the example of the *Multi-Stakeholder Working Group on Diversity of Content Online* that has been created by Canada in 2020. This initiative brings together five states (Australia, Canada, France, Finland, Germany) as well as representatives of businesses (Google Canada, Deezer, Vubble, Netflix Australia) and civil society, to work on the development of a reference framework of guiding principles to promote cultural diversity online.<sup>33</sup> Even though the initiative gathers only countries from the Global North, it will be interesting to follow the results of the work done within this group. However, it should be kept in mind that in some cases, discussions and the adoption of non-binding principles or guidelines may not be sufficient to bring about real behavioural change. Thus, other avenues must be considered.

As presented in Part II of this study, due diligence is a standard or norm that obliges states, international organizations and other entities to exercise care and engage in behaviour that does not jeopardize the interests or rights of other states, organizations or entities. It is now widely recognized that this standard applies to private sector partners. The Fair Culture movement needs to address this issue by questioning the kind of behaviour that multinational enterprises should have when operating in the CCIs. Reflection on this subject should also extend to the responsibility of the home states of these multinationals with regard to their behaviour.

<sup>33</sup> For more information, see: Government of Canada, Diversity of content online, online: <https://www.canada.ca/en/canadian-heritage/services/diversity-content-digital-age.html>.

Several international instruments have been developed in recent years to bring about changes in the behaviour of multinationals, particularly with regard to fundamental human rights. For instance, the *Guiding principles on business and human rights* adopted in 2011 by the United Nations “are grounded in recognition of: (a) States’ existing obligations to respect, protect and fulfil human rights and fundamental freedoms; (b) The role of business enterprises as specialized organs of society performing specialized functions, required to comply with all applicable laws and to respect human rights; (c) The need for rights and obligations to be matched to appropriate and effective remedies when breached” (HRC, 2011b). The principles – which are not binding – cover both the duty of states to protect human rights and the corporate responsibility to respect human rights. Among the principles of interest for the reflection on Fair Culture are the following:

- Principle 2 - States should set out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations.
- Principle 11 - Business enterprises should respect human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.

To give further force to these principles, negotiations were launched in 2019 to elaborate an *International Legally binding Instrument on Transnational Corporations and Other Business Enterprises* with respect to human rights. According to Article 6 of the draft (second version) “State Parties shall regulate effectively the activities of all business enterprises domiciled within their territory or jurisdiction, including those of a transnational character” (para. 1) and “require business enterprises, to undertake human rights due diligence proportionate to their size, risk of severe human rights impacts and the nature and context of their operations” (para. 2).

Regardless of the outcome of this negotiation, there is clearly a trend in international law for states to regulate more effectively the behaviour of their private companies in the conduct of their activities abroad. In Germany, since 2021, there is supply chain legislation that holds companies accountable for human rights violations and environmental damages that might occur along the value chain.

While reflections on the impact of these activities have already been conducted with respect to certain rights – for example, on core labour standards or the right to a healthy environment – the impact on cultural rights remains little documented. The Fair Culture movement could be at the forefront of the reflection and initiatives in this area.

Such a commitment is provided for in Article 2.1 of the *International Covenant on Economic, Social and Cultural Rights*. In accordance with this provision, “Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.” This commitment obviously applies to Article 15 on cultural rights, which include the right to take part in cultural life and the right to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he or she is the author (Art. 15.1). To achieve the full realization of these rights, states shall take the necessary means for the conservation, development and diffusion of science and culture (Art. 15.2). States shall also undertake to respect the freedom indispensable for scientific research and creative activity (Art. 15.3). These commitments should be interpreted in light of the cultural rights that are specifically recognized to minorities or indigenous peoples in the relevant legal instruments. The 2005 Convention and the 1980 *Recommendation on the Status of the Artist* should also be considered.

To make these commitments more concrete and ensure key stakeholders respect the rights recognized in these legal instruments, states from the Global North should define a specific framework for their multinational enterprises involved in the CCIs to comply with a due diligence standard. Such a framework should also encourage these enterprises engaged in the CCIs to invest in the creation and production of local content taking into account the special needs of minorities and indigenous peoples, to create partnerships with local companies, to promote local languages and to deploy the means to stimulate the discoverability of local content in the digital environment. In this regard, it should be noted that the proposed EU Digital Services Act contains due diligence standards applicable to large platforms. The principles promoted by the framework should also extend to gender equality and environmental protection. Finally, the framework should be complemented by transparency requirements to promote that enterprises report on how the principles are respected and implemented.

## B. Actions to undertake to launch the Fair Culture movement

As presented in the introduction of this study, we consider that the concept of Fair Culture should be based on three distinct, but interdependent pillars, each of which being necessary to promote more balanced cultural exchange: 1. fair cultural trade; 2. fair cultural cooperation and; 3. fair cultural partnerships involving multinationals of the Global North and the CCI sector in the Global South. In this last section of our study, we propose six actions to launch a new movement to promote fair cultural relations between the Global North and the Global South. These actions must be considered as complementary since they cover the three pillars on which fair cultural relations should be based. These actions mobilize all stakeholders, including states, representatives of civil society, namely artists, other cultural professionals and private enterprises, as well as the Secretariat of the 2005 Convention in some cases. Action 1 is the flagship action that should be implemented as a priority to initiate the movement. We recommend that it be launched within the next year and involves all stakeholders. Actions 2 to 6 are more specific to certain stakeholders. A reflection on them could be carried out in parallel with the implementation of Action 1, while the concrete means to achieve them could be deployed from the second year of the movement.

### Action 1 – Adoption of a Fair Culture Charter

A Fair Culture Charter, inspired by the Fair Trade Charter, would serve as a reference document setting out the general principles of fair and sustainable cultural relations. The six core principles previously mentioned – access to market, fair remuneration, capacity building, reinvestment in the value chain (also in such a way that benefits are felt at the individual level), public awareness and gender equality – could serve as a basis for the development of this Charter, along with supporting principles, keeping in mind that the principle of transparency would underpin all principles. This Charter could be drafted by a group of independent experts from different regions of the world and with diversified expertise related to trade and cultural exchanges, cultural cooperation, cultural rights and the diversity of cultural expressions, and with a particularly strong presence of target beneficiaries, such as artists or cultural professionals, especially from the Global South. Some actors with previous experience in the implementation of fair trade should also be involved.

### Action 2 – Involvement of major cultural alliances to clarify the Fair Culture framework for action in the various fields of cultural and creative industries

Every sector of cultural and creative industries has its specificities, and digital technology is transforming these sectors and each link of their value chain in a different way. Therefore, there will be a need to refine for each sector the principles included in the Charter, in collaboration with the major international alliances (for example, the International Music Council, the International Federation of Actors, the International Publishers Association, the International Federation of Coalitions for Cultural Diversity, and others). This work could be conducted through a series of international seminars – one for each specific sector – for example as side events during the Conference of the Parties or the Intergovernmental Committee of the 2005 Convention. The application of the Fair Culture principles to each sector could be described in a series of roadmaps progressively annexed to the Charter.

### Action 3 – Definition of an international framework for action aimed at defining a label, a certification process and a strategy for promoting Fair Culture as a movement in different regions of the Global South

A part of the strategy of promotion and public awareness would revolve around a Fair Culture label. In order not to penalize artists that do not always benefit from the best conditions to create, and keeping in mind that the objective would be to certify the process of exchange and commercialization and not the artist or his or her creation, the label would not be intended to apply to products, but to organizations, platforms, projects, venues and events that could show that they respect the principles included in the Fair Culture Charter. A process will have to be determined to certify organizations and monitor compliance with the principles. This process could be done through the establishment of an independent organization (third party certification) or through cross-certification among member organizations (participatory certification), keeping in mind the possibility that the label could be understood as certifying a process towards a fairer cultural value chain. A broader strategy would need to be developed to raise public awareness of the importance of promoting fair cultural relations between the Global North and the Global South. An interesting initiative in that respect would be to nominate influential personalities from the



CCIs sector in the Global South, but also having a high visibility in the Global Nord, to promote the Charter and the Fair Culture label. Goodwill ambassadors for Fair Culture could be selected by an independent committee.

## Action 4 – Creation of a multi-stakeholder working group in charge of identifying ways to impose a fee on the major online cultural content platforms in order to support CCIs, artists and other cultural professionals in the Global South

During the inaugural ResiliArt debate that took place on 15 April 2020, Jean Michel Jarre, composer, performer, CISAC President and UNESCO Goodwill Ambassador, called for the creation of a new economy for the cultural sector in the digital environment and for the creation of a tax on GAFAN. Such a project is perfectly in line with the Fair Culture movement.

If we must recognize that some web giants are now investing in the creation of local content and contribute to the visibility of some local cultural expressions, we must also admit that “[u]ntil now, the major digital players have been reluctant to share the benefits generated by their activities on the territory of other States” (Bernier, 2020). This is why a financial contribution from major cultural content platforms – be it a tax, a fee or other forms of payment calculated on the basis of the revenues generated by these enterprises – should be collected and reinvested in the cultural ecosystems of the Global South, not only to finance the creation and production of new cultural content, but also to support different cultural projects and initiatives. This proposal should not be confused with the ongoing negotiations at the OECD aimed at modernizing the international tax system. The GAFAN contribution would not change the tax base of states according to new rules adapted to the digital environment, but rather make the web giants contribute directly to cultural ecosystems. Some countries have already implemented such a tax, the revenues of which are transferred to a fund to support the creation of audiovisual content and many others are intended to do so. Other countries may also have legislation or policies in place that could be adapted to the digital environment, so as to enforce this system of reinvestment in their cultural sectors.

However, not all states, especially in the Global South, have the tax system and cultural policies necessary to implement these mechanisms. This is why the deployment of a coordinated international strategy, involving representatives of all stakeholders, should be considered for the benefits of countries that cannot implement an appropriate strategy at the national level. Reflection should also focus on the governance system

surrounding the management of the revenues generated and their redistribution to the beneficiaries. To this end, existing independent structures such as the IFCD could be mobilized. “The IFCD is now prominent in the landscape of international funding mechanisms for the cultural and creative sector” and it could be considered as an appropriate structure to receive contributions from the private sectors (UNESCO, 2021). Finally, the multinational enterprises that would contribute to the IFCD (or other appropriate independent funds designated) could be granted the Fair Culture label created under Action 3.

As mentioned above, the Multi-Stakeholder Working Group on Diversity of Content Online that brings together five states of the Global North (Australia, Canada, France, Finland, Germany) as well as representatives of businesses and civil society have started to work on the development of a reference framework of guiding principles to promote cultural diversity online. There will be no binding commitments, but it is envisaged that governments, businesses and civil-society organizations will make commitments vis-à-vis the guiding principles. These could also guide the adoption of national laws to regulate the activities of web giants. It would be interesting to consider the opportunity to mobilize this working group around the project of collecting a fee from major online platforms and implementing a global redistribution mechanism.

## Action 5 – Launch of a reflection on the due diligence standard applicable to multinationals in the cultural and creative industries sector

Multinational enterprises conducting activities in the CCIs sector should comply with a due diligence standard and respect fundamental rights recognized by international instruments. While taking into account the ongoing international negotiations aiming to adopt a binding instrument in this field, it would be advisable to start immediately a reflection on the way such a due diligence standard should apply with regard to cultural rights and the particular status of the artist and how the monitoring of multinational enterprises involved in the CCIs should be realized. Work on this matter could be led by a committee of experts, with a view to specifying this due diligence standard and defining the steps to be taken so that each state formally commits to imposing it on its own multinationals involved in the cultural sector in the Global South. This work should also explore a potential link with Action 3, and more specifically the attribution of the Fair Culture label to responsible cultural enterprises complying with due diligence standards.

## Action 6 – Development of an implementation plan for Article 16 and call for adherence by each party to the 2005 Convention

The *2005 Convention*, the *Operational Guidelines on Article 16*, the *Operational guidelines on the implementation of the Convention in the digital environment* and the follow-up mechanism for periodic reports do not seem sufficient to lead to an effective implementation of preferential treatment 15 years after the adoption of this treaty. As a result, developing countries are not receiving the benefits they are entitled to under the 2005 Convention.

The Fair Culture movement should lead to the adoption of an action plan on preferential treatment attached to the Charter proposed above (Action 1). This plan could contain specific guidelines for improving the mobility of artists and other cultural professionals from the Global South, for incorporating cultural preferential treatment clauses into trade agreements and for modernizing cultural cooperation agreements to offer a preferential treatment that respects the conditions of Article 16.

The action plan could also include training on preferential treatment to help developing countries identify priority sectors for preferen-

tial treatment and prepare them to make such requests to developed countries. Finally, the plan could include the development by an independent group (research center, chair, observatory) of an annotated list of best measures and projects with regard to preferential treatment. On a permanent basis, this list could be updated and improved with new measures adopted by states. The annotations would make it possible to analyze compliance with each of the conditions set out in Article 16 and, if necessary, to suggest possible improvements so that the measures produce greater benefits for artists and other professionals from developing countries or stimulate the circulation of their cultural goods and services, including in the digital environment. The preferential treatment measures and projects listed – the ones respecting the conditions of Article 16 of the 2005 Convention – could receive the Fair Culture label created under Action 3.

The development of this action plan could be done in consultation with the Secretariat of the 2005 Convention, which is already conducting work on preferential treatment, has training modules on the implementation of Article 16 and identifies through its Policy Monitoring Platforms thousands of measures reported by states parties to the 2005 Convention in their periodic reports on the implementation of the Convention.

# V. Conclusion

For several decades, the growing imbalance in cultural exchanges has been a source of concern for many states. The integration of economies, accelerated by technological development, also raises fears in the cultural sector that local and regional markets will fade away in favour of a homogenized global market, dominated by a few major exporters of cultural products, or even a few web giants that already control the bulk of cultural content exchanges in the digital environment.

However, for many states, beyond the economic losses suffered as a result of these phenomena, the disappearance of cultural industries also leads to job insecurity for artists and other cultural professionals, and ultimately to the abandonment of their profession. Such cultural impoverishment – which threatens the identities and values held by individuals and groups – inevitably has repercussions on the sustainable development of the societies.

Several initiatives have been undertaken at different levels to reverse this trend, or at least to limit its effects. At the multilateral level, legal instruments have been adopted, such as UNESCO's 2005 Convention, which commits states to protect and promote the diversity of cultural expressions within their territory and internationally, in particular through cultural cooperation. However, not all the provisions of the Convention are being adequately implemented, yet. And above all, it would seem that additional resources must be deployed to accompany countries of the Global South in strengthening the capacities of CCIs and improving the remuneration of artists and cultural professionals as well as their conditions of creation, in order to facilitate their participation in global cultural exchanges, while also contributing to the development of local and regional markets.

Other tools have been developed to improve international cooperation in general, and in particular to mobilize all stakeholders around commonly accepted principles, including private stakeholders. The Global Partnership for Effective Development Co-operation is a relevant example. There are also instruments specifically aimed at imposing a due diligence standard on multinational enterprises whose activities can greatly influence the development of local and regional markets, as well as international exchanges between the Global North and the Global South. However, these initiatives may

be too general to fully take into account both the economic and cultural nature of cultural activities, goods and services which convey identities, values and meanings, as well as the special role of artists, cultural professionals and creative entrepreneurs in a society.

This study fills this gap, by exploring a new avenue to bonify cultural cooperation in a way that complements the instruments and initiatives deployed so far, with a view to specifically address the needs of artists and other cultural professionals in the Global South and to strengthen their CCIs. It innovates by exploring in a complete and systematic manner the transposition of “Fair Trade” principles to creative and cultural industries. In doing so, this study suggests that a “Fair Culture” concept would bring an added-value to existing instruments and mechanisms and that the implementation of a “Fair Culture” movement could potentially structure and guide in a positive way the actions of all stakeholders from the Global North and the Global South. To this end, this study suggests six concrete actions that could be undertaken in the short and medium term to launch such a movement and contribute to the achievement of the Sustainable Development Goals, while also helping CCIs of the Global South to overcome the effects of the global crisis caused by the pandemic. The *International Year of Creative Economy for Sustainable Development* provides the perfect momentum to move further in this direction.

# Annexe I – Bibliography

References cited in the study are denoted with an \*

\*Abdelgawad, Walid, 2003, “Le commerce équitable et la société civile internationale: Une chance pour la mondialisation d’un droit de l’économie solidaire”, *Revue internationale de droit économique*, 2:2, p. 197-232.

Anouma, René-Pierre, 1996, “La décennie mondiale du développement culturel (1988-1997)”, *Revue internationale d’anthropologie et de sciences humaines*, 43:2, p. 161-180.

\*Arts Moves Africa, 2018, *Guide de financements pour la mobilité internationale des artistes et des professionnels de la culture. Afrique*, Seconde édition, Janvier 2018, 174 p.

\*Audebrand, Luc K. and Thierry C. Pauchant, 2008, “Commerce équitable: Sa contribution à l’éthique des affaires”, *Gestion*, 1:33, p. 41-49.

\*Balineau, Gaëlle, 2010, *Le commerce équitable: un outil de développement ?*, Sciences de l’Homme et Société, Université d’Auvergne-Clermont-Ferrand I, 349 p.

\*Balineau, Gaëlle and Ivan Dufeu, 2012, “Le système Fairtrade : Une garantie pour les consommateurs ?”, *Mondes en développement*, 4:160, p. 11-26.

Ballet, Jérôme, Marie-Christine Renard and Aurélie Carimentrand, 2012, “Le commerce équitable Sud-Sud et l’émergence des labels locaux”, *Mondes en développement*, 4:160, p. 75-84.

BASIC, 2018, *Café : la success story qui cache la crise - Etude sur la durabilité de la filière du café*, 165 p., online: [https://www.commerceequitable.org/wp-content/uploads/basic\\_filiere-cafe\\_rapport-de-recherche\\_final\\_septembre-2018\\_basse-resolution.pdf](https://www.commerceequitable.org/wp-content/uploads/basic_filiere-cafe_rapport-de-recherche_final_septembre-2018_basse-resolution.pdf).

\*Baltà Portolés, Jordi, 2019, “Fair Trade for Culture”. An Initiative of the German Commission for UNESCO, Conference Report, January 2019, 12 p., online: [https://www.unesco.de/sites/default/files/2019-01/Conference%20Report\\_GCU%20Initiative\\_Fair%20trade%20for%20culture\\_Jordi%20Balta%20Portoles.pdf](https://www.unesco.de/sites/default/files/2019-01/Conference%20Report_GCU%20Initiative_Fair%20trade%20for%20culture_Jordi%20Balta%20Portoles.pdf)

\*Barrientos, Stephanie, Michael E. Conroy and Elaine Jones, 2007, “Northern Social Movements and Fair Trade”, In Raynolds, Laura T., Douglas Murray, John Wilkinson (Ed.), *Fair Trade: The Challenges of Transforming Globalization*, London: Routledge, p. 51-62.

\*Bennett, Elizabeth A., 2020, “The Global Fair Trade Movement: For Whom, By Whom, How, and What Next”, In Michael Bell, Julie Keller, Michael Bell, Michael Carolan (eds.), *The Cambridge Handbook of Environmental Sociology* (forthcoming), Cambridge University Press, 18 p.

\*Bernier, Ivan, 2020, Protection and promotion of the diversity of cultural expressions. A look back at arguments already made in favour of the preservation of cultural diversity in a text published in 2000 by Ivan Bernier and Dave Atkinson, on the occasion of the 15th anniversary of the 2005 UNESCO Convention, UNESCO Chair on the diversity of cultural expressions, December 2020, 56 p.

\*Bucolo, Elisabetta, 2000, “Le commerce équitable”, Les notes de l’Institut Karl Polanyi, Ed. Impatiences démocratiques, 46 p.

\*Burri, Mira and Keith Nurse, *Culture in the CARIFORUM - European Union Economic Partnership Agreement: Rebalancing Trade Flows Between Europe and the Caribbean?*, Policy & Research, Paris: UNESCO, 114 p., online: <https://unesdoc.unesco.org/ark:/48223/pf0000368382>.

\*Canada Media Fund, 2016, *Discoverability: Toward a Common Frame of Reference*, Part 1, online: <https://cmf-fmc.ca/now-next/research-reports/discoverability-toward-a-common-frame-of-reference/>.

Caramel, Laurence, 2019, “La lutte contre la pauvreté, un défi d’abord africain”, *Le Monde Afrique*, 23 August, online: [https://www.lemonde.fr/afrique/article/2019/08/23/la-lutte-contre-la-pauvrete-un-defi-d-abord-africain\\_5501961\\_3212.html](https://www.lemonde.fr/afrique/article/2019/08/23/la-lutte-contre-la-pauvrete-un-defi-d-abord-africain_5501961_3212.html).

Carimentrand, Aurélie, 2019, “Introduction: Les Nouveaux habits du commerce équitable, entre fragmentation et affirmation”, *Revue internationale des études du développement*, 4:240, p. 7-27.

\*Carimentrand, Aurélie, Jérôme Ballet and Marie-Christine Renard, 2011, “Gouvernance, signes de qualité et équité dans les filières du commerce équitable”, *Canadian Journal of Development Studies*, 32:3, p. 269-280.

\*Charlier, Sophie, Isabelle Haynes, Amandine Bach and Alexis Mayet, 2006, *Le commerce équitable face aux nouveaux défis commerciaux : évolution des dynamiques d’acteurs*, Plan d’appui scientifique à une politique de développement durable, 141 p.

\*Claar, Victor V. and Colleen E. Haight, 2015, “Is Fair Trade Worth Its Cost?”, *Faith & Economics*, No. 65, p. 25-34.

\*Commerce Équitable France, 2020, “Fair World Project, Fair-NESS and Forum Fairer Handel”, *International Guide to Fair Trade Labels*, 123 p.

Commission nationale de l’informatique et des libertés (CNIL), 2015, *Les données, muses et frontières de la création. Lire, écouter, regarder et jouer à l’heure de la personnalisation*, Cahier Innovation et Prospective (IP), vol. 3, online: [https://linc.cnil.fr/sites/default/files/typo/document/CNIL\\_CAHIERS\\_IP3.pdf](https://linc.cnil.fr/sites/default/files/typo/document/CNIL_CAHIERS_IP3.pdf).

\*Committee on culture of United Cities and Local Governments, 2004, *Agenda 21 for Culture*, 14 p., online: <http://www.agenda21culture.net/documents/agenda-21-for-culture>.

Committee on culture of United Cities and Local Governments, 2016, *Culture 21 Actions*, 40 p., online: <http://www.agenda21culture.net/documents/culture-21-actions>.

\*Committee on Economic, Social and Cultural Rights (CESCR), 2009, *General comment No. 21, Right of everyone to take part in cultural life* (Art. 15, para. 1 (a)), U.N. Doc. E/C.12/GC/21.

\*D’Almeida, Francisco and Marie-Lise Alleman, 2004, *Les industries culturelles des pays du sud : enjeux du projet de convention internationale sur la diversité culturelle*, Paris: OIF, 90 p.

\*Damiba, Béatrice, 2017, “Comment le piratage audiovisuel en Afrique finit par coûter cher”, *Le Monde Afrique*, 19 July, online: [https://www.lemonde.fr/afrique/article/2017/07/19/comment-le-piratage-audiovisuel-en-afrique-finit-par-couter-cher\\_5162544\\_3212.html](https://www.lemonde.fr/afrique/article/2017/07/19/comment-le-piratage-audiovisuel-en-afrique-finit-par-couter-cher_5162544_3212.html).

Dammert, Ana C. and Sarah Mohan, 2015, “A Survey of the Economics of Fair Trade”, *Journal of Economic Surveys*, 29:5, p. 855-869.

\*Deloumeaux, Lydia, 2015, “Striking a balance: Flows of cultural goods and services”, *ReShaping Cultural Policies*, Global Report, Paris: UNESCO, p. 121-133.

\*Deloumeaux, Lydia, 2017, “Persisting imbalances in the flow of cultural goods and services”, *ReShaping Cultural Policies*, Global Report 2018, Paris: UNESCO, p. 125-141.

\*Diaz Pedregal, Virginie, 2006, “Le commerce équitable : un des maillons du développement durable ?”, *Développement durable et territoires*, Dossier 5, 13 p.

Doherty, Bob, Iain A. Davies and Sophi Tranchell, 2013, “Where Now for Fairtrade?”, *Business History*, 55:2, p. 161-189.

Dragusanu, Raluca, Daniele Giovannuci and Nathan Nunn, 2014, “The Economics of Fair Trade”, *Journal of Economic Perspectives*, 28:3, p. 217-236.

\*Drainville, François, 2007, *Commerce équitable : Émergence d’une nouvelle dynamique de développement Nord-Sud?* Présentation à partir de l’expérience du café au Honduras, UQAM, 129 p.

\*DutchCulture, *Report on fair international cultural cooperation #1 - Funding parties. Conventions and practical issues in funding international activities*, 2018, 5 p., online: <https://dutchculture.nl/sites/default/files/atoms/files/DutchCulture%20report%20-%20Fair%20International%20Cultural%20Cooperation%202018.pdf>

\*DutchCulture, *Report on fair international cultural cooperation #2 - Climate change. Conventions and practical issues in funding international activities*, 2019, 7 p., online: <https://dutchculture.nl/sites/default/files/atoms/files/DutchCulture%20report%20-%20Climate%20Change%20International%20Cultural%20Cooperation%202019.pdf>



dutchculture.nl/sites/default/files/atoms/files/dutchculture\_report\_-\_fair\_international\_cultural\_cooperation\_2019.pdf

\*Elliott, Kimberly, 2012, Is My Fair Trade Coffee Really Fair? Trends and Challenges in Fair Trade Certification, Center for Global Development, Policy Paper 017, December, 28 p.

\*Équiterre, 2006, Guide d'action pour un commerce équitable, 42 p.

\*EU, 2014, Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups, Official Journal of the European Union, L330/1, 15 November 2014.

\*EU, 2020, Proposal for a Regulation of the European Parliament and of the Council on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC, COM(2020) 825 final, 15 December 2020.

European Commission, 2009, Contributing to Sustainable Development: The role of Fair Trade and nongovernmental trade-related sustainability assurance schemes, Communication from the Commission to the Council, the European Parliament And the European Economic and Social Committee, Doc. COM(2009) 215, 5 May 2009.

\*EY, 2015, Cultural times. The first global map of cultural and creative industries, December, 119 p., online: [https://en.unesco.org/creativity/sites/creativity/files/cultural\\_times\\_the\\_first\\_global\\_map\\_of\\_cultural\\_and\\_creative\\_industries.pdf](https://en.unesco.org/creativity/sites/creativity/files/cultural_times_the_first_global_map_of_cultural_and_creative_industries.pdf).

\*Fair Labor Association, 2012, "Principles of Fair Labor and Responsible Sourcing and Production", online: <https://www.fairlabor.org/our-work/principles>.

Fair Trade Advocacy Office, 2015, An innovative EU approach in support of Fair Trade practices in the new EU Trade & Investment Strategy, Position Paper, 18 July 2015, 10 p.

Fair Trade Advocacy Office, 2015, "New Sustainable Development Goals and Fair Trade: Our Preliminary Analysis," 25 September 2015, online: <http://ftao.neocodis.com/new-sustainable-development-goals-and-fair-trade-our-preliminary-analysis/>.

\*Fair Trade Advocacy Office, 2018, The International Fair Trade Charter: How the Global Fair Trade Movement works to transform trade in order to achieve justice, equity and sustainability for people and planet, 29 p, online: <https://www.fair-trade.website/the-charter-1>.

\*Fair Trade Advocacy Office, 2019, From local to EU level: Scaling Up Fair Trade in Europe, January, 34 p.

Fair Trade Federation, 2017, "How is fair trade helping the United Nations achieve its goals?": online: <https://www.fair-tradefederation.org/fair-trade-and-the-un/>.

Fairtrade International, 2015, Development Goals and Fairtrade: The Case for Partnership, 24 p.

Fairtrade International, 2018, Monitoring the Scope and Benefits of Fairtrade, 159 p.

Fairtrade International, 2020, Fairtrade: Sustainable Trade for Sustainable Development, 8 p.

\*Fairtrade International, 2020, Fairtrade's Vision for Human Rights and Environmental Due Diligence. Strengthening Legal Frameworks for Business and Human Rights, September 2020, online: <https://files.fairtrade.net/Fairtrade-Human-Rights-Due-Diligence-Vision-September2020.pdf>.

\*Faracik, Beata, 2017, Implementation of the UN Guiding Principles on Business and Human Rights, European Parliament, DG External Policies, External Study, 88 p.

Fashion Revolution, 2015, It's Time for a Fashion Revolution, White paper, December 2020, 29 p.

\*Fashion Revolution, 2020, Fashion Transparency Index, 68 p., online: [https://issuu.com/fashionrevolution/docs/fr\\_fashion-transparencyindex2020?fr=sNm15NzYxMDk0OA](https://issuu.com/fashionrevolution/docs/fr_fashion-transparencyindex2020?fr=sNm15NzYxMDk0OA).

Fassa, Raimondo, 1998, Rapport sur le commerce équitable, Commission du développement et de la coopération, Doc. A4-0198/98, 26 May, 24 p.

\*Forson, Viviane, 2017, "Afrique : le secteur informel fait sa révolution", Le Point, 18 July, online: [https://www.lepoint.fr/economie/afrique-le-secteur-informel-fait-sa-revolution-18-07-2017-2144068\\_28.php](https://www.lepoint.fr/economie/afrique-le-secteur-informel-fait-sa-revolution-18-07-2017-2144068_28.php).

\*Fridell, Gavin, 2004, "The Fair Trade Network in Historical Perspective", Canadian Journal of Development Studies, 25:3, p. 411-428.

Galian Carlos, Margherita Licata and Maya Stern-Plaza, 2021, Social Protection in the Cultural and Creative Sector: Country Practices and Innovations, International Labour Organization, ILO Working Paper 28, 75 p.

\*Gendron, Corinne, 2004, Le commerce équitable : un nouveau mouvement social économique au coeur d'une autre mondialisation, Les Cahiers de la Chaire, Collection recherche, No 02-2004, 28 p.

\*Goodman, Pascal, 2010, Dancing with the Devil: Fair Trade's expansion as a regulatory standard-setter, International Economic Regulation Essay, 18 January 2010, 24 p.

\*Guèvremont, Véronique and Ivana Otasevic, 2018, Étude sur la coopération internationale avec les pays africains francophones en vue de mettre en œuvre la Convention sur la diversité des expressions culturelles dans l'environnement numérique, 81 p., online: [https://www.unescodec.chaire.ulaval.ca/sites/unescodec.chaire.ulaval.ca/files/vf\\_rapport\\_afrique\\_final\\_fr\\_26\\_sep\\_2018\\_1\\_1\\_0.pdf](https://www.unescodec.chaire.ulaval.ca/sites/unescodec.chaire.ulaval.ca/files/vf_rapport_afrique_final_fr_26_sep_2018_1_1_0.pdf).

Guèvremont, Véronique, 2019, "The Relationship Between Culture and Development in International Law", Japanese Yearbook of International Law, 62, p. 24-60.

\*Guèvremont, Véronique and Ivan Bernier, 2020, Guide to the Negotiation of Cultural Clauses in Trade Agreements, UNESCO Chair on the Diversity of Cultural Expressions, 85 p., online: [https://www.unescodec.chaire.ulaval.ca/sites/unescodec.chaire.ulaval.ca/files/guide\\_-\\_10\\_fevrier\\_2021\\_-\\_eng\\_-\\_final\\_0.pdf](https://www.unescodec.chaire.ulaval.ca/sites/unescodec.chaire.ulaval.ca/files/guide_-_10_fevrier_2021_-_eng_-_final_0.pdf).

\*Hampel, Annika, 2016, "'Fair Cooperation' in Cultural Diplomacy. Partnership-based cooperation between the 'Global North' and the 'Global South' in Cultural Policy and Cultural Management", 9th International Conference on Cultural Policy Research in Seoul/South Korea, 15 p., online: [https://www.academia.edu/27442406/Fair\\_Cooperation\\_in\\_Cultural\\_Diplomacy\\_Partnership\\_based\\_cooperation\\_between\\_the\\_Global\\_North\\_and\\_the\\_Global\\_South\\_in\\_Cultural\\_Policy\\_and\\_Cultural\\_Management](https://www.academia.edu/27442406/Fair_Cooperation_in_Cultural_Diplomacy_Partnership_based_cooperation_between_the_Global_North_and_the_Global_South_in_Cultural_Policy_and_Cultural_Management)

Helms, Grant E, 2011, "Fair Trade Coffee Practices: Approaches for Future Sustainability of the Movement", Indiana International & Comparative Law Review, 21:1, p. 79-110.

\*HRC, 2011a, Human rights and transnational corporations and other business enterprises, Resolution 17/4, 16 June 2011.

\*HRC, 2011b, Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie. Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, A/HRC/17/31, 21 March 2011.

\*HRC, 2017, Elaboration of an international legally binding instrument on transnational corporations and other business enterprises with respect to human rights, A/HRC/RES/26/9, 14 July 2017.

HRC, 2021a, COVID-19, culture and cultural rights, Report of the Special Rapporteur in the field of cultural rights, Karima Bennouna, A/HRC/46/34, 17 February 2021.

HRC, 2021b, Report on the sixth session of the open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights, A/HRC/46/73, 14 January 2021.

\*Huybrechts, Benjamin, 2007, "Fondement et implications de la diversité organisationnelle au sein du commerce équitable", Annals of Public and Cooperative Economics, 78:2, p. 195-219.

\*ILO, n.d., Fact Sheet - The Creative Industries in Africa, online: [https://www.ioe-emp.org/fileadmin/ioe\\_documents/publications/Working%20at%20Regional%20Level/Africa/EN/\\_2016-11-02\\_ILO\\_Fact\\_Sheet\\_-\\_Creative\\_Industries\\_Sector\\_in\\_Africa\\_final.pdf](https://www.ioe-emp.org/fileadmin/ioe_documents/publications/Working%20at%20Regional%20Level/Africa/EN/_2016-11-02_ILO_Fact_Sheet_-_Creative_Industries_Sector_in_Africa_final.pdf).

- \*Ivo Franco, Pedro Affonso and Kimani Njogu, 2020, Cultural and Creative Industries Supporting Activities in Sub-Saharan Africa: Mapping and Analysis, Institut für Auslandsbeziehungen, 84 p., online: <https://www.ifa.de/en/bloggung/article/mapping-cultural-and-creative-industries-in-sub-saharan-africa/>.
- \*Isernia, Pierangelo and Alessandro Giovanni Lamonica, 2021, “The Assessment of the Impact of COVID-19 on the Cultural and Creative Sectors in the EU’s Partner Countries, Policy Responses and their Implications for International Cultural Relations”, Cultural Relations Platform, EUROPAID/140334/DH/SER/MULTI, 70 p., online: [https://www.cultureinexternalrelations.eu/cier-data/uploads/2021/02/CRP\\_COVID\\_ICR\\_Study-final-Public.pdf](https://www.cultureinexternalrelations.eu/cier-data/uploads/2021/02/CRP_COVID_ICR_Study-final-Public.pdf).
- \*Ivors Academy, 2020, “8 out of 10 music creators earn less than £200 a year from streaming”, 7 December, online: <https://ivorsacademy.com/news/8-out-of-10-music-creators-earn-less-than-200-a-year-from-streaming-finds-survey-ahead-of-songwriters-and-artists-giving-evidence-to-a-select-committee-of-mps/>.
- \*Jaffee, Daniel, 2010, “Fair Trade Standards, Corporate Participation, and Social Movement Responses in the United States”, *Journal of Business Ethics*, 92, p. 267-285.
- \*Johnson, Pierre W, 2001, Cahier de propositions pour le 21<sup>ème</sup> siècle. Commerce équitable, Fondation Charles Léopold Mayer pour le Progrès de l’Homme, Alliance pour un monde responsable, pluriel et solidaire, Pôle socio-économique de Solidarité, 38 p.
- \*Kulesz, Octavio, 2016, “L’édition numérique à l’ère du mobile: L’Afrique”, Alliance Lab, online: <http://alliance-lab.org/ledition-numerique-a-ler-ere-du-mobile-lafrique-13/?lang=fr>.
- Kulesz, Octavio, 2017a, Cultural policies in the age of platforms, ReShaping Cultural Policies, Global Report 2018, Paris: UNESCO, p. 69-83.
- Kulesz, Octavio, 2017b, Culture in the Digital Environment: Assessing Impact in Latin America and Spain, Policy & Research Collection, Paris: UNESCO, 63 p., online: <https://en.unesco.org/creativity/sites/creativity/files/dce-policyresearch-book2-en-web.pdf>.
- Lafitte, Priscille, 2016, “Exposition ‘L’autre continent’: femmes, artistes et africaines”, France 24, 22 September, online: <https://www.france24.com/fr/20160922-exposition-autre-continent-femmes-artistes-africaines-havre-williamson-muholi-Seni-Awa-Cama>.
- Le Mare, Ann, 2008, “The Impact of Fair Trade on Social and Economic Development: A Review of the Literature”, *Geography Compass*, 2:6, p. 1922-1942.
- \*Lemay, Jean-Frédéric, 2007, Commerce équitable : vers des chantiers de recherche ancrés dans la pratique, Les cahiers de la CRSDD, Collection recherche, No 09-2007, 90 p.
- \*Low, William and Eileen Davenport, 2005, “Postcards from the Edge: Maintaining the ‘Alternative’ Character of Fair Trade”, *Sustainable Development*, 13, p. 143-153.
- \*Macdonald, Kate, 2011, “The Fair Trade System”, In David Held and Thomas Hale (eds), 2011, *Handbook of Transnational Governance Innovation*, Cambridge: Polity Press, p.252-258.
- Menie M’Essono, Philippe, 2016, “Bref état des lieux du droit d’auteur au Gabon”, *Music Africa*, 7 July, online: <https://www.musicinafrica.net/fr/magazine/bref-%C3%A9tat-des-lieux-du-droit-d%E2%80%99auteur-au-gabon>.
- \*Mohan, Sushil, 2010, Fair Trade Without the Froth: A Dispassionate Economic Analysis of ‘Fair Trade’, *The Institute of Economic Affairs*, 135 p.
- Moine, Céline and Jean Minguet, Jean, 2019, Le Rapport du Marché de l’Art Contemporain 2019, 21<sup>ème</sup> Rapport, Artprice, 48 p., online: <https://imgpublic.artprice.com/pdf/le-marche-de-lart-en-2019.pdf>.
- \*Moore, Geoff, 2004, “The Fair Trade Movement: Parameters, Issues and Future Research”, *Journal of Business Ethics*, 53, p. 73-86.
- Moulinier, Pierre, 1990, Programme de l’UNESCO en matière de développement culturel : Présentation des travaux réalisés depuis 1960, Rapports et Études sur la dimension culturelle du développement et sur les politiques culturelles, Paris: UNESCO, CLT/DEC/CD/94/10, 101 p.
- \*Music Business Worldwide, 2021, “The Music Industry Must Respond to the Greatest Challenge Humanity Faces. Introducing EarthPercent”, online, <https://www.musicbusinessworldwide.com/the-music-industry-must-respond-to-the-greatest-challenge-humanity-faces-introducing-earthpercent/>.
- \*Music Canada, 2016, The Value Gap: Its Origins, Impacts and a Made-in-Canada Approach, online: <https://musiccanada.com/resources/research/the-value-gap-report/>.
- \*Neil, Garry, 2019, Culture & Working Conditions for Artists, Policy & Research, Paris: UNESCO, 104 p., online: <https://unesdoc.unesco.org/ark:/48223/pf0000371790>
- Nelson, Valerie and Barry Pound, 2009, The Last Ten Years: A Comprehensive Review of the Literature on the Impact of Fairtrade Conducted, Natural Resources Institute, September, 47 p.
- \*Ngaoussi Elongue, Christian, 2018, “La Culture est-elle au centre du développement en Afrique ?”, *AgoraVox*, 6 May, online: <https://www.agoravox.fr/actualites/international/article/la-culture-est-elle-au-centre-du-203802>.
- \*Nurse, Keith, 2016, Étude des Mécanismes de Financement Alternatif et Innovants pour les Industries Culturelles ACP, Rapport exécutif final, 15 p.
- \*Nurse, Keith, 2019, What’s “Fair Trade for Culture” and how can supply chains in the (digital) music industry become more fair and sustainable?, 5 p., online: [https://www.unesco.de/sites/default/files/2020-04/WOMEX\\_Keith%20Nurse\\_PolicyPaper\\_191129.pdf](https://www.unesco.de/sites/default/files/2020-04/WOMEX_Keith%20Nurse_PolicyPaper_191129.pdf)
- \*O’Connor, Justin, 2019, Resources of Hope: Creative Economy and Development in the Global South, Ad hoc Expert Meeting on Creative economy and sustainable development, UNCTAD, 28 October, 11 p., online: <https://unctad.org/meeting/ad-hoc-expert-meeting-creative-economy-and-sustainable-development>.
- \*OECD, 2020, “Culture shock: COVID-19 and the cultural and creative sectors”, Tackling coronavirus (COVID-19): contributing to a global effort, 7 September, 55 p., online: [https://read.oecd-ilibrary.org/view/?ref=135\\_135961-nenh9f-2w7a&title=Culture-shock-COVID-19-and-the-cultural-and-creative-sectors&\\_ga=2.127576269.1941123259.1620792370-2051054671.1620792370](https://read.oecd-ilibrary.org/view/?ref=135_135961-nenh9f-2w7a&title=Culture-shock-COVID-19-and-the-cultural-and-creative-sectors&_ga=2.127576269.1941123259.1620792370-2051054671.1620792370).
- \*OECD, 2018, OECD Due Diligence Guidance for Responsible Business Conduct, OECD Publishing, 96 p., online: [http://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-for-Responsible-Business-Conduct.pdf?\\_ga=2.41810082.1252522169.1621220584-2051054671.1620792370](http://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-for-Responsible-Business-Conduct.pdf?_ga=2.41810082.1252522169.1621220584-2051054671.1620792370).
- \*OECD, 2011, Guidelines for multinational enterprises, OECD Publishing, 89 p., online: <https://www.oecd.org/daf/inv/mne/48004323.pdf>.
- \*OIF, 2013a, Profil culturel des pays francophones du sud (Afrique centrale), Paris: OIF, online: [https://www.francophonie.org/sites/default/files/2020-01/profil\\_oif\\_cemac\\_v.legere.pdf](https://www.francophonie.org/sites/default/files/2020-01/profil_oif_cemac_v.legere.pdf).
- OIF, 2013b, Profil culturel des pays francophones du sud (Afrique de l’Ouest), Paris: OIF, online: [https://www.francophonie.org/sites/default/files/2020-01/profil\\_oif\\_uemoa\\_vlegere.pdf](https://www.francophonie.org/sites/default/files/2020-01/profil_oif_uemoa_vlegere.pdf).
- \*OIF, 2013c, Profil culturel des pays du Sud membres de la Francophonie : Un aperçu de trois pays de la Caraïbe. La Dominique, Haïti, Saint-Lucie, Paris: OIF, online: [https://www.francophonie.org/sites/default/files/2020-01/profil\\_oif\\_caraibes\\_vlegere.pdf](https://www.francophonie.org/sites/default/files/2020-01/profil_oif_caraibes_vlegere.pdf).
- Pierrat, Emmanuel, 2005, “Comment est protégé le droit d’auteur en Afrique ?”, *Jeune Afrique*, 18 July, online, <https://www.jeuneafrique.com/94652/archives-thematique/comment-est-prot-g-le-droit-d-auteur-en-afrique/>.
- Plate-Forme pour le Commerce Équitable, 2010, Les impacts du Commerce équitable au Sud, Les Carnets de la Plate-Forme pour le Commerce Équitable, No 3, 8 p.

- \*Raynolds Laura T., 2009, "Fair Trade", In Kitchin R, Thrift N (eds), International Encyclopedia of Human Geography, 4, p. 8-13.
- Raynolds, Laura T., 2012, "Fair Trade Flowers: Global Certification, Environmental Sustainability, and Labor Standards", *Rural Sociology*, 77:4, p. 493-519.
- Raynolds, Laura T. and Elizabeth Bennett (eds), 2015, *Handbook of Research on Fair Trade*, Northampton MA: Edward Elgar, p. 3-23.
- \*Redfern Andy and Paul Snedker, 2002, *Creating Market Opportunities for Small Enterprises: Experiences of the Fair Trade Movement*, International Labour Organization, 61 p.
- \*Rogard, Pascal, 2016, "Is Cultural Diversity Adapted to the Digital Era?", in *Diversity of Cultural Expressions in the Digital Era*, Rihieri Hanania, Lilian and Norodom, Anne-Thida (dir.), Buenos Aires: Teseo Presse, online: <https://www.teseopress.com/diversityofculturalexpressionsinthedigitalera/>.
- Schéou and Southon, 2013, "Ambiguities and difficulties in partnership relations: the case of 'fair tourism' in Western Africa", *Current Issues in Tourism*, 16: 7-8, p. 753-772.
- Sefrioui, Kenza, 2020, "Être éditeur au Maroc : La pensée au triple défi du marché, du droit et des libertés", *RELIEF – Revue électronique de littérature française*, 14:1, p. 32-48.
- \*Sidibé, Aïssata Laure G. « Droits d'auteur au Burkina : Le BBDA a collecté plus de 28 millions de FCFA auprès des partis politiques au profit des artistes », *Lefaso.net*, 23 December 2020, online: <https://lefaso.net/spip.php?article101585>.
- Sirdey, Ninon, Julie Maisonhaute and Nadine Arnold, 2019, "Should Fair Trade Be Practiced beyond International Trade? The Rise of Domestic Fair Trade Initiatives", *Revue internationale des études du développement*, 4:240, p. 189-207.
- South African Broadcasting Corporation, 2019, *Annual Report*, online: [https://www.sabc.co.za/sabc/wp-content/uploads/2019/10/SABC\\_AR\\_2019\\_.pdf](https://www.sabc.co.za/sabc/wp-content/uploads/2019/10/SABC_AR_2019_.pdf).
- \*Sutton, Shannon, 2013, "Fairtrade Governance and Producer Voices: Stronger or Silent?", *Social Enterprise Journal*, 9:1, p. 73-87.
- \*Sutton, Shannon, 2014, *Voice, Choice, and Governance: The Case of Tanzania's Fairtrade Coffee Co-operatives*, Queen Mary, University of London, March 2014, 275 p.
- \*Tadros, Catherine, 2002, "Commerce équitable et modèle coopératif: Equal Exchange, un OCE aux États-Unis", Marie-Claire Malo (dir.), Montréal, Cahiers du CRISES, coll. Études de cas d'entreprise d'économie sociale, no ES-0204, April, 79 p.
- \*The Music Network, 2020, "About 1% of artists generate 90% of all music streams", 15 September 2020, online: <https://themusicnetwork.com/few-artists-generate-most-streams/>.
- \*Tokunboh, Ishmael, 2020, "L'analyse de rentabilisation pour investir dans les femmes africaines", *Women's World Banking*, 15 December, online: <https://www.womensworldbanking.org/insights-and-impact/the-business-case-for-investing-in-african-women/>.
- \*Trade for Development Centre, 2017, *Fair and Community-Based Tourism: Support of the Trade for Development Centre*, 18 p.
- \*UNCTAD, 2010, "World needs fairer and more sustainable trade, not less trade", online: <https://unctad.org/news/world-needs-fairer-and-more-sustainable-trade-not-less-trade>.
- UNESCO, 1982, *Mexico City Declaration on Cultural Policies*, 6 August 1982, in *World Conference on Cultural Policies*, Mexico City, 26 July - 6 August 1982, Final Report, Doc CLT/MD/1.
- UNESCO, 1986, *Proclamation of a World Decade for Cultural Development*, Res n°41/187, Paris, 8 December 1986, CC-89/WS-20.
- UNESCO, 1994, *Rapport du secrétariat sur la mise en œuvre du programme de la décennie depuis la quatrième session ordinaire du comité, Interventions des États membres sur les activités entreprises rôle des comités nationaux et des agences des Nations Unies*, Paris: UNESCO, CLT-95/CONF.207.
- UNESCO, 1995, *Our Creative Diversity*, World Commission on Culture and Development, Paris: UNESCO, 302 p.
- UNESCO, 1997, *Bilan des activités de l'UNESCO en Afrique (1996-1997)*, BRX.98/WS/1, AFR.98/WS/1, Paris: UNESCO.
- UNESCO, 2001, *Universal Declaration on Cultural Diversity*, 2 November 2001, Doc. UNESCO 31C/Res. 25, in *Records of the General Conference, 31st Session, Paris, 15 Octobre - 3 November 2001*.
- UNESCO, 2003, *L'UNESCO en Afrique 2002-2003*, AFR-2004/WS/1, Paris: UNESCO, online: <https://unesdoc.unesco.org/search/a6b52dec-e4d1-441d-a88e-4632a881b625>.
- UNESCO, 2004, *UNESCO et la question de la diversité culturelle : Bilan et stratégies, 1946-2007, Étude réalisée à partir d'un choix de documents officiels, Division des politiques culturelles et du dialogue interculturel*, Paris: UNESCO, p. 36 and seq.
- UNESCO, 2005, *Convention on the Protection and the Promotion of the Diversity of Cultural Expressions*, 20 October 2005, (2007) 2440 R.T.N.U. 311 (n° 43977).
- \*UNESCO, 2012, *Politiques pour la créativité. Guide pour le développement des industries culturelles et créatives*, Paris: UNESCO, 22 p., online: [http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/images/Comment\\_utiliser\\_ce\\_guidePDF.pdf](http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/images/Comment_utiliser_ce_guidePDF.pdf).
- \*UNESCO, 2015, *Re-shaping Cultural Policies: a decade promoting the diversity of cultural expressions for development*, 2005 Convention Global Report 2015, Paris: UNESCO, 235 p.
- \*UNESCO, 2017, *Re-shaping Cultural Policies: Advancing creativity for development*, 2005 Convention Global Report 2018, Paris: UNESCO, 251 p.
- \*UNESCO, 2019, *Implementation of the 1980 Recommendation concerning the Status of the Artist – Consolidated Report of the Implementation of the Recommendation*, 207 EX/23.VI, 7 August 2019, 5 p.
- UNESCO, 2020a, *Culture in crisis: policy guide for a resilient cultural sector*, Paris: UNESCO, 51 p., online: <https://unesdoc.unesco.org/ark:/48223/pf0000374631>.
- UNESCO, 2020b, *Preferential Treatment*, Brochure, online: <https://en.unesco.org/creativity/publications/preferential-treatment>.
- UNESCO, 2021, *Gender & Creativity: Progress on the precipice*, Special Edition, 2005 Convention Global Report Series, Paris: UNESCO, 60 p.
- \*UNESCO, 2021, "Narrative report of the International Fund for Cultural Diversity (2020)", Item 7 of the provisional agenda, Intergovernmental committee for the protection and promotion of the diversity of cultural expressions, DCE/21/14/IGC.7, 5 January 2021.
- \*UNESCO-UNDP, 2013, *Creative Economy Report, Widening Local Development Pathways*, Paris: UNESCO, 2013, online: <http://www.unesco.org/culture/pdf/creative-economy-report-2013.pdf>.
- UNGA, 2019, *International Year of Creative Economy for Sustainable Development*, 2021, A/C.2/74/L.16/Rev.1, 8 November 2019.
- UNGA, 2020, *International Year of Creative Economy for Sustainable Development 2021 A/RES/74/198*, 14 January 2020.
- \*van Graan, Mike, 2018, *Beyond Curiosity and Desire: Towards Fairer International Collaborations in the Arts*, IETM - On the Move - DutchCulture, Brussels, 34 p., online: [https://www.ietm.org/en/system/files/publications/ietm\\_beyondcuriosityanddesire\\_2018.pdf](https://www.ietm.org/en/system/files/publications/ietm_beyondcuriosityanddesire_2018.pdf).
- Veillard, Patrick, 2014, *Gender and Fair Trade Handicrafts: The Impact of Fair Trade Handicrafts on Women Empowerment in India and Bangladesh*, Oxfam, November, 69 p.
- \*Vieira de Jesus, Diego Santos, Kamlot Daniel and Veranise Jacobowski Correia Dubeux, 2020, "A Critique of the Creative Economy, Creative City and Creative Class From the Global South", *International Journal of Business Administration*, 11:4, p. 1-12.
- \*World Fair Trade Organization, 2013, *10 Principles of Fair Trade*, 4 p.

## Annexe II – List of interviews

As of April 16, 2021, 33 interviews have been completed with experts in the field of culture or the fair trade movement. In total, 63 people have been contacted to conduct an interview for this Fair Culture project.

Name	Expertise/organization
Alonso Cano, Guiomar	UNESCO – Dakar
Bennett, Elizabeth	Associate Professor of International Affairs and Director of Political Economy at Lewis & Clark College, Portland, Oregon
Carimentrand, Aurélie	CIRAD, France
Castro, Lorena Jaramillo	Economic Affairs Officer, UNCTAD Secretariat
Christgau, Carolin	Goethe Institut Burkina Faso
Corbalan, Sergi	Executive Director, FTAO
Corbussen, Tamara	Guarantee System Team, WFTO
Diaz Lanz, Alejandra	Director, Crear en Libertad, Paraguay
Enssle, Virginia	Junior Advocacy Officer, WFTO
Fischer, Silja	General Secretary, International Music Council
Ghillani, Paola	Consultant, former President of Max Havelaar
Guzha, Daves	Theater director, Zimbabwe
Hugues, Laurence	Alliance internationale des éditeurs indépendants
Kamara, Yarri	UNESCO Expert, policy consultant, researcher and writer
Karabuda, Alfons	Board Director, International Music Council, Board Director European Composer & Songwriter Alliance and MUSIKVERIGE
King, Andrea S.	UNESCO Expert, Barbados
Kulesz, Octavio	UNESCO Expert, consultant, digital publisher and entrepreneur, Argentina
Kyomuhendo, Goretti	Director, African Writers Trust, Uganda
Machuel, Benoît	General Secretary, International Federation of Musicians
Mbaye, Jenny	UNESCO Expert, research and policy consultant, lecturer at City University of London
Ndiaye, Khalilou	Director, Société Sénégalaise d'Importation de Films cinématographiques
Nelson, Valerie	Professor of Sustainable Development, Social Development Specialist, National Resources Institute, University of Greenwich
Nett, Mane	Vice President Americas of the IFCCD and President of the Chilean Coalition for Cultural Diversity, artist
Ochai, Ojoma	UNESCO Expert, Director of Programmes at the British Council (West Africa)
Pratt, Andy	Professor of Cultural Economy, City University of London, expert on creative industries
Schéou, Bernard	Professor, Université de Perpignan Via Domitia
Sefrioui, Kenza	Editor/journalist
Smith, Luanda	Founder and CEO of Mexican NGO Creatividad y Cultura Glocal
Somogyi, Daniel	Director, SoundStorm Music Education Agency / Wave Arts Education Agency, Womex
Vanwambeke, Estelle	Professor, Académie Royale des Beaux Arts, Bruxelles
Wangusa, Ayeta	UNESCO Expert, Executive Director, Culture and Development East Africa, Tanzania
Waridel, Laure	Activist, Special Advisor, Trudel, Johnson & L'Espérance, Associate Professor, Institut des sciences de l'Environnement, UQAM, Montreal
Waweru, David	UNESCO Expert, writer, entrepreneur and consultant, Kenya



## Annexe III – Peer Reading Panel

Aulake, Kimmo	Ministerial Advisor at the Ministry of Education and Culture of Finland
Balta Portoles, Jordi	Advisor on culture and sustainable cities at the Committee on Culture of United Cities and Local Governments (UCLG), member of the UNESCO Expert Facility for the implementation of the 2005 Convention on the Diversity of Cultural Expressions
Bernier, Ivan	Professor emeritus of Law, University of Laval
Delomeaux, Lydia	Associate Programme Specialist, Culture and Communication Unit, UNESCO Institute for Statistics (UIS), Montreal
de Sancristóbal, Berta	Head of Unit, Culture sector, UNESCO
Frei-Oldenburg, Angelika	Head of the global project culture and creative industries, Deutsche Gesellschaft für internationale Zusammenarbeit (GIZ) GmbH, Bonn
Joffe, Avril	Economic sociologist, Cultural Policy and Management Department, Wits School of Arts, University of the Witwatersrand, Johannesburg
Kessab, Ammar	Senior Governance Expert, African Development Bank (AfDB), Tunis
Stoklos Kingel, Piatã	Consultant for cultural and educational initiatives and on human development processes and conflict mediation, PSK Agency
Sekhar, Anupama	Director, Culture Department, Asia-Europe Foundation (ASEF), Singapore
Schollmeyer, Anne	Advisor of the global project culture and creative industries, Deutsche Gesellschaft für internationale Zusammenarbeit (GIZ) GmbH, Bonn

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