



2017
INTERNATIONAL YEAR
OF SUSTAINABLE TOURISM
FOR DEVELOPMENT



Draft Framework Convention on Tourism Ethics

Version 13 May 2017	Amendments ¹
<p>THE HIGH CONTRACTING PARTIES,</p> <p><i>Desiring to develop tourism with a view to contributing to economic development, international understanding, peace, prosperity and universal respect for, and observance of, human rights and freedoms for all without distinction of any kind such as race, colour, gender, language, religion, political or other opinion, national or social origin, property, birth or other status,</i></p>	<p>P_1_01_AUSTRIA_English: <u>New wording proposed (in bold):</u> <i>“Desiring to develop tourism with a view to contributing to economic development, international understanding, peace, prosperity and universal respect for, and observance of, human rights and freedoms for all without distinction of any kind such as race, colour, gender, language, religion, political or other opinion, national or social origin, property, age, birth or other status,”</i></p>
<p><i>Considering that tourism has the potential to contribute directly or indirectly to the Sustainable Development Goals of the 2030 Agenda for Sustainable Development, and in particular with regard to inclusive and sustainable economic growth, sustainable consumption and production and the sustainable use of oceans and marine resources,</i></p>	<p>P_2_01_AUSTRIA_English: <u>New wording proposed (in bold):</u> <i>“Considering that tourism has the potential to contribute directly or indirectly to the Sustainable Development Goals of the 2030 Agenda for Sustainable Development, and in particular with regard to inclusive and sustainable economic growth, full and productive employment and decent work for all, sustainable consumption and production and the sustainable use of oceans and marine resources,”</i></p>

¹ General comments to the Draft Framework Convention on Tourism Ethics made by States are attached at the end of the table (see below).

	<p>P_2_02_RUSSIAN FEDERATION_English: <u>New wording proposed (in bold):</u></p> <p><i>“<u>Considering</u> that tourism has the potential to contribute directly or indirectly to the Sustainable Development Goals of the 2030 Agenda for Sustainable Development, and in particular with regard to inclusive and sustainable economic growth, sustainable consumption and production and the sustainable use of oceans and marine resources and the terrestrial ecosystem”</i>,</p>
<p><i><u>Firmly believing</u> that, through the direct, spontaneous and non-mediatized contacts it engenders between men and women of different cultures and lifestyles, tourism represents a vital force for peace and a factor of friendship and understanding among the peoples of the world,</i></p>	
<p><i><u>In keeping</u> with the rationale of reconciling environmental protection, economic development and the fight against poverty in a sustainable manner, as formulated by the United Nations in 1992 at the “Earth Summit” of Rio de Janeiro, expressed in Agenda 21, adopted on that occasion, and reiterated by the “Earth Summits” of Johannesburg in 2002 and Rio in 2012 (Rio + 20),</i></p>	
<p><i><u>Taking into account</u> the swift and continued growth, both past and foreseeable, of the tourism activity, whether for leisure, business, culture, religious or health purposes and other special interest tourism products and segments, and its powerful effects, both positive and negative, on the environment, the economy and the society of both generating and receiving countries, on local communities and indigenous peoples, as well as on international relations and exchanges,</i></p>	
<p><i><u>Aiming</u> to promote responsible, sustainable and universally accessible tourism in the framework of the right of all persons to use their free time for leisure pursuits or travel with respect for the choices of society of all peoples,</i></p>	

Firmly convinced that, provided a number of principles and a certain number of rules are observed, responsible and sustainable tourism is by no means incompatible with the growing liberalization of the conditions governing the provision of goods and services and under whose aegis the enterprises of this sector operate and that it is possible to reconcile, in this context environment and economic development, openness to international trade and protection of social and cultural identities,

P_3_AUSTRIA_English:

New wording proposed (in bold):

*“Firmly convinced that, provided a number of principles and a certain number of rules are observed, responsible and sustainable tourism is by no means incompatible with the growing liberalization of the conditions governing the provision of goods and services and under whose aegis the enterprises of this sector operate and that it is **possible necessary** to reconcile, in this context environment and economic **as well as social** development, openness to international trade and protection of social and cultural identities”*

Considering that, with such an approach, all the stakeholders in tourism development – national, regional and local administrations, enterprises, business associations, workers in the sector, non-governmental organizations and bodies of all kinds related to the tourism sector, as well as host communities, the media and the tourists themselves, including excursionists – have different albeit interdependent responsibilities in the individual and societal development of tourism and that the formulation of their individual rights and duties will contribute to meeting this aim,

Emphasizing that, also in the field of tourism, both the State and the enterprises share the responsibility of advancing the protection and respect of human rights in the business context as laid down by the Guiding Principles on Business and Human Rights unanimously adopted by the UN Human Rights Council in its resolution 17/4 of 16 June 2011.

P_4_GERMANY_English:

New wording proposed (in bold):

*“Emphasizing that, also in the field of tourism, ~~both the~~ **it is a State duty to protect human rights as well as a corporate responsibility to respect human rights and to implement human rights due diligence State and the enterprises share the responsibility of advancing the protection and respect of human rights in the business context** as laid down by the Guiding Principles on Business and Human Rights unanimously adopted by the UN Human Rights Council in its resolution 17/4 of 16 June 2011”.*

Reasoning:

The wording in the Preamble should be in line with the UN Guiding Principles.

	Coherence with the language of the UN Guiding Principles; the wording used is not contained in the UN Guiding Principles.
<i><u>Recalling</u> resolution A/RES/406(XIII) of 1999 adopted by the General Assembly of the World Tourism Organization (hereinafter referred to as “UNWTO”) in which it solemnly adopted the Global Code of Ethics for Tourism,</i>	
<i><u>Recalling</u> resolution A/RES/668(XXI) of 2015 whereby the General Assembly of the UNWTO expressed its wish to convert the Global Code of Ethics for Tourism into a legally binding treaty in order to reinforce its effectiveness at the international and national level,</i>	
<i><u>Considering</u> that the World Committee on Tourism Ethics (hereinafter referred to as “the Committee”) established in 2001 under resolution A/RES/438(XIV) is a subsidiary organ of the UNWTO General Assembly,</i>	
<i><u>Convinced</u> that this Framework Convention (hereinafter referred to as “the Convention”) will enhance the advancement of a more sustainable and ethical tourism as stated in the Global Code of Ethics for Tourism,</i>	
<i><u>Aiming to supplement</u> the present Framework Convention with an Optional Protocol, which is a separate and independent legal instrument, providing a process for the settlement of disputes that can guide and strengthen the implementation of the ethical principles by all stakeholders concerned,</i>	P_5_GREECE_English: <u>New wording proposed:</u> We suggest the following wording: “ [...] instrument open to the States Parties of this Convention, [...] ”

<p><i>Inspired by the resolutions and decisions related to the implementation of the Global Code of Ethics for Tourism, adopted by the UNWTO General Assembly and the Executive Council,</i></p>	
<p><i>Reaffirming that, as a specialized agency of the United Nations, UNWTO, as well as its Member States, is guided in its activities by the Charter of the United Nations, relevant United Nations resolutions and the generally accepted norms and principles of international law,</i></p> <p><i>Have agreed as follows:</i></p>	
<p>GENERAL PROVISIONS</p>	
<p style="text-align: center;">Article 1 Definitions²</p> <p>For the purposes of this Convention and unless otherwise provided in particular provisions, the following definitions shall apply:</p> <p>(a) <i>ethical principles in tourism</i> means the Principles set out in this Convention in Articles 4 to 12 below.</p> <p>(b) <i>tourism</i> refers to the activities of visitors, whether tourists or excursionists.</p> <p>(c) <i>tourist</i> means a person taking a trip which includes an overnight stay to a main destination outside his/her usual environment, for less than a year, for any main purpose (business, leisure or other personal purpose) other than to be employed by a resident entity in the country or place visited.</p> <p>(d) <i>excursionist</i> means a person taking a trip which does not include an overnight stay to a main destination outside of his/her usual environment. For the purpose of this Convention any reference to tourists constitutes at the same time a reference to excursionists.</p> <p>(e) <i>stakeholders in tourism development</i> includes:³</p>	<p>A1.(c)_1_RUSSIAN FEDERATION_English:</p> <p>The definition of the term «tourist» in Article 1 paragraph c given in the Convention conflicts with the existing Russian legislation. According to the Russian Federal Law «On the basics of tourist activities in the Russian Federation» and the Federal Law «On the procedure for departure from the Russian Federation and entry into the Russian Federation» the Tourist can stay in the country up to 6 months. We propose that the term of the visit is defined by the national internal legislation of State Parties.</p>

² Definitions from the International Recommendations for Tourism Statistics. United Nations, 2008.

³ Based on resolution A/RES/469(XV), Beijing, China, 2003, by which the UNWTO General Assembly adopts the Supplement to the draft Protocol of Implementation relative to the application and interpretation of the Global Code of Ethics for Tourism

<ul style="list-style-type: none"> (i) national governments; (ii) local governments with specific competence in tourism matters; (iii) tourism establishments and tourism enterprises, including their associations; (iv) institutions engaged in financing tourism projects; (v) tourism employees and professionals; (vi) trade unions of tourism employees; (vii) tourists and excursionists; (viii) local populations and host communities at tourism destinations through their representatives; and (ix) other juridical and natural persons having stakes in tourism development including non-governmental organizations specializing in tourism and directly involved in tourism projects and the supply of tourism services. <p>(f) <i>Tourism resources means:</i></p> <ul style="list-style-type: none"> (i) natural resources, and (ii) cultural heritage assets (both tangible and intangible) <p><i>that have the potential to attract tourists.</i></p>	<p>A1.(f)_2_RUSSIAN FEDERATION_English:</p> <p>Proposed amendment to Article 1 (f) (in bold):</p> <p>(g) <i>Tourism resources means:</i></p> <p>(iii) natural resources, and</p> <p>(iv) cultural heritage assets (both tangible and intangible)</p> <p><i>that have the potential to attract tourists.</i></p> <p><u>natural and socio-cultural resources.</u></p> <p><u>Reasoning:</u></p> <p>The definition «cultural heritage assets» in Article 1 paragraph f comes into question. This definition doesn't exist in international law. We propose to use in the definition Tourism resources the term «natural and socio-cultural resources» according to the interpretation in the national legislation.</p>
<p style="text-align: center;">Article 2</p> <p style="text-align: center;"><i>Aim and scope</i></p> <p>(1) The present Convention aims to promote responsible, sustainable and universally accessible tourism through the implementation of the ethical principles in tourism.</p>	
<p>(2) The present Convention refers to all stakeholders in tourism development within the meaning of Article 1(e) in the observance of the ethical principles in tourism.</p>	

Article 3
Means of implementation

(1) States Parties shall promote responsible and sustainable tourism by formulating policies and adopting laws and regulations that are consistent with the ethical principles in tourism set out in the Convention.

A3.1_1_GERMANY_English:

Proposed amendment to Art. 3(1):

“States Parties shall promote responsible and sustainable tourism by formulating policies ~~and adopting laws and regulations~~ that are consistent with the ethical principles in tourism set out in the Convention.”

Reasoning:

Proposed deletion. The ethical principles contained in Art. 4 to 12 are too imprecise to be able to form the basis of an obligation to enact legislation.

A3.1_2_AUSTRIA_English:

Proposed amendment to Art.3.1 (in bold):

(1) “States Parties shall promote responsible, **universally accessible** and sustainable tourism by formulating policies and adopting laws and regulations that are consistent with the ethical principles in tourism set out in the Convention.”

Reasoning:

The addition of “universally accessible” to Art. 3 (1) would be in line with the wording used in the preamble and Art. 2. In order to avoid any misconceptions about the term “universally accessible” we would recommend to provide a definition to clarify that it is to be understood as providing accessibility for certain population groups (persons with disabilities, senior travelers, families with children). It should not be understood in the sense of providing a right to access a country or a specific site for everyone

A3.1_3_SWITZERLAND_English:

Those *ethical principles in tourism* set out in the Convention only can meet the principles of sustainable tourism if important references are adequately integrated. Such references are for example the UN Guiding Principles for Business and Human Rights, the Declaration on Fundamental Principles and Rights at Work from the International Labour Organisation and the 2030 Agenda for Sustainable Development.

<p>(2) States Parties shall respect and promote the ethical principles in tourism, especially through encouraging tourism enterprises and bodies to reflect these principles in their contractual instruments and make specific reference to them in their codes of conduct or professional rules.</p>	<p>A3.2_1_GERMANY_English: <u>Proposed amendment to Art. 3(2):</u> States Parties shall respect and promote the ethical principles in tourism, especially through encouraging tourism enterprises and bodies to reflect these principles in their contractual instruments and make specific reference to them in their codes of conduct or professional rules.</p> <p><u>Reasoning:</u> Proposed deletion. It is not clear whether Art. 2(2) creates a statutory obligation or merely encourages such public relations work by the contracting States in relations with their tourism sectors. Germany sees no need to regulate this question in a treaty under international law.</p>
<p>(3) States Parties shall periodically submit a report to the World Committee on Tourism Ethics concerning the adoption and effective implementation of policies, national laws and regulations that are consistent with the ethical principles in tourism.</p>	<p>A3.3_1_GERMANY_English: <u>Proposed amendment to Art. 3(3):</u> “States Parties shall periodically submit a report to the World Committee on Tourism Ethics concerning the adoption and effective implementation of policies, national laws and regulations that are consistent with the ethical principles in tourism.”</p> <p><u>Reasoning:</u> Proposal follows on from proposed change to Art. 3(1).</p>
<p>(4) States Parties, which are also parties to the Optional Protocol to the Framework Convention on Tourism Ethics, shall promote among tourism enterprises and bodies the conciliation mechanism provided for in the Optional Protocol.</p>	

ETHICAL PRINCIPLES IN TOURISM

<p>Article 4</p> <p><i>Tourism's contribution to mutual understanding and respect between peoples and societies</i></p>	
<p>(1) The understanding and promotion of the ethical values common to humanity, with an attitude of tolerance and respect for the diversity of religious, philosophical and moral beliefs, are both the foundation and the consequence of responsible tourism; stakeholders in tourism development and tourists themselves should observe the social and cultural traditions and practices of all peoples, including those of minorities and indigenous peoples and recognize their worth.</p>	
<p>(2) Tourism activities should be conducted in harmony with the attributes and traditions of the host regions and countries and in respect for their laws, practices and customs.</p>	
<p>(3) The host communities, on the one hand, and local professionals, on the other, should acquaint themselves with and respect the tourists who visit them and find out about their lifestyles, tastes and expectations; the education and training imparted to professionals contribute to a hospitable welcome.</p>	
<p>(4) It is the task of the public authorities to provide protection for tourists and their belongings; they must pay particular attention to the safety of foreign tourists owing to the particular vulnerability they may have; they should facilitate the introduction of specific means of information, prevention, security, insurance and assistance consistent with their needs; any attacks, assaults, kidnappings or threats against tourists or workers in the tourism industries, as well as the wilful destruction of tourism facilities or of elements of cultural or natural heritage should be severely condemned and punished in accordance with their respective national laws.</p>	<p>A4.4_1_GERMANY_English:</p> <p><u>Proposed amendment to Art. 4(4):</u></p> <p>"It is the task of the public authorities to provide protection also for tourists and their belongings; they must pay particular attention to the safety of foreign tourists owing to the particular vulnerability they may have; if necessary, they should facilitate the introduction of specific means of information, prevention, security, insurance and assistance consistent with their needs; any attacks, assaults, kidnappings or threats against tourists or workers in the tourism industries, as well as the wilful destruction of</p>

	<p>tourism facilities or of elements of cultural or natural heritage should be severely condemned and punished in accordance with their respective national laws.”</p> <p><u>Reasoning:</u> Art. 4(4) regulates special protection to be granted to tourists by the authorities of a contracting State. The German government does not believe it makes sense to establish a special regime for tourists. Particularly with regard to the protection of property, life and limb, tourists enjoy the same legal framework and the same protection as other people in Germany. So this provision can only make sense if a contracting State only offers this protection to its own nationals. Tourists should enjoy the same protection as other people in a State, and particularly the State’s own nationals; there is no need for a special protective regime for tourists. In terms of Art. 4(4) and (6), it is entirely unclear how these provisions are to be implemented. Basically, they are self-evident standards which may make sense in a code of conduct like the Global Code of Ethics, but not in a treaty under international law. There is no need to regulate this.</p> <p>A4.4_2_RUSSIAN FEDERATION_English: According to the Article 4, paragraph 4 the public authorities must pay particular attention to the safety of foreign tourists to the particular vulnerability they may have. At the same time, in the legislation of the Russian Federation there are no norms providing special procedure for ensuring the safety of foreign tourists, as well as protection of foreigners’ rights and freedoms are carried out on a par with Russian citizens.</p> <p>A4.4_3_LATE_CROATIA_English: We, basically, support the German comments especially on additional legal protection of tourists (the laws should be equal for all).</p>
<p>(5) When travelling, tourists should not commit any criminal act or any act considered criminal by the laws of the country visited and abstain from any conduct felt to be offensive or injurious by the local populations, or likely to damage the local environment;</p>	<p>A4.5_1_RUSSIAN FEDERATION_English: Article 4, paragraph 5, and Article 5, paragraph 3, of the draft Convention tourists should refrain from trafficking in drugs, arms, antiques, protected</p>

<p>they should refrain from all trafficking in illicit drugs, arms, antiques, protected species and products and substances that are dangerous or prohibited by national regulations.</p>	<p>species of flora and fauna, the exploitation of a person in any forms, particularly sexual, especially to children. These provisions go beyond the subject matter of the regulation of the draft Convention. Regulation of relations in the criminal-legal sphere is established by other special international treaties and domestic legislation.</p>
<p>(6) Tourists have the responsibility to acquaint themselves, even before their departure, with the characteristics of the countries they are preparing to visit; they must be aware of the health and security risks inherent in any travel outside their usual environment and behave in such a way as to minimize those risks.</p>	<p>A4.6_1_RUSSIAN FEDERATION_English: In accordance with the Article 4, paragraph 6 of the draft Convention tourists have the responsibility to acquaint themselves, even before their departure with the characteristics of the countries they intend to visit. However, the Russian Federal Law «On the Basics of Tourist Activities in the Russian Federation» establishes the right of a tourist to obtain necessary and reliable information about the rules for entering and staying in a country (place) of temporary residence about the customs of the local population, religious rituals, shrines, monuments of nature, history, culture and other objects of the tourist exposition, under special protection.</p>
<p style="text-align: center;">Article 5 <i>Tourism as a vehicle for individual and collective fulfilment</i></p> <p>(1) Tourism, the activity most frequently associated with rest and relaxation, sport and access to culture and nature, should be planned and practised as a privileged means of individual and collective fulfilment; when practised with a sufficiently open mind, it is an irreplaceable factor of self-education, mutual tolerance and for learning about the legitimate differences between peoples and cultures and their diversity.</p>	
<p>(2) Tourism activities should respect the equality of men and women; they should promote human rights and, more particularly, the individual rights of the most vulnerable groups, notably children, the elderly, persons with disabilities, ethnic minorities and indigenous peoples.</p>	<p>A5.2_1_FRANCE_French: <u>Proposed amendment to Art- 5.2 (in bold):</u></p> <p style="padding-left: 40px;">2) Tourism activities should respect the equality of men and women; they should promote human rights and, more particularly,</p>

	<p>the individual rights the protection of the most vulnerable groups, notably children, the elderly, persons with disabilities, ethnic minorities and indigenous peoples populations.</p> <p><u>Reasoning</u> : In French law, the concept of "individual rights" ("droits particuliers") is ambiguous. We do not have specific rights for specific groups (this goes against our constitution). One solution is therefore to use the term "protection".</p>
<p>(3) The exploitation of human beings in any form, particularly sexual, especially when applied to children, conflicts with the fundamental aims of tourism and is the negation of tourism; as such, in accordance with international law, it should be energetically combated with the cooperation of all the States concerned and penalized without concession by the national legislation of both the countries visited and the countries of the perpetrators of these acts, even when they are carried out abroad.</p>	<p>A5.3_1_FRANCE_French:</p> <p>Comments to Art. 5.3: We thought this term "penalized" ("sanctionnée") could be a problem. In the end, with the use of the conditional "should", the article is no longer a problem.</p> <hr/> <p>A5.3_2_RUSSIAN FEDERATION_English:</p> <p>Article 4, paragraph 5, and Article 5, paragraph 3, of the draft Convention tourists should refrain from trafficking in drugs, arms, antiques, protected species of flora and fauna, the exploitation of a person in any forms, particularly sexual, especially to children. These provisions go beyond the subject matter of the regulation of the draft Convention. Regulation of relations in the criminal-legal sphere is established by other special international treaties and domestic legislation.</p>

<p>(4) Travel for purposes of religion, health, education and cultural or linguistic exchanges are particularly beneficial and deserve encouragement.</p>	
<p>(5) The introduction into curricula of education about the value of tourism exchanges, their economic, social and cultural benefits, and also their risks, should be encouraged.</p>	<p>A5.5_1_LATE_CHINA_English: <u>Proposed amendment to Art.5.5:</u> (5) The introduction into curricula of education about the value of tourism exchanges, their economic, social and cultural benefits, and also their risks, should be encouraged.</p>
<p style="text-align: center;">Article 6 <i>Tourism, a factor of sustainable development</i></p> <p>(1) All the stakeholders in tourism development should safeguard the natural environment with a view to achieving sound, continuous and sustainable economic growth geared to satisfying equitably the needs and aspirations of present and future generations.</p>	<p>A6.1_1_GERMANY_English: <u>Proposed amendment to Art. 6(1):</u> “Also with a view to achieving sound, continuous and sustainable economic growth geared to satisfying equitably the needs and aspirations of present and future generations, All the stakeholders in tourism development should safeguard the natural environment with a view to achieving sound, continuous and sustainable economic growth geared to satisfying equitably the needs and aspirations of present and future generations.”</p> <p><u>Reasoning:</u> The order of the sentence should be altered to make it clear that nature and the environment should generally be protected in order to safeguard the natural environment for humanity and not merely to permit sustainable growth in the tourism sector.</p>

	<p>A6.1_2_RUSSIAN FEDERATION_English: Paragraph 1 of Article 6 of the draft Convention establishes the duty of all stakeholders in tourism development to protect the environment with a view to achieving sound, continuous and sustainable economic growth. At the same time, the Federal Law of the Russian Federation «On Environmental Protection» established that the protection of the environment is aimed at preserving and restoring the natural environment, rational use and reproduction of natural resources, preventing the negative impact of economic and other activities. Establishing the goal of economic growth in the implementation of environmental protection is not stipulated in the legislation of the Russian Federation and seems to be incorrect</p>
<p>(2) All forms of tourism development that are conducive to saving rare and precious natural resources, in particular water and energy, as well as avoiding so far as possible waste production, should be given priority and encouraged by national, regional and local public authorities.</p>	
<p>(3) The staggering in time and space of tourist flows, particularly those resulting from paid leave and school holidays, and a more even distribution of holidays should be sought so as to reduce the pressure of tourism activity on the environment and enhance its beneficial impact on the tourism industries and the local economy.</p>	
<p>(4) Tourism infrastructure should be designed and tourism activities programmed in such a way as to protect the natural heritage composed of ecosystems and biodiversity and to preserve endangered species of wildlife; the stakeholders in tourism development, and especially professionals, should agree to the imposition of limitations or constraints on their activities when these are exercised in particularly sensitive areas: desert, polar or high mountain regions, coastal areas, tropical forests or wetlands, propitious to the creation of nature reserves or protected areas.</p>	

<p>(5) Nature tourism and ecotourism are recognized as being particularly conducive to enriching and enhancing the standing of tourism, provided they respect the natural heritage and local populations and are in keeping with the carrying capacity of the sites.</p>	<p>A6.5_1_RUSSIAN FEDERATION_English: The Article 6, paragraph 5, of the draft Convention includes the terms «natural tourism» and «ecotourism», that are not mentioned in the Article 1 of the Convention, as well as in the legislation of the Russian Federation.</p>
	<p>A6.6_1_SWITZERLAND_English: <u>Proposed additional paragraph 6 (in bold):</u> (6) Tourism is a major engine for decent job creation and a driving force for economic growth and development. As one of the world’s leading employment sectors, tourism should provide important livelihood opportunities, help alleviate poverty and drive inclusive development. According to the Sustainable Development Goal 8.9, governments should implement policies to promote sustainable tourism that creates decent jobs and promotes local culture and products.</p> <p><u>Reasoning:</u> This paragraph considers only environmental aspects. But sustainability has the three parts: social, environmental (or ecological) and economic sustainability.</p>
<p style="text-align: center;">Article 7 <i>Tourism, a user of the cultural heritage of mankind and a contributor to its enhancement</i></p> <p>(1) Tourism resources belong to the common heritage of mankind; the communities in whose territories they are situated have particular rights and obligations to them.</p>	<p>A7.1_1_VENEZUELA_Spanish: <u>Proposed amendment to Art.7(1):</u> (1) Tourism resources belong to the common heritage of mankind; the communities in whose territories they are situated have particular rights and obligations to them are a fundamental part of the sustainable development of mankind, and therefore, tourism must be practiced in a way that responds equitably to the sustainable development needs of present and future generations.</p> <p><u>Reasoning:</u> Considering that this paragraph, insofar as it establishes tourism resources as a common heritage of mankind, is contrary to the principle</p>

of international law which recognizes the permanent sovereignty of States over natural resources existing in their territory, recognized by the declaration issued by the United Nations General Assembly in resolution 1803 (XVII) of 14 December 1962, entitled “Permanent Sovereignty over Natural Resources”, and also established in Principle 2 of the Rio Declaration on Environment and Development: “States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.

In our view, this alternative paragraph allows the draft Convention to conform to the spirit and principles of the Charter of the United Nations and the documents on international sustainable development signed by the Member States of the World Tourism Organization, including the outcome document of the United Nations Summit for the adoption of the post-2015 development agenda: “Transforming Our World: the 2030 Agenda for Sustainable Development”.

A7.1_2_GERMANY_English:

Art. 7(1) states that tourism resources belong to the common heritage of mankind. The concept “common heritage of mankind” is an established principle under international law which cannot be arbitrarily altered. It is certainly not possible to define all tourism resources as belonging to the common heritage. The German government would like to ask whether comments have been obtained, particularly on this provision, from UNESCO, the custodian of the Convention Concerning the Protection of the World Cultural and Natural Heritage.

Amendment to Article 7(1):

“Tourism resources **in some cases** belong to the ~~common~~ **World**

Cultural and Natural Hheritance of ~~mankind~~; the communities in whose territories they are situated have particular rights and obligations to them”.

Reasoning:

Adaptation to the UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage of 1972. Not all tourism resources are categorised as belonging to the common heritage.

A7.1_3_FRANCE_French:

Proposed amendment to Art.7.1 (in bold):

Tourism, a user of the cultural heritage of ~~mankind~~**the People** and a contributor to its enhancement

1) ***Tourism resources are fundamental elements of the civilization and culture of peoples*** ~~belong to the common heritage of mankind~~; the communities in whose territories they are situated have particular rights and obligations to them.

Reasoning:

The term “People” would be more appropriate according to the Legal Department

This initial sentence has several problems. Indeed, generally speaking, the common heritage of humanity is not subject to appropriation and is governed by a system of usage rights (see Montego Bay Convention and exploitation of the seabed etc.). Moreover, this is affected by our constitution (34C) since this involves the right of ownership.

We therefore propose to word the sentence differently.

	<p>A7.1_4_LATE_TANZANIA_English: Having rights and obligations to them should not be over powered by the government rules and regulations because the respective government has overall control and monitoring of the cultural sites.</p>
	<p>A7.1_5_RUSSIAN FEDERATION_English: In Article 7, paragraph 1, the definition of «communities» in the phrase «the communities in whose territories they are situated have particular rights and obligations to them» needs to be clarified. If this word means «Indigenous peoples» according to the national legislation «Indigenous peoples» do not have particular rights or obligations to tourism resources. In the Russian Federation tourism resources belong to the entire population.</p>
<p>(2) Tourism policies and activities should be conducted with respect for the artistic, archaeological and cultural heritage, which they should protect and pass on to future generations; particular care should be devoted to preserving and upgrading monuments, shrines and museums as well as archaeological and historic sites which must be widely open to tourism visits; encouragement should be given to public access to privately-owned cultural property and monuments, with respect for the rights of their owners, as well as to religious buildings, without prejudice to normal needs of worship.</p>	<p>A7.2_1_LATE_CHINA_English:</p> <p><u>Proposed amendment to Art.7.2:</u> (2) Tourism policies and activities should be conducted with respect for the artistic, archaeological and cultural heritage, which they should protect and pass on to future generations; particular care should be devoted to preserving and upgrading monuments, shrines and museums as well as archaeological and historic sites which must be widely open to tourism visits; encouragement should be given to public access to privately-owned cultural property and monuments, with respect for the rights of their owners, as well as to religious buildings, without prejudice to normal needs of worship.</p> <p><u>Reasoning:</u> To encourage tourism activities for religious purposes and to visit religious buildings inevitably requires specific measures of encouragement, preferential policy and some privilege that will undoubtedly unfair to citizens without religion.</p>

<p>(3) Financial resources derived from visits to cultural sites and monuments should, at least in part, be used for the upkeep, safeguard, development and embellishment of this heritage.</p>	
<p>(4) Tourism activity should be planned in such a way as to allow traditional cultural products, crafts and folklore to survive and flourish, rather than causing them to degenerate and become standardized.</p>	
<p style="text-align: center;">Article 8 <i>Tourism, a beneficial activity for host countries and communities</i></p> <p>(1) Local populations should be associated with tourism activities and share equitably in the economic, social and cultural benefits they generate, and particularly in the direct and indirect creation of jobs resulting from them.</p>	<p>A.8.1_1_SWITZERLAND_English: (1) Local populations should be associated with tourism activities and share equitably in the economic, social and cultural benefits they generate, and particularly in the direct and indirect creation of decent jobs resulting from them.</p>
<p>(2) Tourism policies should be applied in such a way as to help to raise the standard of living of the populations of the regions visited and meet their needs; the planning and architectural approach to and operation of tourism resorts and accommodation should aim to integrate them, to the extent possible, in the local economic and social fabric; where skills are equal, priority should be given to local manpower.</p>	
<p>(3) Special attention should be paid to the specific problems of coastal areas and island territories and to vulnerable rural or mountain regions, for which tourism often represents a rare opportunity for development in the face of the decline of traditional economic activities.</p>	
<p>(4) Tourism professionals, particularly investors, governed by the regulations laid down by the public authorities, should carry out studies of the impact of their development projects on the environment and natural surroundings; they should also deliver, with the greatest transparency and objectivity, information on their future programmes and their foreseeable repercussions and foster dialogue on their contents with the populations concerned.</p>	<p>A8.4_1_LATE_TANZANIA_English: The particular investors should observe the local content in order to reduce leakage of profit gained from tourism investment in the destinations.</p>

Article 9

Obligations of stakeholders in tourism development

(1) Tourism professionals have an obligation to provide tourists with objective and honest information on their places of destination and on the conditions of travel, hospitality and stays; they should ensure that the contractual clauses proposed to their customers are readily understandable as to the nature, price and quality of the services they commit themselves to providing and the financial compensation payable by them in the event of a unilateral breach of contract on their part.

A9.1_1_FRANCE_French:

Proposed amendment to Art. 9.1 (in bold):

1) **The High Contracting Parties ensure that** tourism professionals ~~have an obligation to~~ provide tourists with objective and honest information on their places of destination and on the conditions of travel, hospitality and stays; they should ensure that the contractual clauses proposed to their customers are readily understandable as to the nature, price and quality of the services they commit themselves to providing and the financial compensation payable by them in the event of a unilateral breach of contract on their part.

Reasoning:

This article is affected by our Constitution (53C). At the previous meeting, we proposed to replace the words "have an obligation" with "should". The proposal was rejected. Nevertheless, this wording, if it were retained, would not allow France to sign the convention...

Our Legal Department has found in its research that this obligation could echo those provided for in Articles L. 211-7 et seq. of the Tourism Code in the case of package travel (see also Chapter II - at the very least - (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and related travel services, amending Regulation (EC) No 2006/2004 and Directive 2011/83 / EU of the European Parliament and of the Council and repealing Council Directive 90/314 / EEC).

In this context, our Legal Department proposes to make this stipulation less prescriptive, with an alternative wording proposed.

	<p>A9.1_4_2_GERMANY_English: Art. 9(1) to (4) also refer to relations between tour operators / providers of individual tourism services and tourists. Where these refer to package tour contracts, the issues covered here overlap with the provisions in Annex II of the envisaged UNWTO Convention on the Protection of Tourists. This applies in particular to:</p> <ul style="list-style-type: none"> ▪ information requirements and the form and content of the contract (para. 1) ▪ obligations of the company to exercise due care and ensure safety, and the legal consequences (compensation) in case of violation of these obligations (para. 2) ▪ the repatriation of tourists in the case of insolvency of the tour operator (para. 4). <p>In fact, there are not only overlappings, but also provisions that go beyond and that contradict Annex II. For example, the repatriation – in contradiction to EU Directive 2015/2302 and the envisaged UN Convention on the Protection of Tourists – is apparently to be ensured not by the companies, but by the contracting States in the case of an insolvency. With regard to the application of the rules to individual tourism services, Germany believes the envisaged information and ancillary obligations and the rules on protection in case of insolvency go too far.</p>
<p>(2) Tourism professionals, insofar as it depends on them, should show concern, in cooperation with the public authorities, for the security and safety, accident prevention, health protection and food safety of those who seek their services; likewise, they should ensure the existence of suitable systems of insurance and assistance; they should accept the reporting obligations prescribed by national regulations and pay fair compensation in the event of failure to observe their contractual obligations.</p>	
<p>(3) Tourism professionals, so far as this depends on them, should contribute to the cultural and spiritual fulfilment of tourists and allow them, during their trip, to practise their religions.</p>	<p>A9.3_1_LATE_TANZANIA_English: This issue should be raised under Article 7 which talks about culture other than Article 9 where religion has no contribution to tourism development. Worship is very sensitive in some countries of which practice of religion for the tourists may not be acceptable.</p>

<p>(4) The public authorities of the generating States and the host countries, in cooperation with the professionals concerned and their associations, should ensure that the necessary mechanisms are in place for the repatriation of tourists in the event of the bankruptcy of the enterprise that organized their trip.</p>	<p>A9.4_1_AUSTRIA_English: The implementation of Art. 9 (4) could be incompatible with the Austrian insolvency legislation; in particular with regard to repatriations to be carried out by the host and generating countries.</p> <p>A9.4_2_LATE_TANZANIA_English: This might raise a burden to the public authorities by the enterprises claiming to have run bankrupt only just because the global code under Article 9 is there to protect or provide necessary mechanism for the repatriation of tourist.</p>
<p>(5) Governments have the right – and the duty – especially in a crisis, to inform their nationals of the difficult circumstances, or even the dangers they may encounter during their travels abroad; it is their responsibility however to issue such information without prejudicing in an unjustified or exaggerated manner the tourism sector of the host countries and the interests of their own operators; the contents of travel advisories should therefore be discussed beforehand with the authorities of the host countries and the professionals concerned; recommendations formulated should be strictly proportionate to the gravity of the situations encountered and confined to the geographical areas where the insecurity has arisen; such advisories should be qualified or cancelled as soon as a return to normality permits.</p>	<p>A9.5_1_GERMANY_English: <u>Proposed amendment to Art. 9(5):</u> “Governments have the right – and the duty – especially in a crisis, to inform their nationals of the difficult circumstances, or even the dangers they may encounter during their travels abroad; it is their responsibility however to issue such information without prejudicing in an unjustified or exaggerated manner the tourism sector of the host countries and the interests of their own operators; the contents of travel advisories should therefore be discussed beforehand with the authorities of the host countries and the professionals concerned; recommendations formulated should be strictly proportionate to the gravity of the situations encountered and confined to the geographical areas where the insecurity has arisen; such advisories should be qualified or cancelled as soon as a return to normality permits.”</p> <p><u>Reasoning:</u> Proposed deletion. The German government rejects any restriction of its</p>

discretion to formulate its travel and security advisories as well as any requirement to coordinate them with the countries of destination. It is not possible to implement these provisions for practical reasons (haste is generally required). But they also violate the sovereignty of a State to decide itself what security-related information it wishes to provide its citizens with.

A9.5_2_INDONESIA_English:

Proposed amendment to Art. 9.5:

(5) Governments have the right – and the duty – especially in a crisis, to inform their nationals of the difficult circumstances, or even the dangers they may encounter during their travels abroad; it is their responsibility however to issue such information without prejudicing in an unjustified or exaggerated manner the tourism sector of the host countries and the interests of their own operators; ~~the contents of travel advisories should therefore be discussed beforehand with the authorities of the host countries and the professionals concerned;~~ recommendations formulated should be strictly proportionate to the gravity of the situations encountered and confined to the geographical areas where the insecurity has arisen; such advisories should be qualified or cancelled as soon as a return to normality permits.

Reasoning:

Providing timely, accurate, and credible travel information for citizens is the right and duty of every government. While it is accepted that it should not be exaggerating or disproportionate, requiring governments to discuss content of information with affected governments and non-government actors would hamper the duty to act timely.

A9.5_3_LATE_CHINA_English:

Proposed Amendment to Art.9.5:

(5) Governments have the right – and the duty – especially in a crisis, to inform their nationals of the difficult circumstances, or even the dangers they may encounter during their travels abroad; it is their

	<p>responsibility however to issue such information without prejudicing in an unjustified or exaggerated manner the tourism sector of the host countries and the interests of their own operators; the contents of travel advisories should therefore be discussed beforehand with the authorities of the host countries and the professionals concerned; recommendations formulated should be strictly proportionate to the gravity of the situations encountered and confined to the geographical areas where the insecurity has arisen; such advisories should be qualified or cancelled as soon as a return to normality permits.</p> <p><u>Reasoning:</u> We believe that the factors causing travel alerts by source countries may vary, and cases of emergency and complexity often exist; therefore it is difficult or unable to discuss the foresaid factors with the host government and the relevant professionals in advance. In addition, due to the existence of interest factors, it forms no consensus as to that the host country and source countries issue travel alerts on their different positions and aspirations. It may cause the delay in the issuance of travel alerts and the disadvantage of the protection of tourists.</p> <p>A9.5_4_RUSSIAN FEDERATION_English: Paragraph 5 of Article 9 of the draft Convention provides with the obligation of the Governments to inform their citizens about difficult circumstances and even dangers that they may encounter when traveling abroad. Preliminary information should be discussed with the authorities of the host countries. At the same time, there is no provision in the legislation of the Russian Federation that regulates the information coordinating procedure between Russian and foreign bodies</p>
<p>(6) The press, and particularly the specialized travel press and the other media, including modern means of electronic communication, should issue honest and balanced information on events and situations that could influence the flow of tourists; they should also provide accurate and reliable information to the consumers of tourism services;</p>	

<p>the new communication and electronic commerce technologies should also be developed and used for this purpose; as is the case for the media, they should not in any way promote sex tourism.</p>	
<p style="text-align: center;">Article 10 <i>Right to tourism</i></p> <p>(1) The prospect of direct and personal access to the discovery and enjoyment of the planet's resources constitutes a right equally open to all the world's inhabitants; the increasingly extensive participation in domestic and international tourism should be regarded as one of the best possible expressions of the sustained growth of free time, and obstacles should not be placed in its way.</p>	<p>A10.1_1_AUSTRIA_English: While being fully aware of the UNWTO's intention to avoid making any change to the text of the Global Code of Ethics which is included in Articles 4 to 12 of the draft text of the Convention, we would like to point to a possibly undesired and far-reaching interpretation of human rights resulting from Articles 10 to 12. The codification of a "Right to tourism" would not be in line with the concept of human rights as rights of individuals against the state as it would determine obligations for states which cannot be fulfilled. [...]</p> <p>A10.1_2_GERMANY_English: The right to tourism set out in Art. 10 is expressed in such generalized terms that it is entirely unclear what rights are specifically guaranteed and how this right relates to other provisions (e.g. restrictions on entry or prohibitions or restrictions of use in order to protect cultural artefacts or nature). The German government does not believe that a universal right to tourism can be supported in such a generalised form in a Convention under international law.</p>
<p>(2) The universal right to tourism must be regarded as the corollary of the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay, guaranteed by Article 24 of the Universal Declaration of Human Rights and Article 7.d of the International Covenant on Economic, Social and Cultural Rights.</p>	<p>A10.2_1_RUSSIAN FEDERATION_English: Proposed amendment to Art. 10.2: "The universal right to tourism must should be regarded as the corollary of the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay, guaranteed by Article 24 of the Universal Declaration of Human Rights and Article 7.d of the International Covenant on Economic, Social and Cultural Rights".</p>

	<p>A10.2_2_FRANCE_French: <u>Proposed amendment to Art.10.2 (in bold):</u> (2) The universal right to tourism must could be regarded as the corollary of the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay, guaranteed by Article 24 of the Universal Declaration of Human Rights and Article 7.d of the International Covenant on Economic, Social and Cultural Rights.</p> <p><u>Reasoning:</u> This article is also affected by our Constitution. According to our Legal Department, the "right to tourism" is not mentioned in any text. The link being made here between a "right to tourism" and the "right to rest and leisure" (mentioned in the texts indicated in the article) is not obvious and poses a real legislative problem for us. If the text is retained, it will have to go through Parliament...</p>
<p>(3) Social tourism, and in particular associative tourism, which facilitates widespread access to leisure, travel and holidays, should be developed with the support of the public authorities.</p>	
<p>(4) Family, youth, student and senior tourism and tourism for persons with disabilities, should be encouraged and facilitated.</p>	

Article 11

Liberty of tourist movements

(1) Tourists should benefit, in compliance with international law and national legislation, from the liberty to move within their countries and from one State to another, in accordance with Article 13 of the Universal Declaration of Human Rights; they should have access to places of transit and stay and to tourism and cultural sites without being subject to excessive formalities or discrimination.

A11.1_1_RUSSIA_English:

Proposed amendment to Art. 11.1:

“(1) Tourists should benefit, in compliance with international law and national legislation, from the liberty to move within their countries and from one State to another, in accordance with Article 13 of the Universal Declaration of Human Rights; they should have access to places of transit and stay and to tourism and cultural sites **in accordance with the formalities established by national laws** ~~without being subject to excessive formalities or discrimination.~~”

Reasoning:

In the Article 11, paragraph 1 we suggest to make the reference to the national law in the phrase «they should have access to the places of transit and stay and to tourism and cultural sites in accordance with the formalities established by national laws».

A11.1_2_AUSTRIA_English:

While being fully aware of the UNWTO’s intention to avoid making any change to the text of the Global Code of Ethics which is included in Articles 4 to 12 of the draft text of the Convention, we would like to point to a possibly undesired and far-reaching interpretation of human rights resulting from Articles 10 to 12. [...]

Moreover, the reference to Art. 13 of the Universal Declaration of Human Rights (Art. 11 (1) of the Convention) appears to be misleading since subsequent human rights treaties have used a much more restrictive wording. It would, therefore, exceed the currently applicable legal framework.

<p>(2) Tourists should have access to all available forms of communication, internal or external; they should benefit from prompt and easy access to local administrative, legal and health services; they should be free to contact the consular representatives of their countries of origin in compliance with the international conventions in force.</p>	<p>A11.2_1_RUSSIAN FEDERATION_English: <u>Proposed amendment to Art. 11.2:</u></p> <p>“(2) Tourists should have access to all available forms of communication, internal or external; they should benefit from prompt and easy access to local administrative, legal and health services; they should be free to contact the consular representatives of their countries of origin in compliance with the international conventions international treaty in force”.</p> <p>A11.2_2_GERMANY_English: The German government is not clear about what obligations derive for a contracting State from Art. 11(2) in terms of “access to health services”. It should be made clear that the access to health services in case of need (which is of course granted in Germany) does not entail the coverage of the costs of the health care by the host country.</p>
<p>(3) Tourists should benefit from the same rights as the citizens of the country visited concerning the confidentiality of the personal data and information concerning them, especially when these are stored electronically.</p>	<p>A11.3_1_FRANCE_French: <u>Proposed amendment to Art. 11.3 (in bold):</u></p> <p>(3) Tourists should benefit from the same rights as the citizens of the country visited concerning the confidentiality protection of the personal data and information that they provide concerning them, especially when these are stored electronically.</p> <p><u>Reasoning:</u></p> <p>As case-law has recently been established, it was necessary to check this stipulation in relation with it. We had already asked at the previous meeting to review certain aspects of this provision (replacing the term "confidentiality" with "protection"). We are therefore re-proposing a change.</p>

	<p>Our Legal Department recalls, for reference, that Article 8 ("<u>Protection of personal data</u>"), paragraphs 1 and 2, of the Charter of Fundamental Rights of the European Union stipulates that everyone has the right to protection of personal data. Such data must be processed fairly for specified purposes and on the basis of the <u>consent</u> of the person concerned or some other legitimate basis laid down by law. Everyone has the right of access to data which has been collected concerning him or her, and the right to have it rectified [...]</p> <p>There are of course other texts that govern this protection such as the <i>Loi informatique et libertés</i> (French Data Protection Act), etc.</p>
<p>(4) Administrative procedures relating to border crossings whether they fall within the competence of States or result from international agreements, such as visas or health and customs formalities, should be adapted, so far as possible, so as to facilitate to the maximum freedom of travel and widespread access to international tourism; agreements between groups of countries to harmonize and simplify these procedures should be encouraged; specific taxes and levies penalizing the tourism sector and undermining its competitiveness should be gradually phased out or corrected.</p>	<p>A11.4_1_FRANCE_French:</p> <p><u>Proposed amendment to Art. 11.4 (in bold):</u></p> <p>(4) Administrative procedures relating to border crossings whether they fall within the competence of States or result from international agreements, such as visas or health and customs formalities, should be adapted, so far as possible, so as to facilitate to the maximum freedom of travel and widespread access to international tourism; agreements between groups of countries to harmonize and simplify these procedures should be encouraged; excessive specific taxes and levies penalizing the tourism sector and undermining its competitiveness should be gradually phased out or corrected.</p>
<p>(5) So far as the economic situation of the countries from which they come permits, tourists should have access to allowances of convertible currencies needed for their travels.</p>	<p>A11.5_1_GERMANY_English:</p> <p><u>Proposed amendment to Art. 11(5):</u></p> <p>So far as the economic situation of the countries from which they come permits, tourists should have access to allowances of common convertible currencies needed for their travels.</p> <p><u>Reasoning:</u></p> <p>Access should be restricted to commonly used currencies.</p>

<p style="text-align: center;">Article 12</p> <p style="text-align: center;"><i>Rights of the workers and entrepreneurs in the tourism industries</i></p> <p>(1) The fundamental rights of workers and entrepreneurs in the tourism industries and related activities should be guaranteed under the supervision of the national and local administrations, both of their States of origin and of the host countries with particular care, given the specific constraints linked in particular to the seasonality of their activity, the global dimension of their industries and the flexibility often required of them by the nature of their work.</p>	<p>A12.1_1_SWITZERLAND_English: Proposed amendment to Article 12: Rights of the workers and entrepreneurs in the tourism industries (1) The fundamental principles and rights at work of workers and entrepreneurs in the tourism industries and related activities should be guaranteed under the supervision of the national and local administrations, both of their States of origin and of the host countries with particular care, given the specific constraints linked in particular to the seasonality of their activity, the global dimension of their industries and the flexibility often required of them by the nature of their work.</p>
	<p>A12.1_2_GERMANY_English: Art. 12 requires observation of “fundamental rights of workers and entrepreneurs”, but does not specify what these rights are. The German government believes that it would make more sense here to refer to relevant international instruments, e.g. the fundamental conventions of the ILO.</p>
<p>(2) Employees and self-employed workers in the tourism industries and related activities should be able to access appropriate initial and continuous training; they should be given adequate social protection; job insecurity should be limited so far as possible; and a specific status, with particular regard to their social welfare, should be offered to seasonal workers in the sector.</p>	<p>A12.2_1_RUSSIAN FEDERATION_English: Article 12 the paragraph 2 of the draft Convention provides for employees and self-employed workers in tourism industry ensures social protection, that is not regulated by the Convention.</p>
<p>(3) Any natural or legal person, provided he, she or it has the necessary abilities and skills, should be entitled to develop a professional activity in the field of tourism under existing national laws; entrepreneurs and investors - especially in the area of small and medium-sized enterprises - should be entitled to free access to the tourism sector with a minimum of legal or administrative restrictions.</p>	

<p>(4) Exchanges of experience offered to executives and workers, from different countries, contribute to fostering the development of the world tourism sector; these movements should be facilitated so far as possible in compliance with the applicable national laws and international conventions.</p>	
<p>(5) As an irreplaceable factor of solidarity in the development and dynamic growth of international exchanges, multinational enterprises of the tourism industries should not exploit the dominant positions they sometimes occupy; they should avoid becoming the vehicles of cultural and social models artificially imposed on the host communities; in exchange for their freedom to invest and trade which should be fully recognized, they should involve themselves in local development, avoiding, by the excessive repatriation of their profits or their induced imports, a reduction of their contribution to the economies in which they are established.</p>	
<p>(6) Partnership and the establishment of balanced relations between enterprises of generating and receiving countries contribute to the sustainable development of tourism and an equitable distribution of the benefits of its growth.</p>	
<p>WORLD COMMITTEE ON TOURISM ETHICS</p>	
<p style="text-align: center;">Article 13 Mandate</p> <p>(1) The World Committee on Tourism Ethics is a subsidiary organ of the UNWTO General Assembly, and notwithstanding the functions performed in relation to the Global Code of Ethics for Tourism, it shall be responsible for monitoring the implementation of the provisions of this Convention and carrying out any other tasks entrusted to it by the Conference of States Parties.</p>	
<p>(2) The Committee shall fix the modalities for the submission and examination of the reports of the States Parties.</p>	

<p>(3) The Committee shall adopt a biennial report on the implementation and interpretation of the Convention that will be transmitted by the Secretary-General of the UNWTO to the General Assembly of the UNWTO and to the Conference of States Parties to the present Convention.</p>	<p>A13.3_1_GREECE_English: Wording accepted.</p>
<p>(4) The Committee may also act, where applicable, as a conciliation mechanism to the States Parties and other stakeholders in tourism development in accordance with the Optional Protocol annexed to the Framework Convention on Tourism Ethics.</p>	<p>A13.4_1 +OP_15_GERMANY_English: <u>Art. 13(4) in conjunction with the Optional Protocol:</u> The German government takes a critical view of the farming out of the dispute-settlement mechanism into an additional, optional protocol. It is true that the instrument of a dispute-settlement mechanism is in principle welcome, especially as it gives the individual members the possibility to clarify differences of opinion regarding the interpretation and application of the Convention in the quickest and most efficient way possible. However, in view of the small number of cases taken up by the existing dispute-settlement mechanism, we believe it would have been preferable to evaluate the existing dispute-settlement mechanism under Art. 10(3) of the Code and to revise it on this basis. In particular, it would have been necessary to clarify the specific reasons why the members have so far almost never made use of the dispute-settlement mechanism. Without this knowledge, a revision of the procedure, which should always aim to make the procedure more efficient, does not seem promising and runs the risk that in future – as in the past – members will only make use of the dispute-settlement mechanism in isolated cases. Given that accession to the additional protocol is not obligatory for the members and can occur independently from accession to the Convention, the German government believes that this devalues the instrument of the dispute settlement mechanism in a way that does not make sense, compared with the present arrangements in Art. 10(3) of the Code of Ethics. The dispute-settlement mechanism should – as at present under the Code – form an integral part of the regulatory structure to which it belongs. In view of the criticism outlined above, however, it is also necessary to ask whether the lack of precision of the provisions in Art. 4 to 12 of the draft</p>

	<p>Convention in particular actually permits any effective dispute settlement. In many cases, it is hard to determine what action a Member State would have to take pursuant to Art. 3(1) of the draft Convention in order to meet the requirements deriving from Art. 4 to 12. The resulting lack of legal certainty would feed through into any dispute-settlement procedure, since it would not be possible for the parties to the dispute to define the matter of dispute sufficiently clearly. And if the matter of dispute is not adequately defined, this impacts on the effectiveness of the dispute-settlement mechanism and ultimately on the decision to be taken by the Ethics Committee. It is also unclear what stakeholders can access the dispute settlement mechanism and whether a dispute conducted in the dispute settlement mechanism can also involve private citizens.</p>
<p style="text-align: center;">Article 14 Composition</p> <p>(1) The General Assembly of the UNWTO, in cooperation with the Conference of States Parties, shall determine the composition of the Committee as well as the modalities for the nomination and appointment of its Members with a view to achieving their independence and impartiality.</p> <p>(2) The General Assembly of the UNWTO, in cooperation with the Conference of States Parties, shall elect the members of the Committee with due regard being paid to gender balance and equitable regional and sectorial representation.</p>	<p>A14.1_1_GREECE_English: The provision remains unclear as it does not fully address the fact that some issues which pertain to the Committee, inasmuch as the Committee acts as an organ of UNWTO and not of the Convention, cannot be regulated by the Convention which will not commit the total number of the UNWTO Member States.</p> <p>A14.2_1_AUSTRIA_English: New wording proposed (in bold): (2) “The General Assembly of the UNWTO, in cooperation with the Conference of States Parties, shall elect the members of the Committee with due regard being paid to gender and age balance and equitable regional and sectorial representation”.</p>
<p style="text-align: center;">Article 15 Functioning</p> <p>(1) The Secretary-General of the UNWTO shall place at the Committee’s disposal the personnel and financial resources necessary for the performance of its functions. The expenses necessary to the functioning of the Committee will be entered in the budget of the Organization with the approval of the General Assembly.</p>	

<p>(2) The Committee shall adopt its own rules of procedure. The text of the rules of procedure shall be transmitted to the Conference of States Parties and to the General Assembly of the UNWTO for their information.</p>	<p>A15.2_1_GREECE_English: It could be specified that the provisions contained in Article 15 refer to the competences of the Committee under the present Framework Convention.</p>
<p>CONFERENCE OF STATES PARTIES</p>	
<p>Article 16 <i>Composition and responsibilities</i></p>	
<p>(1) The Conference of States Parties shall be the plenary body of this Convention composed of representatives of all States Parties.</p>	
<p>(2) The Conference of State Parties shall meet in ordinary sessions every two years in conjunction with the General Assembly of the UNWTO. It may meet in extraordinary session if it so decides or if the Secretary-General of the UNWTO receives a request to that effect from at least one-third of the States Parties.</p>	
<p>(3) The presence of a majority of States Parties shall be necessary to constitute a quorum at meetings of the Conference of States Parties.</p>	
<p>(4) The Conference of States Parties shall adopt its own rules of procedure and amendments thereto.</p>	
<p>(5) The Conference of States Parties shall perform, <i>inter alia</i>, the following functions:</p> <ul style="list-style-type: none"> (a) <i>considering and adopting amendments to this Convention and to the Optional Protocol to the Framework Convention on Tourism Ethics where applicable;</i> (b) <i>adopting plans and programmes for the implementation of this Convention; and taking any other measures it may consider necessary to further the</i> 	

<p><i>objectives of this Convention;</i></p> <p>(c) <i>approving the operational guidelines for the implementation and application of the provisions of the Convention prepared upon its request by the World Committee on Tourism Ethics.</i></p>	
<p>(6) The Conference of the States Parties may invite observers to its meetings. The admission and participation of observers shall be subject to the rules of procedure of the Conference of States Parties.</p>	
<p>(7) The Conference of the States Parties may establish a fund, if necessary, to cover any expenses for the implementation of the Convention that are not met by UNWTO and determine the contribution to be made by each of the States Parties to the present Convention.</p>	<p>A16.7_1_AUSTRIA_English: We strongly oppose Art. 16 (7) providing for the possibility of introducing a payment obligation for States Parties for implementation expenses not covered by the UNWTO. The implementation of the Convention should be exclusively guaranteed within the regular UNWTO budget. Therefore, we suggest to delete Art. 16 (7).</p>
<p style="text-align: center;">Article 17 Secretariat</p> <p>The Secretariat of the UNWTO shall provide administrative support to the Conference of States Parties, as necessary.</p>	
<p>FINAL PROVISIONS</p>	
<p style="text-align: center;">Article 18 Signature</p> <p>The present Convention shall be open for signature by all Member States of the UNWTO and all Member States of the United Nations at the twenty-second session of the General Assembly of the UNWTO, and thereafter at the Headquarters of the UNWTO in Madrid until [date].</p>	

<p style="text-align: center;">Article 19</p> <p style="text-align: center;"><i>Ratification, acceptance, approval or accession</i></p> <p>(1) The present Convention is subject to ratification, acceptance, approval or accession by States. Instruments of ratification, acceptance, approval and accession shall be deposited with the Secretary-General of the UNWTO.</p>	
<p>(2) No reservations may be made with respect to any of the provisions of this Convention.</p>	<p>A19.2_1_FRANCE_French:</p> <p>Note from our Legal Department: The fact is that the convention lays down commitments rather than obligations. But this prohibition appears to be disproportionate in view of the scope of this convention. And what about its articulation precisely with European Union law? It is clear that if there is a contradiction, EU law will prevail for the Member States. If this is not specified in the agreement, it is generally a reservation made precisely by the Member States of the Union and the prohibition in Article 19§2 could be problematic.</p> <hr/> <p>A19.2_2_INDONESIA_English: Proposed amendment to Art. 19.2: (2) — No reservations may be made with respect to any of the provisions of this Convention.</p> <p>Reasoning: Reservation is guaranteed by Vienna Convention 1969. Reservation allows as may states as possible to participate in treaties, as it enables states to accept treaty obligations while remain observant to their national regulations.</p>

	<p>A19.2_3_AUSTRIA_English: Art. 19 (2) stipulates that no reservations may be made with respect to any of the provisions of the Convention. The general exclusion of reservations does not reflect international practice for treaties.</p>
	<p>A20.1_1_FRANCE_French: <u>Proposed inclusion of new Art.20:</u></p> <p><u>Articulation with the law of the European Union</u> Parties to this Convention that are members of the European Union shall apply, in their mutual relations, the law of the European Union (EU) insofar as there are EU rules governing the particular areas concerned that are applicable to case in question, without prejudice to the object and purpose of this Convention and without prejudice to its full application in respect of the Parties to the Convention which are not members of the EU.</p> <p><u>Reasoning :</u> Proposal to add a disconnection clause.</p>

Article 20
Entry into force

(1) The present Convention shall enter into force on the thirtieth day following the date of deposit of the tenth instrument of ratification, acceptance, approval or accession.

A20.1_2_GERMANY_English:

The minimum ratification threshold of 10 for the Convention to enter into force is far too low. We propose that the number be increased significantly (e.g. to 39, which would equate to a quarter of the UNWTO Member States).

Proposed amendment to Art. 20(1):

The present Convention shall enter into force on the thirtieth day following the date of deposit of the ~~tenth~~ **39th** instrument of ratification, acceptance, approval or accession.

Reasoning:

In the view of the German Government, the threshold of 10 States is far too low. It means that fewer than 10% of the Member States of the UNWTO would have to ratify the Convention. The entry into force of the Convention should not be an end in itself, but should also be an expression of the approval of a significant number of Member States (see also: UN Handbook on Final Clauses of Multilateral Treaties, page 58: "A significant number of instruments of consent to be bound are specified to ensure broad acceptance of the treaty before its entry into force.") For this reason, the German government believes that the threshold should be set at a quarter of the Member States.

A20.1_3_LATE_CROATIA_English:

We support the German comments on the number of countries necessary to adopt the Convention -10- is really too small a number, at least 1/3 of UNWTO MS

	<p>A20.1_4_SWITZERLAND_English: Proposed amendment to Art. 20.1:</p> <p>Entry into force force:</p> <p>(1) The present Convention shall enter into force on the thirtieth day following the date of deposit of the tenth instrument of ratification, acceptance, approval or accession.</p>
<p>(2) For each State Party ratifying, accepting, approving or acceding to the Convention after the deposit of the tenth instrument of ratification acceptance, approval or accession, the Convention shall enter into force on the thirtieth day following deposit by such State Party of its instrument of ratification, acceptance, approval or accession.</p>	
<p style="text-align: center;">Article 21</p> <p style="text-align: center;"><i>Amendment of the Convention</i></p> <p>(1) Any State Party may propose amendments to the present Convention.</p>	
<p>(2) The text of any proposed amendment shall be communicated by the Secretary-General of the UNWTO to all States Parties at least ninety days before the opening of the session of the Conference of States Parties.</p>	
<p>(3) Amendments shall be adopted by a two-thirds majority vote of States Parties present and voting and shall be transmitted by the Secretary-General of the UNWTO to the States Parties for ratification, acceptance, approval or accession.</p>	

<p>(4) Instruments of ratification, acceptance, approval or accession to the amendments shall be deposited with the Secretary-General of the UNWTO.</p>	
<p>(5) Amendments adopted in accordance with paragraph 3 shall enter into force for those States Parties having ratified, accepted, approved or acceded to such amendments on the thirtieth day following the date of receipt by the Secretary-General of the UNWTO of the instruments of ratification, acceptance, approval or accession of at least five of the States Parties to this Convention. Thereafter the amendments shall enter into force for any other State Party on the thirtieth day after the date on which that State Party deposits its instrument.</p>	
<p>(6) After entry into force of an amendment to this Convention, any new State Party to the Convention shall become a State Party to the Convention as amended.</p>	
<p style="text-align: center;">Article 22 Denunciation</p> <p>(1) The present Convention shall remain in force indefinitely, but any State Party may denounce it at any time by written notification. The instrument of denunciation shall be deposited with the Secretary-General of the UNWTO. After one year from the date of deposit of the instrument of denunciation, the Convention shall no longer be in force for the denouncing State Party, but shall remain in force for the other States Parties.</p>	<p>A22.1_1_FRANCE_French:</p> <p>1) La présente Convention reste en vigueur pour une durée illimitée, mais n'importe quel tout État partie peut la dénoncer à tout moment par notification écrite. L'instrument de dénonciation est déposé auprès du Secrétaire général de l'OMT. À l'expiration d'un délai d'un an à compter de la date du dépôt de l'instrument de dénonciation, la Convention n'est plus en vigueur pour l'État partie auteur de la dénonciation mais reste en vigueur pour les autres États parties.</p> <p>[Translator's note: This proposed amendment affects only the French language version of the text.]</p>
<p>(2) The denunciation shall not affect the possible remaining financial obligation of the denouncing State Party, any requests for information or assistance made, or procedure for the peaceful settlement of disputes commenced during the time the Convention is in force for the denouncing State Party.</p>	

<p style="text-align: center;">Article 23</p> <p style="text-align: center;"><i>Dispute settlement</i></p> <p>Any dispute that may arise between States Parties as to the application or interpretation of this Convention shall be resolved through diplomatic channels or, failing which, by any other means of peaceful settlement decided upon by the States Parties involved, including, where applicable, the conciliation mechanism provided for in the Optional Protocol.</p>	<p>A23_1_AUSTRIA_English: The proposed dispute settlement (Art. 23 in conjunction with the Optional Protocol) could be understood as excluding access to ordinary courts. It appears rudimentary and does not provide for a procedure compatible with the Austrian <i>ordre public</i>.</p>
<p style="text-align: center;">Article 24</p> <p style="text-align: center;"><i>Authentic texts</i></p> <p>The Arabic, English, French, Russian and Spanish texts of this Convention shall be regarded as equally authentic.</p>	<p>A23_2_GREECE_English: Wording accepted.</p> <p>A24_1_LATE_CHINA_English: Proposed amendment to Art.24:</p> <p style="text-align: center;"><i>Authentic texts</i></p> <p>The Arabic, English, French, Russian, Chinese and Spanish texts of this Convention shall be regarded as equally authentic.</p> <p>Reasoning: We propose to add Chinese language in Article 24, as UN has listed Chinese as one of the official languages, and meanwhile, the number of Chinese speaker is huge, and thus the Chinese version shall be equally authentic.</p>
<p style="text-align: center;">Article 25</p> <p style="text-align: center;">Depositary</p> <p>(1) The Secretary-General of the UNWTO shall be the depositary of this Convention.</p>	
<p>(2) The Secretary-General of the UNWTO shall transmit certified copies to each of the signatory States Parties.</p>	
<p>(3) The Secretary-General of the UNWTO shall notify the States Parties of the signatures, of the deposits of instruments of ratification, acceptance, approval and accession, amendments and denunciation.</p>	

<p style="text-align: center;">Article 26 Registration</p> <p>In conformity with Article 102 of the Charter of the United Nations, this Convention shall be registered with the Secretary-General of the United Nations by the Secretary-General of the UNWTO.</p> <p>IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed this Convention.</p> <p>(1) DONE at VENUE, on DATE</p>	<p>A26_1_I.R OF IRAN_English:</p> <p>Proposed amendment to Art.26.1 (in bold): In conformity with Article 102 of the Charter of the United Nations, this Convention shall be registered with the Secretary-General of the United Nations by the Secretary-General Secretariat of the UNWTO.</p> <p>Reasoning: In line 1 of Article 26 (Registration), it is mentioned that "in conformity with Article 102 of the Charter of the United Nations, this Convention shall be registered with the Secretary-General of the United Nations by the Secretary-General of the UNWTO". However, in Article 102 of the Charter of the United Nations, it is mentioned that "every treaty and every international agreement entered into by any Member of the United Nations after the present Charter comes into force shall as soon as possible be registered with the Secretariat and published by it". Therefore, it is recommended that in order to fully conformity with Article 102, the phrase of "Secretary-General" in Article 26 shall be replaced by "Secretariat".</p>
OPTIONAL PROTOCOL	
<p>THE HIGH CONTRACTING PARTIES, <i>Having concluded the Framework Convention on Tourism Ethics (hereinafter referred to as "the Convention") as a fundamental frame of reference for the development of responsible, sustainable and universally accessible tourism,</i></p>	
<p><i>Recognizing that disputes in the tourism sector may sometimes seriously disrupt the positive impacts of the sector towards a harmonious socio-cultural and economic development and the advancement of peace and prosperity,</i></p>	

<p><i>Aiming to supplement the Convention with a separate and independent legal instrument providing a process for the settlement of disputes that can guide and strengthen the implementation of the ethical principles by all stakeholders concerned,</i></p>	
<p><i>Encouraging all parties to try to resolve all disputes in a peaceful manner before resorting to litigation,</i></p>	
<p>Have agreed as follows:</p> <p>1. The World Committee on Tourism Ethics (hereinafter referred to as “the Committee”) shall act as an independent and voluntary conciliation mechanism for any dispute that may arise among States Parties to the present Protocol, or stakeholders in tourism development within the limits set out in paragraph 2 below, concerning the interpretation or application of the Convention.</p>	<p>OP.1_1_FRANCE_French:</p> <p>It would be advisable to introduce “articles” here.</p> <p>Proposed amendment to Art.1 of the Optional Protocol: 1. Le Comité mondial d'éthique du tourisme (ci-après « le Comité ») tient lieu de mécanisme indépendant et volontaire de conciliation en cas de différend portant sur l'interprétation ou l'application de la Convention et pouvant survenir entre des États parties au présent Protocole, ou des parties prenantes du développement du tourisme dans la limite des dispositions conditions prévues au paragraphe 2 ci-dessous.</p> <p>[Translator's note: This proposed amendment affects only the French language version of the text.]</p>
<p>2. Any dispute between two or several States Parties to the present Protocol, or a State Party and one or more stakeholders may be referred to the Committee.</p>	<p>OP2_1_GREECE_English:</p> <p>Taking into consideration the fact that in accordance with Article 1 (e) of the Framework Convention, “stakeholders in tourism development” includes, inter alia: (i) national governments; (ii) local governments with specific competence in tourism matters, disputes between a State Party to the Optional Protocol and a national or local government (their status being that of ‘stakeholders in tourism development’) of a State which has ratified the Framework Convention, but not the Optional Protocol may be referred to the Committee. Through this indirect way, States Parties to the Framework Convention get access to the conciliation mechanism described in the</p>

	Optional Protocol, although they have not ratified the Optional Protocol. Of course, in accordance with Article 3 of the Optional Protocol, the Parties have to agree to submit the dispute to the Committee. Nevertheless, the provision of this Article needs further clarification with regard to the scope of the conciliation mechanism.
3. In so far as the Parties agree to submit the dispute to the Committee, they shall present written statements, accompanied by all documents and other evidence as deemed necessary to the Chairperson of the Committee who shall appoint a sub-committee of three members responsible for examining the dispute and for formulating recommendations suitable to form the basis of a settlement.	
4. In order to adopt relevant recommendations, the sub-committee may ask the Parties for additional information and, if deemed useful, may hear them at their request; the necessary expenses incurred by the conciliation procedure shall be borne by the Parties in dispute. The failure of one of the Parties to appear even though it has been given a reasonable opportunity to participate shall not prevent the sub-committee from adopting its recommendations.	
5. Unless otherwise agreed by the Parties in dispute, the Committee shall announce recommendations of the sub-committee within three months from the date on which the dispute was referred to it. The Parties in dispute shall inform the Chairperson of the Committee of any settlement reached on the basis of the recommendations and of any action taken to implement such settlement.	
6. If within a period of two months after notification of the recommendations the Parties in dispute have failed to agree on the terms of a final settlement, the Parties may separately or jointly refer the dispute to a plenary session of the Committee.	
7. The plenary session of the Committee shall adopt a decision that shall be notified to the Parties in dispute and, if the Parties in dispute agree so, made public. If the Parties in dispute agree with the decision, they will be requested to apply it at the earliest possible opportunity and they shall provide information in due course to the Chairperson of the	

<p>Committee on the actions they have taken to implement the abovementioned decision.</p>	
<p>8. A State Party may, at the time of ratification, acceptance, approval or accession, or any subsequent date, declare that it agrees with respect to any other State Party assuming the same obligation, to consider binding the decision of the Committee in any dispute covered by this Protocol on which no settlement has been reached in accordance with paragraph 4.</p>	<p>OP8_1_GREECE – English: This Article needs further clarification. The suggested wording gives States Parties the opportunity, as long as they want, to consider as binding the decisions made by the Committee, with regard to all the disputes which fall within the scope of the Optional Protocol and therefore, may also refer to the disputes in which the contracting parties include other stakeholders in tourism development, in accordance with Article 1 (e) of the Framework Convention on Tourism Ethics, such as tourism enterprises. The comment made by the Secretariat does not adequately address this issue.</p>
<p>9. Tourism establishments and tourism enterprises, as well as their associations, may include in their contractual documents a provision making the decisions of the Committee binding in their relations with their contracting parties.</p>	
<p>10. Except in cases where new elements have been submitted to it, the Committee shall not consider matters it has already dealt with (<i>non bis in idem</i>) and will inform the Parties in dispute accordingly.</p>	
<p>11. The present Protocol is open to the ratification, acceptance, approval or accession to the States Parties to the Convention. The rules concerning the amendment and denunciation of the Convention shall apply mutatis mutandis to the Protocol. The provisions included in Article 19(2) of the Convention shall not apply to this Protocol. The Protocol shall form an Annex to the Convention for the States having ratified, accepted, approved or acceded to it.</p>	<p>OP11_1_FRANCE_French: Proposed amendment to Art. 11 of the Optional Protocol: 11. The present Protocol is open to the ratification, acceptance, approval or accession to the States Parties to the Convention. The rules concerning the amendment and denunciation of the Convention shall apply mutatis mutandis to the Protocol. The provisions included in Article 19(2) of the Convention shall not apply to this Protocol. <i>On the other hand, the effects of Article 20 of the same Convention shall apply in the context of this Protocol.</i> The Protocol shall form an Annex to the Convention for the States having ratified, accepted, approved or acceded to it.</p>

<p>12. Denunciation of the Convention shall involve the immediate denunciation of this Protocol. The denunciation shall take effect one year after the receipt of the instrument of denunciation. However, States Parties denouncing the Protocol shall remain bound by its provisions in respect of any dispute which may have been referred to the Committee before the end of the one-year period provided for above.</p>	
<p>13. The Protocol shall enter into force on the thirtieth day following the date of deposit of the second instrument of ratification, acceptance, approval or accession.</p> <p>14. For each State Party ratifying, accepting, approving or acceding to the Protocol after the deposit of the second instrument of ratification, acceptance, approval or accession, the Protocol shall enter into force on the thirtieth day following the deposit by such State Party of its instrument of ratification, acceptance, approval or accession.</p>	
<p>IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed the present Protocol.</p> <p>DONE at VENUE, on DATE</p>	

General comments made by States to the Draft Framework Convention on Tourism Ethics:

AUSTRIA_English:

- In its current form, the draft Convention contains a number of obstacles that will prevent Austria from approving or adopting the Convention during the twenty-second session of the General Assembly.
- The Global Code of Ethics for Tourism as a voluntary implementation mechanism has proved to be a useful instrument that resulted in numerous positive developments within the tourism sector. Therefore, it appears unclear to what extent the proposed Convention will bring benefits compared to the Global Code of Ethics for Tourism. As international treaties are generally only binding for states, it is difficult to see how the concrete implementation could be derived from the very general character of the Convention's provisions and in particular with regard to the numerous provisions that are directed towards stakeholders other than states (e.g. Art. 9 (1), (2), (3) and (6)).
- Due to the wide scope of the draft Convention it cannot be ruled out that some of the provisions fall into the scope of the European Union's competence (e.g. reference to visas in Art. 11 (4)).
- It is furthermore recommended to include a reference to the relevant conventions of the International Labour Organisation (ILO) in the preamble.

CROATIA_LATE_English:

Next steps:

The Convention SHOULD be approved by voting, not acclamation.

The other thing is that, at the moment, without any insight into possible changes in the text or the procedures, we believe that approval of the text is a better option than the adoption of the Convention-it still needs some fine tuning (perhaps even more). Namely, having the part of Convention on arbitration as optional seems to lower the importance of the Convention.

Additionally, indeed, the text of the Code is suitable for both public and private sectors, but having it, such as it is, in the Convention, for which GOVERNMENTS are responsible- may very much complicate the adoption.

<p>GERMANY_English:</p>	<p><u>Preliminary remarks about the process:</u></p> <ul style="list-style-type: none"> ▪ Permit us to start by pointing out that the consultation of the Member States is not in conformity with the guidelines for the adoption of the draft UNWTO Framework Convention, which were specifically drafted for the adoption process for this Convention and approved by the Executive Council, and which are to be adopted by the General Assembly. Subdivision 2.(a) of the procedural guidelines provides that the Secretary-General is to distribute the proposed text to the Member States of UNWTO for comments at the latest 90 days before the opening of the General Assembly. However, the draft Convention was not distributed until 26 June, i.e. 79 days before the official opening of the General Assembly on 13 September. The German government would be grateful for a response from UNWTO on this matter. ▪ Germany has repeatedly expressed criticism of what it regards as an overhasty adoption process. The adoption of a treaty under international law is an important matter which should be preceded by detailed discussions with and amongst the Member States. The German government has therefore always stressed the need for an orderly process under international law which permits negotiations amongst all the Member States. As a consequence, we believe that the working group can only be tasked with drawing up a draft to serve as a starting point for the actual negotiations. An international treaty conference would provide an appropriate framework for the negotiation of the treaty and would correspond to the customary international approach in the United Nations and other international organisations; ▪ We also believe it is necessary to make the process of shaping a convention under international law as transparent and open as possible. From our point of view, it would have been desirable and useful to involve and consult with the tourism sector, and particularly the small and medium-sized enterprises and the civil-society stakeholders at an early stage in order to achieve a broad consensus across society; ▪ The German government has great doubts about the need to convert the Global Code of Ethics into a treaty under international law. The Global Code of Ethics is, and is designed to be, an instrument of voluntary self regulation. In contrast, an international convention lays down standards for obligations under international law for States. The creation of binding rules for legislation and policy is, however, something fundamentally different from the formulation of shared moral and ethical principles and guidelines, not least in terms of possible substance. We believe it would be preferable first to evaluate the application and impact of the Global Code of Ethics, and particularly the dispute settlement mechanism under Art. 10 of the Code, and then to undertake a broad-based consultation process in order to revise the Code on the basis of the 2030 Agenda and the UN Guiding Principles for Business and Human Rights, which have been adopted since the adoption of the Code. ▪ The German government stresses that its sceptical stance on the need for a convention under international law should in no way be misunderstood as a lack of awareness of or respect for the need for ethical standards. We consider the Global Code of Ethics
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to be an extremely important agreement. It has enabled UNWTO to anchor important and welcome ethical principles in tourism. The German government has always encouraged the stakeholders in the German tourism sector to attach high priority to the Code and the principles contained in it.

As already stated above, the requirements to be met by an international treaty are, however, different. We would like to point out that representatives of civil society who have committed to promoting ethical standards in tourism (e.g. the NGOs Tourism Watch, a division of Bread for the World – Church Development Service; Roundtable Human Rights in Tourism e.V.) also take a critical view of UNWTO's plans to convert the Code into a Convention under international law and of the process.

- Further to this, the German government would like to ask to what extent the present draft has been discussed and coordinated with other UN Specialised Agencies whose interests might be affected by the substance, particularly UNESCO, the WHO and the ILO.

General comments on the draft Convention:

Germany believes that the draft Convention does not make clear what a State would be committing itself to by signing and ratifying the Convention. Since the main substantive provisions of the draft Convention, the ethical principles in Art. 4 to 12, were originally worded for a different purpose, i.e. inclusion in the Global Code of Ethics, they a priori do not form rules which can be implemented by State regulation. Rather, they are programmatic guidelines which address some very disparate stakeholders, i.e. not only States, but also in particular the tourism sector and the tourists themselves. In contrast, an international Convention sets out obligations for States. The draft does attempt to get around this dilemma by setting out in Art. 3(1) – in a very general way – the obligation of the State to promote responsible and sustainable tourism by means of policies and laws in line with the ethical principles. However, this does not create any binding rules for the contracting States, and it is such binding rules that ultimately constitute a treaty under international law. It also remains unclear what demands the Member States would be confronted with in the context of the reporting procedure envisaged under Art. 3(3).

This is also reflected in the wording of the draft: Art. 4 to 12 all use the word “should” in the formulation of their goals. This wording is not in line with customary treaty language in international agreements and is indicative of nonbinding rules below the threshold of a treaty under international law. In contrast, outside of Art. 4 to 12, and particularly in Art. 3 (“Means of implementation”), the word “shall” is used; in contrast to “should”, this is an expression of treaty language and signals that the substance is legally binding. This contradiction is not resolved.

Germany believes that the proposed one-to-one transposition of the principles of the Global Code of Ethics in a binding Convention, as proposed by the Ethics Committee, and which we did not agree to during adoption in the Executive Council, is the wrong way forward. Rather, if one is pursuing the aim of imposing binding global ethical standards (a goal which has not really been discussed so far in the UNWTO bodies), it would have been necessary to consider and discuss the precise areas in which State obligations can be agreed and

how these can be implemented by the contracting States.

The UN Guiding Principles for Business and Human Rights and the 2030 Agenda for Sustainable Development, which have been adopted since the adoption of the Global Code of Ethics, are mentioned in the Preamble; however, Germany believes that – not least in view of the fact that the text from the Global Code of Ethics from 1999 is taken over unchanged – it is not apparent how these developments have actually been reflected in the draft Convention.

Comments on and proposed amendments to individual articles:

Germany believes that the entire approach taken by the draft Convention is misguided and requires fundamental revision. The question of what action could or should be taken by a contracting State to implement the substance arises in almost every provision in Art. 4 to 12. In the following comments, the German government is restricting itself to making just a few comments and proposed amendments in order to provide some examples. We still believe it is necessary to allocate a sufficient amount of time to negotiate the draft text on the basis of comprehensive consultations in an international treaty conference.

Next steps:

In subdivision 5 (a), the proposed procedural guidelines envisage that the Convention shall be adopted by consensus at the General Assembly. We understand this to mean that – unless so required by a Member State – no formal vote on the adoption of the Convention is envisaged. The German government believes that it is inappropriate for such a far-reaching decision as the adoption of a treaty under international law to be taken by acclamation. We would therefore like to already request that a formal vote be held on any adoption of the Convention.

The proposed procedural guidelines do not state how abstentions are to be assessed in a decision on whether to adopt the Convention. Germany believes that, in the case of such a far-reaching decision as the adoption of an international treaty, it is necessary for the adoption to entail an actual majority of UNWTO members. We assume that UNWTO shares this view and will therefore calculate the 2/3 majority taking the number of UNWTO members as a point of reference. We believe that Member States which abstain should also be deemed to have voted. In the alternative, we would like to request that, in view of the significance of the decision, the increased majority described in Rule 38(4) in conjunction with 38(3) of the Rules of Procedure of the General Assembly is required.

The German government asks that the German comments and comments from other UNWTO members be quickly made available to all Member States in order to ensure a transparent process.

I.R. OF IRAN_English:	<p><u>General comments on the draft Convention:</u> "Implementation of all international treaties including the Framework Convention on Tourism Ethics is subjected to ratification by the Parliament of the Islamic Republic of Iran. The provisions of the Convention shall be applicable only if they are in conformity with the Constitution, domestic laws and regulations, national policies and cultural and religious values of the Islamic Republic of Iran.</p> <p>Respect for religious rites and sites of religious worship shall prevail over all tourism-related commitments including those outlined in the convention."</p>
POLAND_English:	<p>In our opinion, the negotiations of the final text of the Convention should be held within the framework of an intergovernmental conference which would consider the possibility of significant substantive amendments to Articles 4-12. Poland will not block the adoption of the document by the upcoming General Assembly. However, we reserve the right to request the convening of an intergovernmental conference on the issue, or to support such a request if submitted by another Member State or a group of States.</p> <p>In the event that the Convention is adopted by the General Assembly Poland, within an appropriate time frame, will analyse the final text thereof to determine whether it is in its interest to adopt the Convention.</p>
RUSSIAN FEDERATION_English:	<p><u>General comments on the draft Convention:</u> We draw your attention to the fact that the incorrect translation of the Articles cause incomprehension of the text of the Convention.</p> <hr/> <p><u>Comments on the draft Optional Protocol to the Convention:</u> The draft Optional Protocol to the Convention on the conciliatory mechanism for the settlement of disputes provides for the transfer of a dispute between the Parties of the draft Convention for consideration of the World Committee on Tourism Ethics, the decisions of which are binding on the Parties to the dispute. In the legislation of the Russian Federation there is no rule on the possibility of transferring a dispute between States to the consideration of an independent body.</p>

SWITZERLAND_English:	In general we support the position of the German government, particularly regarding the process.
VENEZUELA_Spanish	<p><u>General comments on the draft Convention:</u></p> <p>The Ministry of Tourism of the Bolivarian Republic of Venezuela considers that the draft Convention contains fundamental provisions that guide the action of the Member States of the World Tourism Organization in order to formulate strategies, programmes and policies aimed at strengthening tourism as a strategic factor for the socio-productive and sustainable development of countries, and contributing directly to the achievement of the internationally agreed development goals, especially the outcome document of the United Nations Summit for the adoption of the post-2015 development agenda: "Transforming Our World: the 2030 Agenda for Sustainable Development".</p>