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Report of the World Committee on Tourism Ethics

Addendum 2

Draft UNWTO Convention on Tourism Ethics

I. Explanatory note by the Legal Adviser

A. General considerations

1. The Global Code of Ethics for Tourism was adopted by the General Assembly of the then WTO during its 13th session (Santiago, Chile) on 1 October 1999 and made part of resolution A/RES/406(XIII). The Code consists of a Preamble and nine principles, to which is added an Article 10 entitled "Implementation of the principles of the Global Code of Ethics for Tourism".

2. The principles proclaimed in the Code are certainly nothing more than rather soft guidelines, moreover addressed more to the private sector – clearly the most active actor in tourism activities. This "soft law character"¹ of the Code is confirmed by several other provisions of resolution 406. In particular, paragraph 4 "recommends" "(a) States Members or non-members of WTO, *without being obliged to do so*, to accept expressly the principles embodied in the Global Code of Ethics for Tourism and to use them as a basis when establishing their national laws and regulations and to inform accordingly the World Committee on Tourism Ethics"² and sub-paragraph 4(b) is not much more demanding towards "tourism enterprises and bodies".

3. Although in paragraph 6, the General Assembly "[s]ubscribe[d] to the principle of a Protocol for implementing the Global Code of Ethics for Tourism as annexed to this resolution" it merely confined itself to adopting "the guiding principles on which it is based:

- (a) creation of a flexible follow-up and evaluation mechanism with a view to ensuring the constant adjustment of the Code to the developments of world tourism and, more broadly, to the changing conditions of international relations;

¹ Soft law can be defined as this part of (usually international) law composed of non-legally binding obligations and which cannot therefore entail the responsibility of the "wrongdoer", but possessing nevertheless a normative objective.

² Italics added. See also Paragraph 2 of Resolution 406 (XIII).



- (b) the making available to States and other stakeholders in tourism development of a conciliation mechanism to which they may have recourse by consensus or on a voluntary basis”.
4. The draft Protocol of Implementation, while annexed to resolution 406(XIII), was not adopted as such. Nor was it during the two following sessions of the General Assembly:
- (a) in 2001 (Seoul), the Assembly decided to adopt Part I of the Protocol and to create the World Committee on Tourism Ethics (hereafter: “WCTE”) (A/RES/438(XIV)); and
- (b) in 2003 (Beijing), it established the Committee (A/RES/469(XV)), but, in both cases, only parts of the Protocol (quite deeply amended) were adopted.
5. However, in 2005 (Dakar), the General Assembly endorsed the “Procedures for Consultation and Conciliation for the Settlement of Disputes concerning the Application of the Global Code of Ethics for Tourism”, as well as the “Guidelines for the Consideration of Disputes” (A/RES/506(XVI)) which partly reflected the conciliation mechanism envisaged in the 1999 draft Protocol.
6. The above-mentioned instruments were the legal basis for the functioning of the Committee until 2011, when at its nineteenth session (Gyeongju), the General Assembly adopted resolution 607(XIX) which reformed the World Committee on Tourism Ethics, whose composition was deeply transformed, as the “Body responsible for interpreting, applying and evaluating the provisions of the Global Code of Ethics for Tourism”.
7. It cannot be disputed that the Global Code of Ethics has acquired during its fifteen-year lifetime an indisputable legitimacy and has gained in influence. On the occasion of the last general survey in 2010, one-third of UNWTO Member States reported that they had incorporated the principles of the Code into their legislative texts, or used the same principles as a basis for establishing national laws and regulations. However, it suffers from rather obvious weaknesses:
- (a) the work of the WCTE is hardly known and has been insufficiently systematic;
- (b) while in principle accepted by the governing bodies, it has never been able (or willing) to exercise its conciliatory function;
- (c) the Code itself lacks visibility in spite of the efforts of the UNWTO Secretariat and of the Centre for the Promotion of the Code in Rome, which seem hardly coordinated.
8. Although these are possibly not the only reasons, the legal nature of the Code is probably one of the main explanations for these weaknesses: conscious of the non-binding nature of the Code, the stakeholders in tourism, including the States themselves, do not take the Code as seriously as they should. It is therefore not unreasonable to think that the conversion of the Code into a convention—that is, a treaty with binding force for the States having ratified it, without indeed curing all the weaknesses underlined above—could contribute to enhance the visibility and efficiency of the principles of the Code.
9. During its 14th meeting (Rome, 17-18 November 2014), the WCTE discussed and approved the principle of converting the Global Code of Ethics into a UNWTO Convention on Tourism Ethics and asked the UNWTO Legal Adviser to prepare and introduce a draft Convention to that effect. The draft Convention, together with an Explanatory Note by the Legal Adviser, was presented to the WCTE at its fifteenth meeting (Rovinj, Croatia, 26-27 May 2015)³. It was approved by consensus with very few

³ Document WCTE/15/3 (Madrid, May 2015).

changes (including the title of the Convention) which are reflected in the annexed draft Convention (Annex I).

10. The text of the Recommendation adopted by the WCTE included in the main document A/21/10 (point IV, page 3); paragraphs 3 and 4 read as follows: "*The WCTE ...*

3. *Requests the Secretary-General of the UNWTO to submit the draft Convention to the General Assembly during its next session to be held in Medellín, Colombia in September this year;*

4. *Firmly urges the UNWTO General Assembly to adopt the draft Convention and to open it to signatures of States as mentioned in Article 16 of the draft Convention."*

11. The annexed draft Convention is submitted to the General Assembly accordingly.

B. The drafting of the Convention

12. The following guidelines have inspired the drafting of the Convention:

(a) It is of prime importance not to throw the baby out with the bathwater: indeed the Code still leaves something to be desired when it comes to its visibility and the efficient implementation of its principles, but at least it exists and, when known, it seems to be highly respected.

(b) The same can be said of the WCTE itself and undoubtedly the 2011 reform, the tightening and the improved level of its membership can constitute advantages for the future.

(c) It must also be acknowledged that, when adopted, the draft Convention will be the first treaty adopted in the framework of the Organization and managed by it.

(d) On the other hand, it is to be noted that the UNWTO is one of the rare UN agencies which is not in charge of at least some conventions, linked to its functions, and of which it is the depositary.

14. Therefore, there needs to be a balance between the necessity of safeguarding what has been achieved and the wish to move forward and to enhance the efficiency of the Code and the implementation of its principles.

15. With this in mind,

(a) it has been deemed indispensable keep the principles as they are embodied in resolution 406(XIII) with only very little purely technical changes imposed by new terminology used fifteen years after the adoption of the Code;

(b) in particular, the mostly conditional mood used in the Code has been maintained;⁴ and

(c) the role of the WCTE in relation with the "recommended Code", which is called to coexist with the Convention, has been carefully preserved.

⁴ Provisions drafted in the conditional mood are quite usual in (binding) treaty instruments – see e.g.: **Articles I(1)(c) or II(3) of the General Agreement on Tariffs and Trade** (Havana, 30 October 1947), **Articles 50, 64 or 69 of the Convention on the Settlement of Investment Disputes Between States and Nationals of Other States** (Washington, 18 March 1965), **Article 27(1) of the United Nations Convention on the Law of the Sea** (Montego Bay, 10 December 1982) or **Articles 8(g), 14(1)(e), 19(3) or 24(1)(e) the Convention on Biological Diversity** (Rio de Janeiro, 5 June 1992).

16. The second consideration (search for improvement) prompted the drafters to:
- (a) clearly draft the instrument as a treaty to remove any doubts as to its legal nature: it is a treaty and, as such, it is binding; this said, given its drafting in the conditional mood, it essentially imposes on States Parties obligations of conduct (to make their best efforts for...; to exercise due diligence; etc.) and not obligations of result (to fully apply all the rules included in the Code) except when procedural rules are at stake (obligations to submit periodical reports to the WCTE on the implementation of the Code; financial obligations);
 - (b) clarify and (prudently) reinforce the control functions of the WCTE (even absent the ratification of the Optional Protocol);
 - (c) limit the threshold for the entry into force of the Convention to ten ratifications⁵, acceptances or approvals and to two for the Optional Protocol in order to facilitate their entry into force;
 - (d) annex as a distinct instrument an Optional Protocol Instituting a Conciliation Mechanism for the Settlement of Disputes.
17. It results from this last aspect that the "Convention machinery" appears as a multi-storied structure:
- (a) basically, preservation of the existing recommended Code with the WCTE⁶ exercising its current functions;
 - (b) for States ratifying⁷ the Convention, the principles enunciated in Article 1 to 9, which reproduced those in the Code will be of a (rather limited) binding nature;
 - (c) as clearly shown by its very title, the Optional Protocol will only bind the States (already Parties to the Convention) which will have additionally to ratify it (either when ratifying the Convention or at any time thereafter); however, in principle, the findings of the WCTE when seized under the Protocol are not binding absent an express acceptance *ex post* by the disputing parties; and
 - (d) according to paragraphs (h) and (i) of the Optional Protocol, the States having ratified it *can* go a step forward, if they so wish, and accept *ex ante* the conclusions of the WCTE as having a binding effect.
18. It will be apparent that this normative structure fully respects the sovereignty and free will of the States. In a way, it can even be sustained that it respects them more than the "recommended Code" in that all the treaty obligations resulting from the Convention will have been expressly accepted by the States Parties according to their respective constitutional rules. This is not the case for the recommended Code which results from its adoption by the General Assembly without any expression of individual will by the States concerned.

⁵ This rather low threshold was criticized by two members of the WCTE during the Rovinj session.

⁶ No change in the status of the members of the Committee is envisaged except an indispensable involvement of the States Parties in the process of their nomination and appointment.

⁷ or accepting, approving or acceding to the Convention – these are purely technical distinctions which have no practical significance.

II. Specific provisions

A. Preamble

19. Very limited changes:

- (a) para. 3: mention of the 2002 and 2012 Earth Summits added;
- (b) deletion of former para. 6,⁸ which seemed out of place in a code of ethics (and rather repetitive); and;
- (c) deletion of the four last paragraphs which were short-term and very much linked with the non-binding nature of the recommended Code, and replacement by a new sole paragraph.

B. Title and general structure of the Convention

20. Contrary to the initial proposal of the Legal Adviser, who had suggested to keep the wording "Code of Ethics", in view of its already good repute, the WCTE has preferred not to use the word "code" in the title in order to avoid confusion. Hence the new proposed name: UNWTO Convention on Tourism Ethics.

21. The general structure of the Convention is very classical. The text is divided into three Parts (following the Preamble): Articles 1 to 9 (Part I) reproduces the nine substantial principles of the recommended Code; Articles 10 to 15 (Part II) bear upon the implementation of the Convention and certainly constitute the most (prudently) innovative part of the draft, while the "Final Provisions" forming Part III (Articles 16 to 23) are quite usual.

C. Part I - Principles

22. As explained above (para. 4(a)), it was deemed extremely important to preserve the exact drafting of the recommended Code. The very limited proposed changes are the following:

- (a) to replace the term tourism "industry" with tourism "sector" or tourism "industries", in order to be aligned with the IRTS (International Recommendations for Tourism Statistics);
- (b) in Article 9(4), to delete the part of the sentence specifying the type of workers (i.e., "whether salaried or not"); this way, the exchanges of experience will refer to all types of workers without distinction. This does not affect the other paragraphs of the article.

D. Part II - Implementation

23. Article 10 is directly inspired from Principle 10 and paragraph 4 of resolution 406(XIII) with the addition of the key paragraph (c) which imposes a (binding) obligation upon the States Parties "to periodically submit a report to the World Committee on Tourism Ethics concerning the implementation of the Convention". This obligation is the most spectacular innovation of the Convention, compared with the recommended Code. The periodicity, the form and the requested content of the reports will be determined by the WCTE (see Article 12(2)).

⁸ "But convinced that the world tourism industry as a whole has much to gain by operating in an environment that favours the market economy, private enterprise and free trade and that serves to optimize its beneficial effects on the creation of wealth and employment".

24. Articles 11 to 14 are based on resolution 607(XIX) of the General Assembly with some adjustments made necessary by (i) the legal nature of the Convention and (ii) the coexistence of the Convention and the recommended Code, thus it seems indispensable that the Assembly of States Parties (to the Convention) be associated to the process of nomination and election of the members of the WCTE;⁹ the WCTE is largely required to carry out similar functions in both instruments; however, it might be the case that its functioning involves supplementary costs when it acts in compliance with the Convention and, in particular, when it performs its conciliatory function in accordance with the Optional Protocol; in such a case it seems appropriate that these costs be covered not by the UNWTO but by the State Parties as provided for by Article 13 *in fine*.

25. Article 15 concerns the Assembly of States Parties. Since the Convention and its membership are distinct from the Statutes and the membership of the UNWTO, such a body must be created in order to make the specific decisions concerning the “life” of the Convention.

E. Part III – Final Provisions

26. Globally, the Final Provisions are fairly standard. To be noted: Art. 18 prohibiting reservations is in keeping with the flexibility of the content: it would be rather meaningless to make reservations concerning “soft obligations” (“should”) and to accept reservations to Articles 10 to 16 would be contrary to the object and purpose of the Convention—nothing would remain of the intentions behind the conversion of the recommended Code into a Convention.

27. As explained above (para. 5(c)), Article 19(1) fixes a rather low threshold for the entry into force of the Convention (10 ratifications); this should permit the Convention to enter into force relatively rapidly, with the hope that its entry into force will have a knock-on effect on other States’ ratification. Since the obligations in both instruments are non-reciprocal, two (and arguably only one) ratification(s) could have even been enough.

28. The role of the UNWTO Secretary-General acting as the depositary of the Convention (Art. 23) will impose to designate a service/staff member for concretely assuming this duty. It is envisaged that this role be assigned to the “Legal Office”.

F. Optional Protocol

29. Annexed to the Convention, the Optional Protocol can only be ratified by States Parties to the Convention. However, as a distinct instrument with a particular purpose, it seems appropriate that it enter into force as soon as two States have become Parties.

30. The text of the Protocol is inspired from that of the draft Protocol annexed to resolution 406(XIII) but never integrally endorsed by the General Assembly. However, it should be more acceptable in a treaty context since its application would be limited to the States having ratified it.

31. One of the main differences between the proposed draft Convention and the text of 1999 is contained in para. (a) which limits the disputes which can be submitted to the WCTE to the disputes “opposing two or several States Parties to the present Protocol, or a State Party and two or more stakeholders in tourism development, or two or more stakeholders of tourism development having the

⁹ The requirement for a vote of both the Assembly of States Parties and the General Assembly of the UNWTO is the consequence of the coexistence of the Convention and the recommended Code. It is not unprecedented (see, e.g., Article 4 of the Statute of the International Court of Justice concerning the election of the Judges of the ICJ: “The members of the Court shall be elected by the General Assembly and by the Security Council from a list of persons nominated by the national groups in the Permanent Court of Arbitration, in accordance with the following provisions”).

nationality of a State Party or if the dispute concerns incidents having taken place on the territory of a State Party against each other and concerning the interpretation or application of the Convention on Tourism Ethics". This apparently complicated formula is aimed at preserving the purely optional and voluntary character of the Protocol.

32. The optional character of the Protocol appears not only concerning its ratification but also in paras. (b) (according to which States and tourism enterprises may declare in advance that they accept the unilateral seizing of the Committee acting within its conciliatory functions), (h) and (i) (by which States Parties may declare that they accept the conclusions of the Committee as binding in the disputes they are party or to which their nationals are party or which should be applied in their territory).

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Draft UNWTO Convention on Tourism Ethics

THE HIGH CONTRACTING PARTIES

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 fundamental freedoms for all without distinction as to race, sex, language or religion,

Firmly believing that, through the direct, spontaneous and non-mediatised 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,

In keeping 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),

Taking into account the swift and continued growth, both past and foreseeable, of the tourism activity, whether for leisure, business, culture, religious or health purposes, 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 trade,

Aiming 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,

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 trade in services and under whose aegis the enterprises of this sector operate and that it is possible to reconcile in this sector economy and ecology, environment and 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 belonging to the tourism sector, as well as host communities, the media and the tourists themselves, including all other visitors, 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,

Convinced that the transformation of the Global Code of Ethics annexed to Resolution A/RES/406(XIII) adopted by the General Assembly of the World Tourism Organization (hereinafter: "UNWTO") as a non-binding instrument into a Convention open to ratification by States would enhance its effectiveness in promoting a sustainable and ethical tourism;

adopt the following UNWTO Convention on Tourism Ethics.

I. PRINCIPLES

Article 1

Tourism's contribution to mutual understanding and respect between peoples and societies

(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.

(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.

(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.

(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.

(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; 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.

(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.

Article 2

Tourism as a vehicle for individual and collective fulfilment

(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.

(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, the handicapped, ethnic minorities and indigenous peoples.

(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.

(4) Travel for purposes of religion, health, education and cultural or linguistic exchanges are particularly beneficial and deserve encouragement.

(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.

Article 3

Tourism, a factor of sustainable development

(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.

(2) All forms of tourism development that are conducive to saving rare and precious 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.

(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.

(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.

(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.

Article 4

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

(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.

(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.

(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;

(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.

Article 5

Tourism, a beneficial activity for host countries and communities

(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.

(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.

(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.

(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.

Article 6

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.

(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.

(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.

(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.

(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.

(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; 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.

Article 7

Right to tourism

(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.

(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.

(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.

(4) Family, youth, student and senior tourism and tourism for people with disabilities, should be encouraged and facilitated.

Article 8

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.

(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 diplomatic conventions in force.

(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.

(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.

(5) So far as the economic situation of the countries from which they come permits, travellers should have access to allowances of convertible currencies needed for their travels.

Article 9

Rights of the workers and entrepreneurs in the tourism industries

(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.

(2) Employees and self-employed workers in the tourism industries and related activities have the right and the duty to acquire 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.

(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.

(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.

(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.

(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.

II. IMPLEMENTATION

Article 10

Obligations of the State Parties under the Present Convention

States Parties to the present Convention

- (a) expressly accept the principles embodied in the Global Code of Ethics for Tourism, and agree to use them as a basis when establishing their national laws and regulations and to publish and make them known as widely as possible, in particular by disseminating it

among all the stakeholders in tourism development and inviting them to give it broad publicity;

- (b) encourage tourism enterprises and bodies to include the relevant provisions of the Convention in their contractual instruments or to make specific reference to them in their own domestic or professional rules and to report on them to the World Committee on Tourism Ethics;
- (c) pledge to periodically submit a report to the World Committee on Tourism Ethics concerning the implementation of the Convention.

Article 11

Composition of the World Committee on Tourism Ethics

(1) The World Committee on Tourism Ethics (hereinafter: "the Committee") is the body responsible for interpreting and evaluating the implementation the provisions of the present Convention. It may act as a conciliation mechanism to which States and other stakeholders in tourism development may have recourse in accordance with the Optional Protocol annexed to the present Convention.

(2) The Committee consists of a chairperson, eight members and three alternates appointed in their personal capacity. The members of the Committee and the alternates will be elected by the General Assembly and by the Assembly of States Parties from a list of persons nominated by a nominating Commission composed of the President of the Assembly of States Parties, the President of the General Assembly and the Chair of the Executive Council of the UNWTO, the Chair of the Committee of the Affiliate Members, the Secretary-General and the Legal Adviser of the UNWTO. The members of the Committee shall serve the Committee with independence and impartiality. They shall not report to nor shall they seek or receive any orders or instructions from any authority.

(3) The Secretary-General of the UNWTO shall attend *ex officio* the meetings of the Committee. The Legal Adviser of UNWTO and a representative of the Centre for the Promotion of the Global Code of Ethics may participate in the Committee meetings in their advisory capacity.

Article 12

Functions of the Committee

(1) The Committee shall perform the functions of promoting, evaluating and monitoring the implementation the principles of the present Convention, of issuing reports, recommendations and observations on ethical matters related to tourism and of proposing and approving texts of conventions and other legal instruments on specific issues related to the Convention. To this end, it shall collect information relative to such implementation and shall draw up an inventory of the efforts made by the different stakeholders in tourism to promote and apply the principles of the Convention, and of the problems encountered in doing so.

(2) The Committee shall fix the modalities for examining the periodical reports of the State Parties mentioned in Article 10(c) above.

(3) The Committee shall adopt a biennial report and transmit it to the General Assembly of the UNWTO and the State Parties to the present Convention. Separately from its biennial report, the Committee may draw up any recommendations it deems useful.

Article 13

Functioning of the Committee

The Secretary-General of the UNWTO shall place at the Committee's disposal the personnel necessary for the performance of its functions and the expenses necessary to the functioning of the Committee will be entered in the budget of the Organisation. However, if the special functions granted to the Committee under the present Convention involve extra costs, these costs would be covered by the State Parties as decided by the Assembly of States Parties.

Article 14

Rules of the Committee

The Committee shall adopt its own Rules of Procedure which will complete the provisions contained in Part II of the Convention. Its text shall be transmitted to the State Parties to the present Convention and to the Council and the General Assembly of the UNWTO for their information.

Article 15

The Assembly of States Parties

(1) The Assembly of States Parties (hereinafter: "the Assembly") consists of representatives of the States having become Parties to the present Convention in accordance with Part III below. It can invite Observers from States having signed but not ratified the Convention to attend its meetings.

(2) Save if exceptional circumstances require an extraordinary meeting, the Assembly meets every two years in the margin of the session of the General Assembly of the UNWTO. It fixes its agenda which includes the examination of the biennial report of the Committee.

(3) The secretariat for the Assembly is provided for by the Secretariat of the UNWTO. The Assembly adopts its own Rules of Procedure.

III. FINAL PROVISIONS

Article 16

Signature

(1) The present Convention shall be open for signature by all Member States of the UNWTO and all Member States of the United Nations or of any of the Specialized Agencies or Parties to the Statute of the International Court of Justice at the twenty-first session of the General Assembly of the UNWTO, and thereafter at the Headquarters of the World Tourism Organization in Madrid.

(2) The present Convention shall similarly be open for signature by regional economic integration organizations.

Article 17

Ratification, acceptance, approval or accession

The present Convention is subject to ratification, acceptance or approval. The Convention shall remain open for accession by States and by regional economic integration organizations. Instruments of ratification, acceptance, approval and accession shall be deposited with the Secretary-General of the World Tourism Organization.

Article 18

Reservations

No reservations may be made to this Convention.

Article 19

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.

(2) For each State Party ratifying, accepting, approving or accessing 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.

Article 20

Amendment of the Convention

- (1) Any State Party may propose amendments to the present Convention.
- (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 Assembly.
- (3) Amendments shall be adopted by a two-third majority vote of the States composing the Assembly and shall be transmitted by the Secretary-General of the UNWTO to the States Parties for ratification, acceptance, approval or accession.
- (4) Instruments of ratification, acceptance, approval or accession to the amendments shall be deposited with the Secretary-General of the World Tourism Organization.
- (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.
- (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.
- (7) For the purpose of this article, any instrument deposited by a Regional Economic Integration Organization shall not be counted as additional to those deposited by member States of that Organization.

Article 21

Denunciation

- (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 World Tourism Organization. After six months 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.
- (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.

Article 22

Dispute settlement

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.

Article 23

Authentic texts and deposit

(1) The original of this Convention, of which the Arabic, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the World Tourism Organization.

(2) The Secretary-General of the World Tourism Organization shall transmit certified copies to each of the signatory States Parties.

(3) The Secretary-General of the World Tourism Organization shall notify the States Parties of the signatures, of the deposits of instruments of ratification, acceptance, approval and accession, amendments and denunciation.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed this Convention.

DONE at VENUE, on DATE

OPTIONAL PROTOCOL

Conciliation mechanism for the settlement of disputes

(a) Any party to a dispute opposing two or several States Parties to the present Protocol, or a State Party and two or more stakeholders in tourism development or two or more stakeholders of tourism development having the nationality of a State Party or if the dispute concerns incidents having taken place on the territory of a State Party against each other and concerning the interpretation or application of the UNWTO Convention on Tourism Ethics, may refer it to the World Committee on Tourism Ethics.

(b) The States, as well as tourism enterprises and bodies, may declare that they accept in advance the competence of the World Committee on Tourism Ethics or of a UNWTO Regional Commission for any dispute concerning the interpretation or application of this Convention, or for certain categories of dispute; in this case, the Committee shall be considered as validly referred to unilaterally by the other Party to the dispute.

(c) The Chairperson of the World Committee on Tourism Ethics shall appoint a sub-committee of three members who shall be responsible for examining the dispute.

(d) The World Committee on Tourism Ethics to which a dispute has been referred shall reach a decision on the basis of the record drawn up by the Parties to the dispute; the Committee may ask these Parties for additional information and, if deemed useful, may hear them at their request; the expenses incurred by this hearing shall be borne by the Parties unless the circumstances are considered exceptional by the Committee; the failure of one of the Parties to appear even though he, she or it has been given a reasonable opportunity to participate, shall not prevent the Committee from making a ruling.

(e) Unless otherwise agreed by the Parties, the World Committee on Tourism Ethics shall announce its decision within three months of the date on which it was referred to; it shall present recommendations to the Parties suitable to form the basis of a settlement; the Parties shall immediately inform the chairperson of the sub-committee that has examined the dispute of the action they have taken on these recommendations.

(f) If within a period of two months after notification of the proposals of the Committee the Parties have failed to agree on the terms of a final settlement, the Parties or one of them may refer the dispute to a plenary session of the World Committee on Tourism Ethics; when the Committee has made a ruling in the first instance, the members that served on the sub-committee that examined the dispute may not take part in this plenary session and shall be replaced by alternate members.

(g) The plenary session of the World Committee on Tourism Ethics shall make its ruling following the procedure laid out in paragraphs (d) and (e) above; if no solution has been found at a previous stage, it shall formulate final conclusions for the settlement of the dispute, which the Parties, if they agree with their contents, will be recommended to apply at the earliest possible opportunity; these conclusions shall be made public, even if the process of conciliation has not been successfully completed and one of the Parties refuses to accept the final conclusions proposed.

(h) States Parties may declare that they accept in advance as binding and, where applicable, subject to the sole reservation of reciprocity, the final conclusions of the World Committee on Tourism Ethics in the disputes to which they are party.

(i) *Likewise, the States may accept as binding or subject to exequatur the final conclusions of the World Committee on Tourism Ethics in disputes to which their nationals are party or which should be applied in their territory.*

(j) *Tourism enterprises and bodies may include in their contractual documents a provision making the final conclusions of the World Committee on Tourism Ethics binding in their relations with their contracting parties.*

The present Protocol is open to the signature, ratification, acceptance, approval and accession to the States Parties to the Convention. It is submitted to the same rules concerning its amendment or denunciation as the Convention of which it will form an Annex for the States having accepted it. It will enter into force on the thirtieth day following the date of deposit of the second instrument of ratification, acceptance, approval or accession.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed the present Protocol.

DONE at VENUE, on DATE