

PROTOCOL III

On cultural cooperation

THE PARTIES AND THE SIGNATORY CARIFORUM STATES,

Having ratified the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions adopted in Paris on 20 October 2005, which entered into force on 18 March 2007, or intending to do so promptly;

Intending to effectively implement the UNESCO Convention and to cooperate within the framework of its implementation, building upon the principles of the Convention and developing actions in line with its provisions, notably its Articles 14, 15 and 16;

Recognising the importance of the cultural industries and the multi-faceted nature of cultural goods and services as activities of cultural, economic and social value;

Recognising that the regional integration process supported by this Agreement forms part of a global strategy aimed at promoting equitable growth and the reinforcement of economic, trade and cultural cooperation between the Parties;

Recalling that the objectives of this Protocol are complemented and supported by existing and future policy instruments managed in other frameworks, with a view to:

- (a) integrating the cultural dimension at all levels of development cooperation and, in particular, in the field of education;
- (b) reinforcing the capacities and independence of the Parties' cultural industries;
- (c) promoting local and regional cultural content;

Recognising that protecting and promoting cultural diversity is a condition for a successful dialogue between cultures;

Recognising, protecting and promoting cultural heritage, as well as promoting its recognition by local populations and recognising its value as a means for expressing cultural identities;

Stressing the importance of facilitating cultural cooperation between the Parties and for that purpose to take into account, on a case by case basis, *inter alia*, the degree of development of their cultural industries, the level and structural imbalances of cultural exchanges and the existence of preferential schemes for the promotion of local and regional cultural content,

AGREE AS FOLLOWS:

Article 1

Scope, objectives and definitions

1. Without prejudice to the other provisions of this Agreement, this Protocol sets up the framework within which the Parties shall cooperate for facilitating exchanges of cultural activities, goods and services, including *inter alia*, in the audiovisual sector.

2. While preserving and further developing their capacity to elaborate and implement their cultural policies, with a view to protecting and promoting cultural diversity, the Parties shall collaborate with the aim of improving the conditions governing their exchanges of cultural activities, goods and services and redressing the structural imbalances and asymmetrical patterns which may exist in such exchanges.

3. The definitions and concepts used in this Protocol are those of the UNESCO Convention on the Protection and Promotion of

the Diversity of Cultural Expressions adopted in Paris on 20 October 2005.

4. In addition, for the purpose of this Protocol, 'artists and other cultural professionals and practitioners' mean natural persons that perform cultural activities, produce cultural goods or participate in the direct supply of cultural services.

SECTION 1 — HORIZONTAL PROVISIONS

Article 2

Cultural exchanges and dialogue

1. The Parties shall aim at fostering their capacities to determine and develop their cultural policies, developing their

cultural industries and enhancing exchange opportunities for cultural goods and services of the Parties, including through preferential treatment.

2. The Parties shall cooperate to foster the development of a common understanding and enhanced exchange of information on cultural and audiovisual matters through an EC-CARIFORUM dialogue, as well as on good practices in the field of Intellectual Property Rights protection. This dialogue will take place within the mechanisms established in this Agreement as well as in other relevant fora as and when appropriate.

Article 3

Artists and other cultural professionals and practitioners

1. The Parties and the Signatory CARIFORUM States shall endeavour to facilitate, in conformity with their respective legislation, the entry into and temporary stay in their territories of artists and other cultural professionals and practitioners from the other Party, or, as the case may be, the Signatory CARIFORUM States, who cannot avail themselves of commitments undertaken on the basis of Title II of the Agreement and who are either:

- (a) artists, actors, technicians and other cultural professionals and practitioners from the other Party involved in the shooting of cinematographic films or television programmes, or
- (b) artists and other cultural professionals and practitioners such as visual, plastic and performing artists and instructors, composers, authors, providers of entertainment services and other similar professionals and practitioners from the other Party involved in cultural activities such as, for example, the recording of music or contributing an active part to cultural events such as literary fairs, festivals, among other activities,

provided that they are not engaged in selling their services to the general public or in supplying their services themselves, do not on their own behalf receive any remuneration from a source located within the Party where they are staying temporarily, and are not engaged in the supply of a service in the framework of a contract concluded between a legal person who has no commercial presence in the Party where the artist or other cultural professional or practitioner is staying temporarily and a consumer in this Party.

2. This entry into and temporary stay in the territories of the EC Party or of the Signatory CARIFORUM States, when allowed, shall be for a period of up to 90 days in any 12-month period.

3. The Parties and the Signatory CARIFORUM States shall endeavour to facilitate, in conformity with their respective legislation, the training of, and increased contacts between artists and other cultural professionals and practitioners such as:

- (a) Theatrical producers, singer groups, band and orchestra members;

- (b) Authors, poets, composers, sculptors, entertainers and other individual artists;

- (c) Artists and other cultural professionals and practitioners participating in the direct supply of circus, amusement park and similar attraction services, as well as in festivals and carnivals;

- (d) Artists and other cultural professionals and practitioners participating in the direct supply of ballroom, discotheque services and dance instructors;

- (e) Mas performers and designers.

Article 4

Technical assistance

1. The Parties shall endeavour to provide technical assistance to Signatory CARIFORUM States with the aim of assisting in the development of their cultural industries, development and implementation of cultural policies, and in promoting the production and exchange of cultural goods and services.

2. Subject to the provisions of Article 7 of the Agreement, the Parties agree to cooperate, including by facilitating support, through different measures, *inter alia*, training, exchange of information, expertise and experiences, and counselling in elaboration of policies and legislation as well as in usage and transfer of technologies and know-how. Technical assistance may also facilitate the cooperation between private companies, non-governmental organisations as well as public-private partnerships.

SECTION 2 — SECTORAL PROVISIONS

Article 5

Audio-visual, including cinematographic, cooperation

1. The Parties shall encourage the negotiation of new and implementation of existing co-production agreements between one or several Member States of the European Union and one or several Signatory CARIFORUM States.

2. The Parties and the Signatory CARIFORUM States, in conformity with their respective legislation, shall facilitate the access of co-productions between one or several producers of the EC Party and one or several producers of Signatory CARIFORUM States to their respective markets, including through the granting of preferential treatment, and subject to the provisions of Article 7 of this Agreement, including by facilitating support through the organisation of festivals, seminars and similar initiatives.

- (a) Co-produced audiovisual works shall benefit from the preferential market access referred to in paragraph 2 within the EC Party in the form of qualification as European works

in accordance with Article 1(n)(i) of Directive 89/552/EEC ⁽¹⁾ for the purposes of the requirements for the promotion of audiovisual works as provided for by Articles 3i(1) and 4(1) of that Directive. Such preferential treatment shall be granted on the following conditions:

- the co-produced audiovisual works are realised between undertakings which are owned and continue to be owned, whether directly or by majority participation, by a Member State of the European Union or a Signatory CARIFORUM State and/or by nationals of a Member State of the European Union or nationals of a Signatory CARIFORUM State;
 - the representative director(s) or manager(s) of the co-producing undertakings have the nationality of a Member State of the European Union and/or of a Signatory CARIFORUM State;
 - both (a) the total financial contributions of one or several producers of the EC Party (taken together), and (b) the total financial contributions of one or several producers of Signatory CARIFORUM States (taken together) shall not be less than 20 % and not more than 80 % of the total production cost.
- (b) The Parties will regularly monitor the implementation of paragraph (a) and report any problem that may arise in this respect to the CARIFORUM-EC Trade and Development Committee established under this Agreement.
- (c) Where preferential schemes for the promotion of local or regional cultural content are established by one or more Signatory CARIFORUM States, the Signatory CARIFORUM States concerned will extend to the works co-produced between producers of the EC party and of Signatory CARIFORUM States the preferential market access benefits of such schemes under the conditions laid down in paragraph (a).
3. The Parties and the Signatory CARIFORUM States reaffirm their commitment to the use of international and regional standards in order to ensure compatibility and interoperability of audio-visual technologies, contributing therefore to strengthen cultural exchanges. They shall cooperate towards this objective.
4. The Parties and the Signatory CARIFORUM States shall endeavour to facilitate rental and leasing of the technical material and equipment necessary such as radio and television equipment, musical instruments and studio recording equipment to create and record audio-visual works.
5. The Parties and the Signatory CARIFORUM States shall endeavour to facilitate the digitalisation of audio-visual archives in Signatory CARIFORUM States.

⁽¹⁾ Directive 89/552/EEC of the European Parliament and of the Council of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (OJ L 298, 17.10.1989, p. 23). Directive as last amended by Directive 2007/65/EC (OJ L 332, 18.12.2007, p. 27).

Article 6

Temporary importation of material and equipment for the purpose of shooting cinematographic films and television programmes

1. Each Party shall encourage as appropriate the promotion of its territory as a location for the purpose of shooting cinematographic films and television programmes.
2. Notwithstanding the provisions contained in Title I of the Agreement, the Parties and the Signatory CARIFORUM States shall, in conformity with their respective legislation, consider and allow the temporary importation, from the territory of one Party into the territory of the other Party, of the technical material and equipment necessary to carry out the shooting of cinematographic films and television programmes by cultural professionals and practitioners.

Article 7

Performing arts

1. Subject to the provisions of Article 7 of this Agreement, the Parties agree to cooperate, in conformity with their respective legislation, including by facilitating increased contacts between practitioners of performing arts in areas such as professional exchanges and training, *inter alia* participation in auditions, development of networks and promotion of networking.
2. The Parties and the Signatory CARIFORUM States shall encourage joint productions in the fields of performing arts between producers of one or several Member States of the European Union and one or several Signatory CARIFORUM States.
3. The Parties and the Signatory CARIFORUM States shall encourage the development of international theatre technology standards and the use of theatre stage signs, including through appropriate standardisation bodies. They shall facilitate cooperation towards this objective.

Article 8

Publications

Subject to the provisions of Article 7 of this Agreement, the Parties agree to cooperate, in conformity with their respective legislation, including by facilitating exchange with and dissemination of publications of the other Party in areas such as:

- (a) organisation of fairs, seminars, literary events and other similar events related to publications, including public reading mobile structures;
- (b) facilitating co-publishing and translations;
- (c) facilitating professional exchanges and training for librarians, writers, translators, booksellers and publishers.

*Article 9***Protection of sites and historic monuments**

Subject to the provisions of Article 7 of this Agreement, the Parties agree to cooperate, including by facilitating support to encourage exchanges of expertise and best practices regarding the protection of sites and historic monuments, bearing in mind the UNESCO World Heritage mission, including through facilitating the exchange of experts, collaboration on professional

training, increasing awareness of the local public and counselling on the protection of the historic monuments, protected spaces, as well as on the legislation and implementation of measures related to heritage, in particular its integration into local life. Such cooperation shall conform with the respective legislation of the Parties and the Signatory CARIFORUM States and is without prejudice to the reservations included in their commitments contained in Annex IV of this Agreement.
