# Safeguarding and promotion of folkloric arts in SEAMEO countries

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#### Definition of terms

According to the UNESCO paper on "Recommendation on the Safeguarding of Traditional Culture and Folklore" adopted by the General Conference at its 25th Session, Paris, 15 November 1989, folklore is defined as "the totality of tradition-based creations of a cultural community, expressed by a group or individuals and recognized as reflecting the expectations of a community in so far as they reflect its cultural and social identity; its standards and values are transmitted orally, by imitation or by other means. Its forms are, among others, language, literature, music, dance, games, mythology, rituals, customs, handicrafts, architecture and other arts."

Generally speaking folklore characteristics are expressions of the folk or the common people and the ethnic groups, in contrast to those of sophisticated classes or royalty. Its creators are mostly anonymous and it is also folk or ethnic heritages, handed down, from generations to generations, orally, or by means of demonstration and imitation. Only recently, to a certain extent, it has been recorded by modern methods. Naturally it belongs to the community, or the nation where it was generated. Because of its being not documented properly, according to legal system concerning copyright its rights are facing threats of being infringed for commercial purposes, in particular its artistic aspects.

The joint UNESCO and WIPO Model Provision for the National Laws on the Protection of Expression of Folklore, (1983) provides definition of folkloric arts as productions consisting of characteristic elements of the traditional artistic heritage developed and maintained by a community of (name the country) or by individuals, reflecting the traditional artistic expectations of such a community, in particular:

- (i) verbal expressions—such as folk tales, folk poetry, and riddles;
- (ii) musical expressions, such as folk songs and instrumental music;
- (iii) expression by action, such as folk dances, plays, and artistic forms or rituals; whether or not reduced to a material form; and

(iv)tangible expressions, such as:

(a) production of folk art, in particular, drawings, paintings, carvings, sculptures, pottery, terra-cotta, mosaic, woodwork, metalworks, jewellery, basket weaving, needlework, textiles, carpets, costumes;

(b) musical instruments;

(c) architectural forms.

It can be said that folkloric arts have three different aspects, at present:

- (i) Those originated and developed at village, or ethnic group level, without outside influence. They are made for everyday use, for decoration and religious ceremonies and ritual purposes. For example woven basket, hand made textiles, pottery, decorative wood carving.
- (ii) Those originated and developed at town or city level, having some outside influence, because of the contact with outside community, and yet within the same cultural or linguistic pattern.
- (iii) Those originated and developed at country level, with various outside influences, within and outside communities of similar geographic and cultural environment, sometimes acquired by the country people, sometimes politically imposed upon them.

#### The needs to safeguard folkloric arts

Folkloric arts are an integral part of the ethnic community and national cultural heritage, and intellectual properties which constitute the basic elements of civilization and national identity.

In worldwide scale, folklore is

also considered by the world community, through UNESCO, as "part of the universal heritage of humanity and that it is a powerful means of bringing together different peoples and social group and of asserting their cultural identity." It is important for social, economic and cultural fields, and has great role in the history of the people, and its place in contemporary culture.

However, because of its traditional forms, particularly the oral tradition, it faces the danger of being forgotten or transformed, or exploited for commercial purposes by business enterprises, within and outside the country without rendering benefits to originators, who, in most cases, are anonymous and cannot be identified. It also happens that tangible cultural objects have been subjected to illicit traffic, and thus impoverishing the national cultural heritages.

It is therefore necessary to safeguard folklore against threats, to promote appreciation and to take actions for sustainable preservation and development for contemporary and future generations.

## Southeast Asian countries, activities concerning protection of cultural properties

Countries in Southeast Asia which are rich in folklore heritage, since decades in the past, have been aware of the fragility of the oral tradition and the dangers threatening tangible cultural heritages. Attempts have been made to safeguard these treasures. In 1972, a project, entitled ARCAFA was established bv SEAMEO for the purposes of protecting and promoting appreciation of archaeology and fine arts productions and ideals expressed in tangible and intangible forms. ARCAFA which later on, was developed into a permanent project of the Southeast Asian Ministers of Education Organization, renamed SEAMEO Project for Archaeology and Fine Arts-SEAMEO SPAFA, and from 1986 was re-instituted as a fullfledged, autonomous Regional Centre. Its missions and functions are to undertake such activities which fulfill its objectives i.e. training of cultural personnel, on methodology in documentation, preservation, of cultural properties; conducting seminars, workshops, and research; documentation and dissemination of information pertaining to the promotion and safeguarding of cultural heritage of the member countries and the region as a whole.

#### Legislation on cultural properties

Among various measures undertaken to protect folkloric arts heritage is the establishment of legislation which is the most fundamental requirement for the protection of properties having great significance for archaeology, history, and all forms of arts. ARCAFA Project Development Office in 1973, made studies on the existing legislation in member countries in Southeast Asia and published a monograph document entitled "Legislation on Cultural Properties of the SEAMEO Member Countries." Countries which had already established legislation or ordinance for safeguarding cultural properties are Indonesia, Khmer Republic, Lao PDR, Malaysia, the Philippines, Singapore, Thailand and Vietnam.

Indonesia issued the Staatsblad van Nederlandsch Indi 1931 no. 238. Rechtwezen Monumenten-Establishment of a Monument Ordinance, on 30 June 1931. The Khmer Republic issued a series of notices and regulations concerning the protection of historic monuments from 1900 on and established "Ordonnance royale" on 6 November 1935, followed by a number of regulations to cover safeguarding of natural sites and monuments which are of artistic scientific, legendary and picturesque value, including the creation of historic Parc d'Angkor. There were also a number of articles in Code Civil Khmer. concerning conservation of cultural treasures for the benefits of people at large.

As for Lao PDR, legislation concerning cultural properties are parts of the Lao Civil Codes, dealing with the excavation of archaeological sites and discovery of artifacts. The Antiquities and Treasure Trove Ordinance of the Federation of Malaysia was issued in 1957, dealing with the discovery of antiquities; excavations; ancient monuments and historical sites; archaeological reserves; treasure trove; and export of antiquities. The Republic of the Philippines issued the Republic Act. no. 4846, entitled "Cultural Properties Preservation and Protection Act," in 18 June 1966. The Preservation of Monuments Act of Singapore was issued on 29 January 1971, having the objectives to preserve for the benefit of the nation, monuments of historic, traditional, archaeological, architectural or artistic interest.

An Act on Ancient Monuments, Antiques, Objects of Art and National Museums, BE 2504 was issued in Thailand in 1961, replacing the Acts of the same name issued in BE 2477, and BE 2486 (AD 1934, and 1943 respectively). There are also a number of Ministerial Regulations dealing with particular aspects of the implementation of the Act. Vietnam's Loi du 31 December 1913 sur les monuments historiques consists of chapters dealing with the immovable objects of historic and artistic values: the movable objects: the conservation of historic monuments; and the archaeological excavation. This was followed by the Decree of 23 December 1924, to replace that of 31 December 1913, and regulations on 11 July 1925, which includes excavations. The regulation issued 2 June 1926 concerns the exportations of art objects outside French Indo-China countries. The Decree no. 34/GD of 14 February 1959, focuses on additional items to be protected from exportation, i.e. art objects, ancient books or the reproduction by photographic or microfilming methods.

It is noticeable that during the 1900s to early 1970s the main concerns of the Southeast Asian countries are (1) the conservation of historic monuments and sites: (2) the archaeological excavation; (3) the discovery of cultural treasures, and arts antiquities; (4) the exportation of cultural treasures. Only one country, Vietnam, in 1959, issued a decree on the reproduction of art objects and ancient books by photo and microfilm technique. The existing legislation issued during the periods hardly cover folkloric arts, as defined in the **UNESCO-WIPO Model Provisions** for the National Laws on the Protection of Expressions of Folklore Against Illicit Exploitation and Other Prejudicial Actions, issued in 1983, and the UNESCO Recommendation on the Safeguarding of Traditional Culture and Folklore, adopted by the 25th General Conference, Paris 15 November 1989. The legislation of Thailand and Vietnam, however, cover "art objects" without the affix of the word "antiquities," which can be interpreted to include contemporary artistic works. Intangible forms of folkloric arts such as songs, music, dances-which are not yet recorded on any tangible medium, are also not covered, neither are the issues on copyright, and illicit exploitation for commercial purposes.

The awareness of threats to cultural properties which endanger cultural heritage spreads all over the world. Even though measures against illicit traffic are established at the national level, the implementation of such laws and regulations require efficiency and right concept of all concerned, at national and international levels. It is felt necessary to enlist efforts and cooperation in controlling illicit international movement of cultural treasures.

To build up co-operations between and among countries UNESCO had adopted in 1970, an international convention called the "Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property 1970." Not all member countries of SEAMEO have deposited the instrument of ratification, acceptance or accession to this 1970 Convention. However, many countries keep contact with UNESCO for cooperation and advice. In 1992, UNESCO and SEAMEO SPAFA jointly organized a Regional Workshop on this Convention, in Thailand, during 24-28 February 1992. Three SPAFA member countries, Cambodia, Indonesia and Thailand, who participated in the Workshop reported the losses they suffered from theft and illicit traffic of cultural property. They also reported on actions and measures undertaken by the governments.

Cambodia, one of the richest countries in Southeast Asia regarding cultural heritages, suffered the most. Stolen objects from museums and collections include those already inventoried and those which were not yet recorded. Architectural decorative ornaments and sculptures were broken. This is because of the network of traffickers and merchants and antique dealers from other countries.

Measures undertaken by these

three countries which have already established the acts on conservation and protection of cultural properties are:

- a) The setting up of the National Committee for Rehabilitation of the Monuments and Museums to define classified zones from which discovered cultural objects must not be exported, and to instruct national and local authorities to inform the population and the visitors of such decisions. (Cambodia)
- b) The issuing of a new Bill on Cultural Property, the establishment of a special safety force to protect cultural properties, and to develop ways to educate the public in protection of national cultural heritage. (Indonesia)
- c) The amendment of the existing Act to increase the punishment of culprit, to strengthen cooperation among various agencies, at professional and administrative levels; to undertake actions to promote awareness among the population of the values of cultural properties and their responsibility to help safeguarding them. (Thailand)

Recommendations from the Workshop to UNESCO, ICOM and Member States include some actions to be undertaken as follow:

# To UNESCO

a) UNESCO should encourage

Member States to assign top priority to the documentation of movable cultural property and to the preparation of inventories.

- b) UNESCO should urgently contact UNTAC forces and seek their cooperation in stopping illicit traffic in cultural property, vandalism and pillage in Cambodia, namely by using and training the demobilized soldiers in surveillance of monuments.
- c) UNESCO should continue and extend its efforts, in cooperation with the United Nations, for the establishment of a network of the existing data bases on stolen cultural property (such as the data bases of INTERPOL, Canadian Heritage Information Network, ICOM, International Foundation for Art Research...)
- d) UNESCO should undertake a study on measures for protection of cultural property in remote areas.

To Member States

Every country may set up a National Clearing House, either attached to the respective National Commission for Cooperation with UNESCO or the respective National Committee of ICOM, with the following purposes:

 a) All thefts or cases of illicit traffic of cultural objects in a country should be promptly reported to the UNESCO- ICOM Museum Information Center by electronic mail or fax.

- b) Every National Clearing house shall urge upon the museums of its own country to approach the UNESCO-ICOM Museum Information Center before acquiring any object relating to some other country in order to determine whether such objects were stolen or illicitly exported, imported or transferred.
- c) The national clearing houses, so formed, should remain responsible for proper implementation of the UNESCO Convention (1970) on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.
- d) The national clearing houses, shall also help in export, or transfer of cultural properties form one country to the other by legal means through mutual consent.

The Member States in the region, particularly Cambodia and its neighboring countries, should develop close cooperation between their services concerned, namely police, customs, museums, archaeologists, etc. so as to curb illicit traffic in cultural property.

Member States should cooperate with media for dissemination of news to informational television networks such as CNN, Star TV, BBC and others. Member States should develop educational programmes, both in the primary and the secondary schools, on the creation of awareness regarding the importance of cultural property and the need to protect it.

Authorities responsible for the control of cultural property worldwide should strengthen cooperation and advise each other more quickly about the movement of cultural items.

Each Member State should consider the possibility of contacting their national police services and other concerned agencies in order to establish a list of institutions, dealers and others indulging in illegal traffic in cultural property, which should be transmitted to INTERPOL for appropriate dissemination.

#### To ICOM

- a) ICOM should set up a computerized data base in UNESCO-ICOM Museum Information Center, in collaboration with UNESCO, CHIN, IFAR and other organizations on cultural properties with are stolen or subjected to illicit traffic.
- b) ICOM should continue to encourage cooperation between museums, namely by twinnings of museums for documentation, conservation and security measures.
- c) ICOM, in cooperation with Ecole Francaise d'Extreme-Orient, should provide all necessary assistance to Cambodia in its

efforts to prepare a comprehensive documentation and catalogue on Khmer objects of art in possession of museums in various countries.

e) ICOM should continue its efforts to persuade its members to respect scrupulously the standards contained in its Code of Ethics, particularly with regards to the acquisition of foreign cultural material.

As regards cultural properties which can be identified as folkloric arts, which have not been included in the acts of the protection of monuments and sites of most of the SEAMEO member countries, the following countries have already listed these objects in their acts and regulations for protection.

# Lao People's Democratic Republic cultural property subject to export control

New books, old books, magazines, journals, photographs, propaganda; ornamental pictures, sculptures in wood, stone, clay or ivory, engravings, ceramics and castings; badges and embroidered flags; basket work and embroidery; musical instruments made locally and cassettes of Lao songs and music approved by the Ministry of Culture (Art. 2)

Antiquities in stone, bronze, iron, wood, household articles, industrial articles, ancient weaponry relating to battles several centuries old or weaponry of great value

belonging to the period of the war of national liberation; books, documents, old manuscripts in any script but having historic, linguistic, literary, scientific or technological significance; personal effects of famous persons from the past as well as of the period of the war of national liberation; old musical works; presently rare or new works longer being composed; no sacrificial or religious objects including pagodas, bronze objects used by tribal groups in ritual functions (Art. 2)

# Malaysia cultural property subject to export control

"Antiquities" (s. 21) and "historical objects" (s. 23).

An "antiquity" means any object at least 100 years old produced or modified by human agency; and part of the object added at a later date; any human, plant or animal remains at least 100 years old; any object of any age declared to be an antiquity (s. 2).

An "historical object" means any artifact or other object to which religious, traditional, artistic or historic interest is attached and includes any ethnographic material such as household or agricultural implements, decorative articles, personal ornaments; works of art such as carvings, sculpture, paintings, architecture, textiles, musical instruments, weapons and any other handicraft; manuscript, coin currency note, medal, badge, insignia, coat of arms, crest, flag, arms and armour; vehicles, ships and boats, in whole or in part, whose production has ceased (s. 2)

# Philippines cultural property subject to export control

National cultural treasures which are designated items of cultural property which are rare or unique within that class of cultural property (Act, amended ss. 9, 7b). They are unique objects found locally, possessing outstanding historical, cultural, artistic and/or scientific value which are significant and important to the country and the nation (Act, amended s. 3(c)).

Cultural properties which are old buildings, monuments, shrines, documents, and objects which may be classified as antiques, relics, or artifacts, landmarks, anthropological and historical sites and specimens of natural history which are of cultural, historical, anthropological or scientific value or significance to the nation; such as physical, anthropological, archaeological and ethnographical materials, meteorites and tektites; historical objects and manuscripts: household and agricultural implements; decorative articles or personal adornment; works of art such as paintings, sculptures, carvings, jewelry, music, architecture, sketches, drawings, or illustrations in part or in whole; work of industrial and commercial art such as furniture, pottery, ceramics, wrought iron, gold, silver, wood or other heraldic items, metals, coins, medals, badges, insignias, coats of arms, crests, flags, arms and armour; vehicles or ships

or boats in part or in whole (Act, amended s. 3(a)).

# Thailand cultural property subject to export control

Any antique or object of art whether registered or not (1961 Act, s. 22).

"Antique" means an archaic movable property, whether produced by man or nature, or being any part of an ancient monument or of a human skeleton or animal carcass which, by its age or characteristics of production or historical evidence is useful in the field of art, history or archaeology (s. 4).

"Object of art" means a thing produced by craftsmanship which is appreciated as being valuable in the field of art (s. 4).

The UNESCO Recommendation of the Safeguard of Traditional Culture and Folklore, adopted by the General Conference at its twenty-fifth session, Paris, 15 November 1989 includes suggestions to be undertaken by Member States on:

a) Conservation of folklore by documentation of folk tradition and its objects; establishment of national archives to properly collect, store and make available; establishment of a central national archive function for services purpose, creation of museums or folklore sections at existing museums where traditional and popular culture can be exhibiting, and the training of personnel concerned with the conservation of folklore, from physical conservation to analytic work.

- b) Preservation of folk traditions and those who are the transmitters, in order to guarantee the status and economic support, both in the communities which produce them and beyond. Member States are suggested to undertake some actions such as: designing and introducing in school curricula the teaching and study of folklore; guarantee the right of access of various cultural communities to folklore their own by supporting their work in the fields of documentation, archiving, research etc., as well as in the practice of tradition.
- c) Dissemination of folklore in order to draw the attention of the people to the importance of folklore as an ingredient of cultural identity; and to safeguard the integrity of the tradition must be fair and without distortion. Among other activities, Member States are recommended to: encourage the organizations of national, regional and international events, symposia, workshops, training courses, congresses, etc, and support the dissemination and publication of their materials, papers and other results; encourage a broader coverage of folklore materials in national and regional press and other mass media; to facilitate meetings and exchanges between

individuals an institutions concerned with folklore, and to encourage the international scientific community to adopt a code of ethics ensuring proper approach to and respect for traditional cultures.

Protection of folklore as intellectual property calls for a separate action to be considered in line with the copyright issues established by UNESCO and WIPO.

In this connection UNESCO and WIPO, in 1977, formulated a Model Provision of Expression of Folklore Against Illicit Exploitation and Other Prejudicial Actions. By the time this paper is written, information about actions undertaken by SEAMEO countries is still to be collected. So far, in Asia, the country which has already issued the Code of Intellectual Property Act, which contains clauses about folklore, is Sri Lanka, in the Act of 1979. Thailand, in 1985, convened a national seminar to deliberate on this matter, and the Department of Fine Arts, Ministry of Education prepared a draft Regulations for Protection of Folklore Arts which include folk tales, folk song, folk music and musical instruments, folk dances, festivals and tangible folkloric art objects.

## SEAMEO SPAFA's activities for safeguarding and protection of folkloric arts

SEAMEO SPAFA's mission is to cultivate the awareness and appreciation of the cultural heritage, to promote and help enrich archaeological and cultural activities in the region and to advance mutual knowledge and understanding among the countries in Southeast Asia through joint programmes in archaeology and fine arts. The Centre's programme activities have been designed from its inception to contribute to the fulfillment of its mission through cooperation, concerted efforts and sharing of resources and experience of Member Countries, and through information dissemination. Its strategies for the implementation of the objectives are organized in five main areas, namely, training, seminars workshops, research and and development, personnel exchange and documentation and information dissemination.

In the areas of safeguarding and promotion of cultural properties, SPAFA organized courses such as: Development Strategies of Cultural Values, Documentation of Non-Print Materials on Culture, Promotion and Dissemination of Information on Southeast Asian Cultural Traditions, Conservation of Ancient Cities and Settlements, Preventive Conservation of Museum Objects, and Conservation of Archival Materials, Promotion and Development of Handicrafts and Folkcrafts for Social Development and so on.

There are also workshops and seminars on topics relevant to tradition and folklore such as Seminar on Problems of Conservation of Ethnographic Materials, Preservation of Traditional Handicrafts, Preservation of Traditional Performing Arts in the Modern Environment, Seminar on Traditional Theatre in Southeast Asia. Researches conducted included Researches and Documentation of Ethnic Music.

The workshops and seminars include country reports on activities undertaken by member countries, such as training programmes, documentation of music and traditional performing arts, promotion of traditional arts appreciation. Reports and proceedings of workshops and seminars are published for wide distribution.

SPAFA Library and Documentation Services not only publish seminars/workshops and research reports, but also issues a journal entitled SPAFA Digest, renamed SPAFA Journal in 1990. It contains articles relating to folkloric objects, and other kinds of cultural property. The unit compiles union bibliographies on archaeology, fine arts, and directories of monuments and sites in Southeast Asia. Both publications are records of written works, and inventories of cultural heritage.

In response to the suggestion of the Governing Board Members of the Philippines and Thailand, during the 7th Meeting of the Governing Board Members, in October 1992, that SPAFA should establish standard guidelines for archaeological activities in the region, SPAFA, with the technical co-operation of the office of the National Commission for Culture of Thailand, and the Fulbright-Thailand-U.S. Education Foundation, produced a draft Unified Cultural Resource Management Guidelines for Southeast Asia Volume I Material Culture in April 1994. The first draft was assessed by the Thai Officials of the Department of Fine Arts, Ministry of Education, and those of the Non-Government Organizations such as the Thailand Tourism Authorities, the Association for the Protection of Cultural Properties, during the national seminar held for this purpose during 8-10 March 1994. Comments and recommendations of the seminar were incorporated, and the final draft was reproduced for circulation to SPAFA member countries for comments and suggestions, which are at present awaited. The Guidelines provide frameworks which can be adapted to suit country environment and situation. Volume II Intangible Culture, which will cover artistic and traditional expression is foreseen to be undertaken when financial and technical resources are available.

At regional level, concerted efforts of the Southeast Asian countries in the protection of cultural resources, tangible and intangible, have also been undertaken under the auspices of the Association of the Southeast Asian Nations-ASEAN which is a governmental organization. ASEAN member countries, at present, consist of six countries; Brunei Darussalam, Indonesia, Malaysia, the Philippines, Singapore and Thailand. The ASEAN Committee for Culture and Information (COCI), has since its establishment, some twenty years ago, undertaken joint programmes of activities to promote appreciation of, and to protect the countries'

traditional cultural treasures which include, among others, traditional performing arts, visual arts and handicrafts. literature and archaeological artifacts. The ASEAN Working Groups on Culture and Information organize workshops, seminars, researches, festivals, exhibitions, television and radio broadcasting. They have publication programmes for ASEAN literature, source books for ASEAN cultures for children, monograph series on traditional ASEAN and contemporary for adults in the fields of dance, music, theatre, ceramic, etc.

CIOFF-the International Council of Folklore Festival and Traditional Arts Organizations has contributed much in preserving and promotion folkloric arts, especially dance, songs, games and music among world communities. CIOFF has member countries in Southeast Asia which have had opportunities in hosting the folklore festivals and executive meetings. It is praiseworthy that recently CIOFF has also included during its festivals, seminars on topics relating to preserving folklore and promoting its appreciation among adults and children as well. It is essential to include children into its programmes since children are those who carry the concept and ideals to the future.

One recommendation the writers of this paper would like to suggest CIOFF members in Southeast Asia in particular, that, if this has not been done, they take inventories of existing folkloric arts, tangible and intangible, as well as resource persons, institutions and organizations working in the fields of folkloric arts. The databases should be created for the purposes of exchanges of information. It is possible, that a regional network of information exchanges should by created, with the view to connecting with international networks such as INTERPOL (International Criminal Police Organization), CHIN (Canadian Heritage Information Network), IFAR (International Foundation for Art Research); ICOM (International Council of Museums), the Getty Art History Information Program and so on.

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