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CONTENTS

	<i>Pages</i>
OPENING STATEMENTS	
Statement by Mr. Rubens Ricupero	1
Statement by H.E. Mr. Mandisi B. Mpahlwa	5
Statement by Ms. Zeljka Kozul-Wright.....	7
INTRODUCTION	
Challenges and prospects in the music industry for developing countries by Zeljka Kozul-Wright.....	9
SESSION 1: Challenges and Prospects in the Music Industry of LDCs.....	33
1.1. Cultural industries in smaller economies: Some pertinent aspects of Irish experience by Fionan O'Muircheartaigh	35
1.2. The role and contribution of folk song in the Bangladesh music industry by Abdul Khaleque.....	41
1.3. The State and prospects for the music industry in Africa by Ayo Olokuton.....	49
1.4. Building musical capacities in Africa by Hortencio Langa	55
1.5. Caribbean music in the international context: Dancing to the beat of a small place by Ralph Henry.....	59
SESSION 2: New Technologies and Copyright.....	65
2.1. Updating copyright protection in LDCs and worldwide: An incentive to music creation and business by Kurt Kemper	67
2.2. Copyright in cultural production in Haiti by Willems Edouard.....	71
2.3. Music and intellectual property rights (IPRs) for business and society by Birgitte Andersen and Fiona Macmillan	81
SESSION 3: Raising the Volume: Policies and Best Practice Cases in the Music Industry	95
3.1. The recording industry and the dominant global agenda: The dilemmas of roots and alternative routes by Keith Negus.....	97
3.2. Musical works and copyright protection in Brazil by Jose Carlos Costa Netto.....	103
3.3. The contribution of major record companies to developing music in emerging markets by John Sheehan.....	107
3.4. Opportunities for the people of the LDCs through creative expression by Michael Ibo Cooper.....	109
Statement by Mr. Rubens Ricupero at the closing ceremony of the Conference.....	113
CONCLUSIONS	117
List of participants	119

Statement by Mr. Rubens Ricupero, Secretary-General, UNCTAD

Good morning, ladies and gentlemen, and welcome to the Youth Forum. Music is a particularly well chosen theme for an event which aims to address the concerns of young people and the economic challenges facing the least developed countries (LDCs).

Most LDCs are young societies; on average 70 per cent of their population is under 30 years of age. Many are rapidly becoming urban societies: in 1975 only 14 per cent of the population of LDCs were urban, whereas today that figure has already almost doubled to over 25 per cent. I am sure that the economic and social problems facing a young urban population in a developing country are familiar to many of you here – the difficulty of finding work, the search for decent accommodation, fears of loneliness and concerns (particularly among women) about violent crime, the rising incidence of drug abuse and the threat of AIDS.

We should not fool ourselves into thinking that there are easy policy recipes for tackling such problems. They are, in part, linked to the wider economic policy challenges of growth and development, but similar problems are also familiar even to the richest communities in the industrialized world. Unfortunately, the challenges facing young people are all too often compounded because they feel excluded from the larger political processes on which their own futures ultimately rest. And almost everywhere, young people have looked to popular musical idioms to give expression to their anxieties, their discontent and their aspirations.

We have all lived through those days, and I am sure that everybody here connects important moments in their own lives, whether of a personal nature or the larger political and social events of their day, with a piece of music. Globalization does not change that. But advances in audio-visual technologies now mean that popular music has an almost instantaneous global audience, providing a lingua franca for young people, one which transcends national, racial and religious divisions.

It is true, of course, that this lingua franca has a pronounced Anglo-Saxon flavour. But there is also a remarkable richness and variety to popular music that afford it a special place in today's globalizing world. That place has been long in the making. Musicians have been carrying their local musical traditions across geographical boundaries for centuries. Much of what we believe to be "our" music is a product of borrowing, imitation and fusion across many cultures. Today, that process has taken on a truly global dimension. The beat of Africa, the dance styles of Latin America, the rhythmic beat of the Caribbean islands and the chants of the Indian subcontinent can all now be heard intermingling with the rasping blues of the American South, the folk traditions of Ireland and the breezy pop tunes of the United Kingdom. In this respect, it seems fair to describe popular musicians as the true "ambassadors of globalization", constantly crossing borders, literally and metaphorically, in the search for a sense of harmony among the world's rich patchwork of local cultures and traditions.

But popular music is more than a matter of cultural expression or personal entertainment. It is also a dynamic business. Although not traditionally part of the economic policy agenda of LDCs, musical talent can along with other cultural assets provide new production and trading opportunities for these countries. Indeed, because music is very closely linked to new digital technologies such as the Internet, it looks like carrying even greater weight in today's rapidly globalizing world economy. In this respect, the music industry feeds into a wider policy discussion about how to diversify economic activity in LDCs, about the role of intellectual

property in the development process and about human resource development and capacity building. These are, of course, some of the key issues that have been discussed in this conference during the past week. I hope today's workshop can provide real shape and form to these discussions.

The opportunities in music are sizeable. Recorded music products worldwide are part of a \$50 billion market. This far exceeds markets for traditional primary products – for example, coffee \$17 billion, cotton \$20 billion, tobacco \$21 billion and bananas \$27 billion – where many LDCs continue to look for production and export opportunities.

Developed countries have been successfully exploiting the export potential of their musical talent for some time. And, of course, the major players in the industry are multinational firms based in these countries. But many LDCs have world-class musical talent too. Wycliffe Jean, Youssu N'Dour, Salif Keita, Cesaria Evora and Angelique Kidjo are just some of the musicians from LDCs with a strong presence in Western markets. These artists carry an important message in their own right: that success and recognition on global markets are not beyond the reach of LDCs.

The question is whether the world's poorest countries can convert excellence in musical expression into export-oriented business opportunities. There are positive signs. Youssu N'Dour, from Senegal, records and exports directly from Dakar, and has set up his own music company that records young musicians from all over Africa. Salif Keita, from Mali, also has set up his own music business in Bamako.

But as with any infant industry in a developing country, the barriers to building up a viable music sector should not be underestimated. Ongoing work by UNCTAD has shown that many developing countries, particularly LDCs, despite their strong cultural assets, lack the domestic enterprises and business skills to bring musical products to global markets. The absence of entrepreneurial and exporting skills poses a serious barrier to entry and access to high-income markets. This situation is made even more onerous by the financial strength of the large international firms which dominate this industry. Finding ways to build domestic capacity in this kind of industry will require new and innovative thinking by policy makers.

One possible point of departure is the copyright system. Copyright has an important place in all creative industries. The need to strengthen domestic copyright legislation and institutions has been emphasized by joint UNCTAD/WIPO research on the Caribbean music industry. However, this is no longer a strictly domestic matter. Indeed, the international dimension of copyright legislation in the form of the Agreement on Trade-Related Aspects of Intellectual Property Rights is arguably of even greater importance in shaping the future course of the music industry. Stopping music piracy and ensuring a just reward for creativity are legitimate concerns. But there are also equally valid concerns about the dangers of monopoly control, particularly for developing countries, many of which feel that the rules of the game are stacked against them.

However, even the major corporations that dominate the music industry are not assured a comfortable life in this rapidly changing world. The nature and effectiveness of the copyright system is itself under threat from new technological ways of delivering music. The recent case of Napster has exposed these tensions in the global music industry to a wider public audience. Preliminary results from the joint UNCTAD/WIPO project on the music industry suggest that electronic commerce can provide new opportunities for developing countries to reach global markets. Here the digital divide is not only real, but may also be bridgeable. However, the best kinds of regulatory practices and the most effective policy instruments to help realize those

opportunities continue to provoke debate and disagreement among the different players across the music industry.

The joint work by UNCTAD and WIPO provides the backdrop for our discussions today. This work is in its early stages and I very much hope that today's discussion will provide fruitful suggestions about how best to move that work forward, particularly for the LDCs.

Now it is my pleasure to give the floor to the Chair of the Youth Forum, His Excellency Mr. Mandisi B. Mpahlwa, Deputy Minister of Finance, Republic of South Africa.

The final session, this afternoon, will look for specific measures to help LDCs better exploit their musical talent. A number of countries have successfully used their cultural assets to build business opportunities. These include small developed countries such as Ireland, a country which not only successfully struggled against its colonial past but also used that past to scale the pinnacles of European culture and has since turned its cultural assets into thriving industries. Other countries include larger developing countries such as India, where music is intimately linked to the world's largest film industry. The session will consider what lessons might be drawn by LDCs to help create economic opportunities from music.

Before giving the floor to our first rapporteur for Session 1, I give the floor to Ms. Zeljka Kozul-Wright, the Youth Forum Coordinator from UNCTAD's Office of the Special Coordinator for Least Developed Countries, Geneva.

Statement by Ms. Zeljka Kozul-Wright, Youth Forum Coordinator

Good morning, ladies and gentlemen. I would like to extend a warm welcome to you all and in particular to the large number of you who have come such a long way to attend the Youth Forum. I have been with you practically every step of the journey and it is a great pleasure for me to see you all here this morning.

The idea for this forum came out of ongoing work by unctad on the music industry in developing countries, and, in particular, the conviction that music, along with other cultural resources, was a source of untapped export earnings, including for LDCs. Looking at music from this perspective is linked to unctad's broader mandate of seeking greater balance in the global trading system by diversifying and upgrading domestic supply capacities in developing countries.

Realizing the economic potential of musical resources requires both a better understanding of the workings of this increasingly global industry and more innovative policy approaches with respect to the production and trade of music products. To date, insufficient attention has been paid to this sector in most LDCs. It remains under-researched and under-studied, with insufficient information and data available on the sector's real economic performance. The ongoing joint unctad/wipo project on the Caribbean music industry, covering Jamaica, Cuba, and Trinidad and Tobago, will hopefully serve as a pilot project for other parts of the developing world.

The music sector is among the fastest-growing export sectors of the global service economy. Historically, the industry has been concentrated in a small number of advanced industrial economies, where it has been closely linked to the rise of new market opportunities and new technologies and shaped by the financial power of a small number of dominant firms. In recent years those firms have acquired global market influence and reach. Any developing country looking to enter the music industry and expand into markets abroad must find constructive ways of engaging those corporations.

The policy challenges facing LDCs looking to establish partnerships with big international firms are familiar and long-standing. In the case of music, the challenge is perhaps even greater because audio-visual industries, and in particular the music and entertainment sectors, have not been viewed as areas for traditional economic development policy. This is changing, as developing countries begin to see the significant export earnings potential of music, as well as its strong complementary links to other sectors, most notably tourism (a leading source of income for many countries), where considerable employment possibilities exist.

The potential can be gauged by trends in the advanced industrial countries. In the European Union, for example, the share of copyright industries is between 6 and 7 per cent of output, and in some countries, for example the United Kingdom, the music industry has been one of the strongest growth performers, especially in exports. Analogous figures for most developing countries are not available, but given the growing importance of services trade in the global economy, and the conclusion of the GATT Agreement in the Uruguay Round, many Governments in the developing world are paying greater attention to this segment of their services sector. The fact that the music sector is based on intangible assets and creative expression distinguishes it from many of the traditional economic activities which developing countries seek to promote. In fact, although more than a century old, the commercial music industry is clearly a part of the much talked about knowledge-based economy. As such, it is an

industry which has evolved under the influence of the copyright system. Affording protection to intellectual property is considered a prerequisite for creating new musical products as well as for the successful commercialization of creative acts (or original works). Thus copyright has constituted an important source of economic revenues for the industry. However, while there is little doubting the growing importance of knowledge-based activities in today's globalizing world economy, the links between copyright policy and economic performance are controversial even in developed market economies, where copyright legislation and institutions have a long history. In the context of LDCs, a fuller understanding of those links is still lacking.

Trade-related intellectual property rights (TRIPS), have been thrust to the forefront of the development policy debate both at the national and the multilateral levels, this being one of the most visible consequences of the rise of knowledge-based activities. The Uruguay Round negotiations, and more specifically the inclusion of the TRIPS Agreement, demonstrates the growing importance attached to ipr issues by countries that are the main producers and suppliers of knowledge-intensive products. The issue in question is whether the Uruguay Round negotiations in the area of IPRs pay adequate attention to the specific concerns and needs of LDCs in this area. A better understanding of these issues and of the implications for development will assist developing countries in adopting forward-looking, informed positions in future discussions and negotiations in this area.

Since its birth in the late 19th century, the commercial music industry has been a technologically driven industry. This poses another set of major policy challenges for any developing country entering the industry. Currently, it is experiencing what many see as a revolutionary transformation under the impact of new digitally based information technologies, particularly those linked to electronic commerce. This is expected to substantially reduce the traditional costs of marketing, production and distribution and generally alter the established routines of the music business as we know it today, giving rise to trade expansion for all audio-visual products, and in particular music.

Developing countries, including LDCs, are fully aware of the opportunities linked to new digital technologies. They are, at the same time, concerned that the existing technological divide which separates them from the advanced industrial world will widen even further. In order to take advantage of the many opportunities that electronic commerce could provide to the domestic music industry, a number of complementary and interdependent areas need to be addressed, without which the anticipated benefits from electronic commerce are not likely to occur. These developments have major implications for the music industry. I hope that our discussion today will examine how these developments impact on the music industry in the LDCs.

Indeed, given that many LDCs lack knowledge and expertise in the elaboration of policies in the building of supply capabilities as well as the means to benefit from any window of opportunity through the WTO, one of the objectives of the discussion today is to look for ways forward in the area of policy formulation and in the design of appropriate policies aimed at development of the music industry in LDCs.

Although each LDC must adopt policies tailored to its own particular circumstances, lessons can be learnt from those countries that have already successfully exploited their cultural assets. These lessons have a bearing on the management of copyright, partnerships between the industry and the public sector, access to capital, the use of new technologies, human resource development, training, and so forth, and I very much hope that the knowledge and experience of the panellists on these matters will provide the basis for stimulating and fruitful discussion.

INTRODUCTION

**CHALLENGES AND PROSPECTS
IN THE MUSIC INDUSTRY
FOR DEVELOPING COUNTRIES**

by Zeljka Kozul-Wright,
Youth Forum, Coordinator
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Landlocked and Island Developing Countries
UNCTAD, Geneva

Since its creation in the early 1960s UNCTAD's overriding focus has been on examining and redressing the various asymmetries and biases in the international economy which may hinder their growth and development prospects. Historically, the international trading system has been UNCTAD'S primary area of concern; however, more recently the international financial system as well as the international system of production are also being examined. Indeed, UNCTAD has built its analysis and policy advice around the assumption that these systems are closely interdependent features of the global economy. Our interest in cultural industries thus mainly arises from an economic development perspective informed by this mandate.

Cultural goods thus generally refer to those products (or services) that embody ideas, symbols and ways of life. As such they inform or entertain, contribute to building a social identity and influence cultural trends. They include books, plays, magazines, newspapers, records, films and videos, and multimedia products. Considering the growing importance of knowledge-based activities, UNCTAD has identified the cultural industries in general and music in particular as potential new trading opportunities for LDCs, resulting from changes in the regulatory environment and the application of new information and digitally based technologies.

Session 1: Opportunities and challenges for the music industry in Developing countries

Music from developing countries has brought little economic benefit and returns to the countries of origin, despite the presence of ample musical assets and recognized talent, creativity and ubiquitous musical capabilities in those countries. Artists from these developing countries, such as Bob Marley, Franco, Fela Kuti, King Sunny Adaye, Harry Belafonte, Jimmy Cliff, Salif Keita, Youssou N'dour, Miriam Makheba, Gilberto Gil, Caetano Veloso, Cheb Khaleb, Third World, Fela Kuti, Monty Alexander, Lord Kitchener, Cesaria Evora, Anjelique Kidjo, Buena Vista Social Club, The Fugees, Wycliffe Jean, Los VanVan, and many others have achieved major international success and acclaim. However, their international success in high-income markets was not translated into concrete benefits to their home countries.

Developing countries and the global music industry

A major trend in all cultural industries in recent years has been their increasingly international nature. Between 1980 and 1998, exports of cultural goods rose fourfold and although the leading industrial countries (Japan, the United States, the United Kingdom, Germany and France) have continued their dominance, their share has declined quite sharply from nearly 70 per cent of total exports in 1980 to under 50 per cent in 1998. The most notable new producers include China and Mexico. Perhaps just as significantly the dominance of a handful of very powerful large media Transnational Corporations (TNCs) has persisted. Music goods (phonographic equipment, sound recordings and musical instruments) have been one of the fastest-growing segments of cultural industries, accounting for over one quarter of total cultural trade in 1998 (UNESCO, 2000). The largest exporters are still in the North, and with the exception of Japan, they have been able to retain their command of world markets (UNESCO, 2000). Nonetheless, UNCTAD has identified this sector as a future growth sector for least developed countries on the basis of research in market trends and opportunities in services (UNCTAD, 1997, 1999a, 2000).

Developing countries, including the least developed countries, are conceivably better positioned to compete in cultural industries than in many traditional industries. This is because the basic

raw material, such as the talent to create musical sounds, is readily available and entry costs, at least in the case of music, are not as prohibitive as in many industries. A great deal of “world music”, based on the folk music heritage, originates with musicians from the developing world.¹ This type of music has wide “cross-over potential” and appeal, and although its overall market share is very small, it is growing (IFPI, 1998).

Developing countries account for fewer than 12 per cent of world music sales. However, some countries, such as Brazil, have already established a competitive advantage in the creation of music and generation of new musical sounds based on the fusion of traditional music with “Western” musical traditions. In addition, and despite the global image of the music industry, there remains a very strong regional dimension to musical tastes. In 1999, two thirds of global music sales originated from a “local” source, ranging from 40 per cent in Europe to over 90 per cent in the United States. Latin America and Asia fall somewhere between these figures, while for Africa the figure is below one third. This standardization of tastes and creation of a global youth culture point to potential markets for fledgling industries in least developed countries. Moreover, as relative newcomers, least developed countries may have the most to gain from new technologies such as the Internet.

A clearer sense of the importance of the industry in least developed countries is made all the more difficult by its informal and unquantified nature. The availability of sales data reflects the interests of the international recording music business, which continues to see these countries as potential consumers rather than potential producers. However, it is the case that, with some notable exceptions, the production of music in least developed countries remains small-scale, informal and essentially craft-based. There is little capacity to use mass production or marketing techniques and as a consequence the recording business tends to be prematurely arrested at the earliest (artist and repertoire or initial recording) stages of the supply chain with limited value added. Initial master recordings are subsequently licensed to a foreign company, which masters, markets and distributes the product in the high-income markets. Very quickly, successful artists from least developed countries follow their recordings abroad, becoming cut off from the business organization of their own countries.

The difficulties facing developing countries are apparent even with the largest producers, even in middle-income developing countries. Brazil, which is among the 10 largest markets for recorded music (and employs an estimated 8,000 people directly, and a further 55,000 indirectly, in the retail trade, publishing, radio broadcasting, etc.), has built a strong local repertoire which accounted for three quarters of sales in 1998, compared with a little more than one quarter a decade earlier. However, the five major corporations (the “majors”) control three quarters of the market; indeed, one of these, Universal, controls over a quarter of the Brazilian market and is the leader in both the local and the international repertoire. The two largest Brazilian independent companies control only 6 per cent of the market, with the remainder split between a large number of small companies. The growth of the largest domestic company (Abril) stems from a successful alliance with the largest Brazilian supermarket chain, which provides a distribution network. Joint ventures between smaller Brazilian companies and the majors have by and large proved unsuccessful.

India with a music market of \$460 million has been more successful in establishing domestic control of its music industry. In part this is because of the close link between music and the

¹ In a recent article in the *New York Times* (“I hate world music”, 3 October 1999), David Byrne – formerly the lead singer with Talking Heads and now a record producer – whose label carries a number of artists from least developed countries, offered a caustic critique of the term “world music”.

enormous Indian film industry; film music accounts for over 70 per cent of the total music market. But Government policy has also played an important role. Following legislation in 1977 to limit all foreign holdings in India, the two dominant companies (EMI and Polydor) were sold to Indian companies. A more complex structure has evolved, with the four leading companies – all Indian-owned accounting for one third of the market and the combined share of the majors below 20 per cent. However, some of the smaller Indian companies also have licence agreements with the majors. The Indian industry also has a large domestic production capacity with CD and cassette duplication plants. By contrast, the distribution system remains anarchic and piracy is a major concern. Despite this success, there are growing balance-of-payments concerns linked to musical imports. Although a large export market created by Indians living abroad has begun to emerge, Indian producers are unlikely to find big outlets in the large Western markets at a time when big international recording companies are looking at a liberalizing Indian economy.

India's worries have a wider resonance. Over the past decade, trade flows in recorded music products between developed and developing countries have shown a significant increase, growing more quickly than global trade. However, there have been clear asymmetries. Not only does trade continue to be dominated by Northern producers, but also although imports from the developing countries in the developed market economies have risen fivefold, exports of recorded music by the developed to the least developed countries have grown almost sixfold. This pattern of trade is not altogether surprising. Least developed countries do not have the large firms and financial structures necessary for investing significant capital in sophisticated marketing and distribution machinery with a global reach. This is unlikely to change very quickly. The local music industry in most least developed countries has suffered from weak institutional and political support, low levels of entrepreneurial capability, low value-added, over-dependence on foreign manufacturing and distribution, and massive copyright infringement. Hence earnings are far less than what they could be if the industry were organized more effectively. Policy counts and much can be done to stimulate the development of local supply facilities in this sector, including building a favourable environment for this sector through pro-growth sectoral policies.

Many factors currently inhibit the growth and development of this sector, and its transformation into a modern dynamic sector of the economy. They include:

- The highly unstructured and informal nature of the sector, which is at the same time highly dynamic and fluid, and demonstrates how weaknesses can be turned into strengths;
- A grossly inadequate database: owing to its largely informal nature, the sector is unquantified in almost every respect, including by the national statistical agencies, which lack the requisite accounting or auditing capabilities to capture the real economic contribution of this sector;
- Lack of policy support: the sector lacks legitimacy and a policy framework in most LDCs as a bona fide export-oriented industry;
- A poorly implemented IPR regime: although by now practically all countries have a modernized legal system that includes a copyright system, and that favours IPRs, these are far from being implemented and countries lag behind in rights management, particularly least developed countries;
- Ineffective or non-existent institutional infrastructure, including trade associations, NGOs, lobby groups and civil society entities that represent the industry's interests (such as Music Rights Groups, etc).

Despite these barriers, the cultural industries sector, particularly music, offers considerable growth and export potential to many developing countries. Not only is the basic resource – musical talent – abundantly available, but also regional musical tastes offer significant opportunities to establish markets for producers in the South. However, talent alone is not sufficient to build a competitive music industry. Hence, earnings are far less than what they could be if the industry were organized more effectively. But in industries where ideas and specialized assets give rise to rents, effective organization requires a variety of specialized institutions. This is particularly true of music, where the volatility of demand adds to the sizeable risks involved. Indeed, creating a successful music industry is as much related to institutional and market capabilities as it is to music potential or talent.

Investment is one of the primary engines of growth in any economy. It generally tends to be treated in a macro framework where it is linked to issues of savings and finance, but it also brings in micro concerns because it lies at the heart of enterprise behaviour where productivity, profits and competitiveness are crucial. Effective policy interventions to stimulate investment need to take these facts into account, although it is not always easy to bridge the divide between them and policy inconsistencies can often emerge. Nevertheless, for all these reasons, this is an excellent point of departure in any development strategy. In recent years, stimulating investment in least developed countries has been tied to measures for opening economic activity to the influence of international market forces, particularly financial markets. The record of rapid financial liberalization has not been good, as the East Asian financial crisis recently demonstrated. The reasons have to do with the likelihood of market failures in financing investment. One important lesson for least developed countries from the financial crisis in East Asia is that they need to build and regulate their own domestic financial institutions as the only way to support a sustainable growth process. This will undoubtedly take some time, as there are no easy, quick-fix solutions.

In considering investment in the cultural industries sector, it is important to stress that this is not only, or even predominantly, a question of attracting foreign direct investment (FDI) but also of encouraging domestic investment. Moreover, although most cultural industries are SMEs, there is also a need to build larger firms that can become national competitors in the global market place able to cooperate in a constructive way but also ultimately to compete with the large corporations that dominate cultural industries. There are obvious financial implications if this path is chosen. Moreover, it is not simply a question of encouraging private investment, whether domestic or foreign, but also of strengthening public investment, including through the use of public-private partnerships and a more collaborative policy framework.

How then to reconcile this long-term perspective with the need for working capital in the near term to stimulate and expand capacity in new activities? This daunting challenge is particularly relevant to the development and financing of cultural industries, such as music, that offer least developed countries considerable growth and export opportunities.

Globalization and culture

Since the late 1970s there has been a fundamental change in thinking about economic policy, beginning in the industrial economies, then spreading to least developed countries and finally, and most dramatically, shaking up the former socialist countries. Emphasis has been placed on a minimal role for the State, greater reliance on the market, and increased openness to international economic forces through rapid integration into the global economy. Technological advances and transnational corporations are seen as the most powerful forces propelling this change, and the assumption is that there is not very much that Governments can do to stop

this. Since faster and more sustainable economic growth, particularly for least developed countries, is the big promise of this globalizing world, resistance would in any case not only be futile but also self-defeating.

Cultural development has also been caught up in the globalization process. Its basic ingredients – ideas and knowledge – are being moved across borders on a greater scale and at a faster pace than ever before, thanks to new technologies such as the Internet and digital technologies. Also, deregulation has exposed the cultural space to greater international competition and the growing reach of transnational cultural corporations. By analogy with the economic sphere, globalization is expected by many to favour cultural development in all countries by reducing the cost of cultural inputs, widening the market for cultural goods and expanding the opportunities for creative expression. Indeed, according to some, culture rather than economics embodies the true spirit of globalization.

Although it is undeniable that new opportunities, in both the economic and cultural realms, are emerging from this process, support for economic globalization has become a good deal more qualified in the last few years. During the 1990s growth in the developing world was in fact highly uneven, with some notable successes, such as China and India, but also some persistent failures, in sub-Saharan Africa and parts of Latin America. Perhaps most troubling of all, a number of economies in East Asia suffered very serious economic crises after years of strong growth and rising incomes. These crises quickly spread to other parts of the developing world, in Latin America, Eastern Europe and most recently Turkey. Just as troubling, the crises which hit these economies were actually beneficial to developed economies through lower import prices and the return of flight capital. Contrary to expectations, globalization has produced a world of (some) winners and (very many) losers.

To see why this has happened it is important to put liberalization and deregulation at the centre of our analysis of the globalization process. Doing so is a reminder of the political aspects of this process rather than acceptance of it as the unalterable logic of technological forces. It also focuses attention on the market as the institutional fulcrum of that process. While there is no doubting the efficiency-enhancing qualities of market forces, it needs to be recognized that outside the ideal textbook model of market perfection, the likelihood that markets are missing or weak or fail means that leaving things to the price mechanism can produce unexpected and undesirable social outcomes.

Adopting this perspective has already altered the way we look at international finance, which has been, since the collapse of the Bretton Woods system, such a powerful influence on the globalization process. In particular, the possible conflict between a public interest in a stable monetary system and a private interest in being able to shift large amounts of capital from place to place unhindered in search of the highest returns has become part of a new policy dialogue on how to better manage global economic integration. The tendency for private financial flows to be influenced by herd instincts, irrational exuberance and speculative pressures has produced a much more volatile and unstable financial system in which excessive financial liberalization can make countries, particularly those with infant financial industries, highly vulnerable to boom and bust cycles with damaging consequences for long-term growth prospects. This, essentially, is what happened in East Asia.

Accepting this does not mean that the appropriate policy response is readily at hand. There is certainly a growing realization that financial liberalization has gone too far too fast in many countries and that new domestic measures to better regulate financial markets are needed. That such measures will also mean a smaller volume of inflows and at a higher cost makes

them difficult to pursue in many least developed countries. To date, measures and institutions to match the international reach of markets, such as a global central bank or a global tax on financial transactions such as the Tobin tax, have also met with strong resistance, and although regional financial arrangements are emerging, these, at least outside Europe, are still weak.

Reflecting on the experience of finance carries lessons for understanding the links between globalization and culture. There has traditionally been a very strong public dimension to all cultural activities alongside their provision as private goods or services controlled by individuals or firms and bought and sold in the market place. The tension in this public-private split has never been far from the surface of the discourse on culture. But even within the market for culture, there is a basic conflict of interest between those who produce culture and those who consume it; the ease with which cultural products can be copied typifies this tension. Various distinct institutional arrangements have evolved in response to this tension. Culture has also traditionally had very strong local or national roots, and going global is often seen as threatening those roots, particularly in a world where the asymmetries between smaller and larger countries is so readily apparent.

These are inherent features of cultural development, which policy makers must constantly confront. The question, as with finance, is whether liberalization and deregulation can tip the balance too far in the direction of market domination – a kind of Gresham's Law whereby bad market values drive out other (good) qualities from the cultural realm. The debate over liberalization of cultural services has so far been primarily a Northern debate, with developing countries on the sidelines or excluded altogether. However, with the growing realization that culture and cultural industries have considerable economic potential for least developed countries, it is important that they begin to establish their own policy positions both at the domestic level and at the international level. The Youth Forum will examine some of the possible ingredients of such an approach.

Opportunities in cultural goods and industries

The concept of culture originates in the agrarian world where the techniques of cultivating natural growth were passed on from generation to generation through close family ties. From there it acquired an association with human cultivation or training and later with the notion of cultivating the mind. The next step was to associate culture (albeit in somewhat more static terms) with the products of the mind, a shared system of beliefs, ideas and values, and in the contemporary era, with a subset of those products linked to the world of artistic symbols and ideas. With the embodiment of those ideas in reproducible goods supplied to a mass market dispersed in time and space, the emphasis has very much been on the consumption of culture. However, production aspects are never far from the surface, particularly where cultural products are provided through a live performance.

Cultural goods thus generally refer to those products (or services) that embody ideas, symbols and ways of life. As such they inform or entertain, contribute to building a social identity and influence cultural trends. They include books, plays, magazines, newspapers, records, films and videos, and multimedia products. Because they can often be consumed jointly and their production can involve a significant fixed cost, they have some of the qualities of a public good. At the same time, the creator of the good can often exclude others from using it, opening up the possibility of their wider commercial exploitation.

This mixture of public and private dimensions in cultural goods gives a distinct character to the industries which produce these goods, such as printing, publishing, multi-media, audio-visual,

phonographic and cinematographic productions, as well as art and design. There is certainly an inherent tension in cultural industries between the artistic process (where experimentation and creative expression are critical to success) and the commercial process (where the profit motive reigns). But these industries also have distinct economic characteristics because of the way in which high fixed costs and low marginal costs of producing ideas make the creation and rapid expansion of a market, along with efforts to simultaneously protect the product against copying, crucial to economic success.² These are usually fashion-based, high-risk industries where new technologies (applied to both production and delivery) pose a constant threat and offer new opportunities. As a result, these industries have tended to be fairly unstable, subject to periods of concentration and fragmentation, vertical integration and the emergence of independent producers, local control and global expansion. The music industry typifies these trends and tensions.

Policy makers in least developed countries need to recognize that these are real tensions in cultural industries. Certainly it would be a mistake to accept market logic as the dominant basis for cultural policy in least developed countries. However, neither would it be advisable to exclude the market and the profit motive from the equation altogether and treat “culture” purely as static, folkloric or heritage issue, some agencies, for example, having traditionally tended to underplay the commercial side of culture. A change in perspective is emerging, albeit slowly. Limiting industry dynamics to questions of price competition and cost efficiency are not very helpful and concomitant policy prescriptions of deregulation and liberalization are unlikely to generate the desired outcome, particularly for newly emerging producers faced by the well-known infant industry problems. Yet most LDC Governments have been very slow to recognize the economic benefits of this industry.

Table 1

Estimated value of total production of selected commodities of World production	(In \$ billions)
Bananas	27.46
Cocoa	3.70
Coffee	17.23
Cotton lint	20.23
Recorded music products	46.00
Sugar cane	95.00
Tea (unprocessed)	6.60
Tobacco leaf	21.55

Source: UNCTAD calculations, based on FAOSTAT agricultural data, various years.

While production of traditional commodities still occupies the central place in the economies of developing countries, the global value of the recorded music global market (\$46 billion) by far exceeds that of all major commodities, with the exception of sugar cane (see table 1). For much of its history Anglo-Saxon firms and artists have dominated the modern recording industry. In 1960 the United States market, with sales of \$600 million, dominated the industry and United States sales increased sixfold over the next two decades. However, the incessant search for markets to offset the rising costs of producing, manufacturing and marketing popular music has meant that this dominance has been significantly reduced in recent years. Europe, where growth was rapid once commercial broadcasting was legalized in the 1970s, now accounts for a quarter of all sales, while Asia (dominated by the Japanese market) accounts for a little over

² The rent-based nature of these industries is discussed at greater length in Andersen, Kozul-Wright, Kozul-Wright, (2000). UNCTAD Discussion Paper no. 145, United Nations, Geneva.

one fifth of the global sales of recorded music. Moreover, in recent years some of the fastest-growing markets have been in the developing world. The Latin American market grew by 5 per cent per annum during the 1990s. Although it is still a small market (with total sales of only \$234 million in 1999), strong growth is also projected for the African market. Since the early 1980s, the arrival of the compact disc has further boosted sales of recorded music: by 1999 nearly 4 billion units (any sound recording in various formats, including tapes, records, CDs, DATs, etc.) were sold worldwide, generating a total revenue of nearly \$39 billion, with a further estimated \$5 billion generated from pirated recordings.³

Technical change and the music industry

Technical change has always been in the forefront of the music business and new technologies revived the music industry: for example, in 1983, the launching of the Compact Disc (CD) revived the stagnating sales of the record industry of the late 1970s. Worldwide acceptance of CDs as the most popular format for music transmission paved the way for robust growth of the industry in the 1980s. The recurrent application of digital technology to the music business revolutionized music production in 1982 with the introduction of yet another new technology – MIDI (musical instrument digital interface) – which enabled limitless variations in the production of music via electronic manipulation in mixing, dubbing, sampling and recording. This new process permitted major savings on costly sessions with live musicians. Another important development that affected the evolution of the music industry was deregulation and liberalization of the media and telecommunications markets. This opening up of the market enabled hundreds of new cable and satellite operators to enter the media business and increased demand for content, including the music product. The 1980s saw a massive proliferation of media channels, radio and TV stations (e.g. MTV started in 1981), and new broadcasting channels that contributed to the emergence of a global youth culture, diffused through corporate giants such as Coca Cola, Disney, Benetton, Michael Jackson, Madonna and MTV (Wallis, 1999).

Profound structural shifts associated with these changes took place in the global music industry in the 1980s, such as the increased concentration of assets and control by only a few of the major record companies accompanied by the demise of the medium-sized record companies (Wallis, 1990; Hirsch, 1992). This process led to the emergence and domination of corporate media giants with global scope and potential, such as Sony and Matsushita (Wallis, 1999). Simultaneously, however, opposite trends – towards decentralization – occurred with the entry of many new small-sized independent specialist music companies into the market. Those trends continued and deepened in the 1990s. All this has contributed to increases in demand, with potentially significant implications for the development of the audio-visual sector in the developing world.

Yet another important technology-led development that affected the market structure of the global music industry was integration of musical materials into new formats (for music TV, film, video games, advertising, electronic equipment, games, etc.) that created and developed new multi-media products, which blurred the boundaries between traditional industries and products. The 1990s witnessed the emergence of new industrial clusters, for example the information, communication and entertainment (ICE) sector cluster. This rapid pace of technical change

³ An exclusive focus on sales of recorded units is not, however, a comprehensive measure of the size and economic importance of the music industry. In a recent study, Fabbri (1993) found that whilst sales of recorded music are quite low in Italy, they represent only a small percentage of total annual income derived by the industry from copyrights.

continues unabated in the 21st century with the application of compression technologies, the MP3, the Napster, and the global acceptance of the Internet, all of these new technologies having a wide-reaching impact on the global music business. These two main trends: (i) the unprecedented pace of technical change in the application of new technologies to the world of music; and (ii) the deregulation and liberalization of media markets, which have created new market conditions that have opened up new opportunities for producers in the developing world.

Since the 1980s, the global music industry has been becoming increasingly concentrated under the control of five major media transnational corporations (TNCs). Currently, it is estimated that approximately 75 per cent of the global market is controlled by five media giants: VIVENDI (formerly Seagram/Polygram), BMG, EMI Music, WEA Group and Sony Music, (RIAA, 1998). All but one of these are highly diversified media conglomerates, in which music revenues account for between 10 per cent (Sony) and 33 per cent (BMG) of global revenues. These main players are increasingly assuming the primary function of providers of risk capital (Wallis, 1999).

Through various oligopolistic practices these leading media conglomerates were able to earn the large rents needed to maintain their leadership role in the industry, and to generate the considerable financial resources which allow them to carry the risks and costs involved in identifying and developing artistic talent and marketing a risky final product with very large sunk costs. The recent trend towards increased concentration has been accompanied by a shift of strategy in the dominant companies from discovering, promoting and recording artists to the marketing and distribution of recorded music in multiple listening sites and lobbying for the licensing of more and more public spaces where music is played (Negus, 1999; Lovering, 1998). In this respect, corporate strategy has become increasingly tied to accessing risk capital. At the same time, of increasing interest to the large conglomerates is the opportunity to tie their music products to their other entertainment products, such as TV, films and videos, thus generating further revenue streams.⁴

Session 2: New technologies and copyright

The growing knowledge-intensity of production and its generalization across all activities has been especially pronounced in the cultural industries. The share of intangible investments in many of the world's most dynamic firms now exceeds that of tangible investments. Not only has the process of production become more knowledge intensive, but also knowledge-intensive products have spearheaded the expansion in international trade in recent years. This trend has thrust the question of intellectual property rights to the forefront of the development agenda at both the national and multilateral levels.

In developed market economies (DMEs), information and communication technologies (ICTs) are perceived as the main engines of economic growth in the new digital economy. Broadly defined, electronic commerce, or e-commerce, refers to all aspects of business that is conducted over the Internet. This includes goods and services delivered over the Internet, including music, as well as goods delivered in more traditional ways. Moreover, e-commerce includes the entire range of business activities from marketing to production and the related supporting services.

⁴ Over 60 per cent of music performance revenues are derived from these sources (Vogel, 1998, p. 41). Only EMI, the smallest of the majors, remains primarily focused on music.

The Internet and e-commerce will certainly transform traditional business and consumer life. Internet-based sales were estimated to total some \$43 billion in 1998. Many analysts expect on-line business to be worth more than \$300 billion early next decade, while the more optimistic projections range between \$1 trillion and \$3 trillion.

The large majority of developing countries, particularly LDCs are still on the fringes of the new digitally based technological and productive paradigm. However, they will not be able to compete globally unless they are brought into the Internet culture. E-commerce could provide these countries with a portal to the new knowledge-based economy. For many developing countries, including LDCs, UNCTAD has identified electronic commerce and music as an important new trading opportunity that provides one of the fastest means of penetrating global markets. This implies circumventing the traditional, prohibitively costly, hitherto impenetrable distribution channels in markets of developed market economies (DMEs). E-commerce transactions can not only reduce transaction costs in trading, but also circumvent the traditional obstacles identified with exporting for many developing countries (owing to cartelized distribution, high entry costs and other informal barriers to entry, such as high retailing and marketing costs). E-commerce offers the possibility of improving company competitiveness and reaching, communicating and interacting with global consumers at greatly reduced cost. This is truer for music than for many other activities, particularly since music, like the Internet, is global in character and can be easily transmitted in a narrow-band environment (Kern, 1999). This option is currently possible and within the reach of most developing countries.

The belief that the Internet and e-commerce can bring new and attractive opportunities to developing nations is reflected in the fact that most large industrial companies in developing countries already use the Internet. What is even more surprising is that a rapidly growing number of small and medium-sized firms are also adopting the Internet to support their business activities (ITU, 1999, p.1). In spite of this, there is still a considerable lack of awareness of the relevance of electronic commerce. Most of the firms that do not have a connection to the Internet cite the lack of perceived relevance of the Internet to the particular business as the main reason for not being online (ITU, 1999).

In addition to private sector initiatives, Governments in most developing countries are actively developing programmes aimed at supporting the digital economy (ITU, 1999). The music industry offers one such opportunity for the development of an innovation-based competitiveness strategy for a number of developing countries, with small markets and unique trading disadvantages associated with their small market size (UNCTAD, 1999b).

Although the diffusion of the Internet is still in its embryonic stages in most parts of the developing world (except in highly specialized segments of some parts of East Asian economies), this situation is changing in a number of countries that have become successful exporters of ICTs, for example India, Malaysia and other East Asian economies. For small market economies, e-commerce offers, in principle, the ideal medium to overcome the limitations associated with small markets. Current developments in digital technologies, especially in telecommunications, offer great opportunities for many developing countries, especially in cultural industries, including audio-visual activities, including film and interactive media products (UNCTAD, 1998, 1999a).

The Internet, with its mix of computing, telecommunications and broadcasting, is revolutionizing the media and publishing business. New models of delivering content and entertainment to users through networks, such as webcasting of TV and radio, have emerged. For instance, one website (timecast.com) lists over 1,000 radio and TV stations worldwide that broadcast online.

Radio stations offering live or recorded broadcast over the Web include East Radio (er.ee) in Estonia and 102.3 Fmania (f-2, co.id/fm1023) in Indonesia. An increasing number of TV stations are webcasting reduced-quality video online, such as Teledoce Television Color (teledoce.com) in Montevideo, Uruguay, and TV5 (tv.5.co.th) in Thailand. New players, capable of competing with the traditional media companies, have entered the online media/information services scene. For instance, American Online is a media company that is already competing in certain segments of the media market with large traditional corporations such as Walt Disney and Time Warner.

Although the media industry has been relatively quick to adapt to the Internet environment, traditional media companies and publishers have not yet been able to win the lion's share of traffic and advertising dollars online. Instead, portal site such as AOL, Yahoo, Excite, Lycos and Infoseek have taken the lead in stimulating traffic and advertising revenues. The power of portals, however, has not gone unnoticed by the big media players, who have been active in acquiring stakes in the major portal companies. The approach of many media companies has been to build comprehensive sites around specific niches and then partner with portals to promote them. Deals include Disney's 43 per cent stake in Infoseek and Bertelsmann's \$10 million partnership with Lycos to create portals in all main European markets (ITU, 1999, p. 4).

Application of new IT-based and digital technologies is transforming the music industry and creating new policy challenges. Such technologies open up the possibility of global reach and opportunities for market expansion without going through the major distributors. At the same time there are growing concerns about the increasing threat of piracy and the need for new legislation at the international level to ensure that full benefit is derived from these technologies. In both areas, rapid changes characterize the global music industry. These fundamental changes in technologies have major implications for copyright and for the IPR regime in all countries. The second session of the Youth Forum sets out to examine these changes and assess, in a concrete industrial setting, whether the digital age really does offer new opportunities for LDCs.

The digital revolution in the music business

The music sector in developed market economies is at the forefront of the digital revolution and e-commerce. Over the last decade, phenomenal advances in digital technologies have enabled the Internet to become a most efficient medium for accessing music – by downloading music directly and indirectly, and by acquisition of CDs and cassettes from online retailers. Such new developments in media and entertainment services pose a serious threat as well as opening up many new opportunities for established artists and music companies. At the same time, they represent major new trading opportunities for smaller producers and artists from the developing world with limited financial means. The revenue potential of music online is significant, as more and more Internet users listen to and acquire music online. Such opportunities are already being recognized and seized by the music pirates. Legitimate online music providers in the developing countries can capture increased revenues and greater market shares. The Internet offers multiple tangible benefits: for example (i) reduced risk (it requires no immediate, upfront investment for the music companies); (ii) provision of additional distribution channels on the WorldWide Web; (iii) it promotes sales of music at low cost; and (iv) it provides an important additional marketing vehicle, by promoting artists online, as well as other music-related merchandise. In order to capture the benefits offered by the new digital economy, music companies in the developing world will need to prepare themselves for digital transmission and distribution of music as soon as possible, with the objective of becoming globally competitive

players. Music industry specialists predict that in the next 10 years, up to 25 per cent of all purchases of music will be transacted online.

Although technological developments related to e-commerce are predominantly taking place in the DMEs, e-commerce-related activities are not limited to these economies and are very much within the reach of most developing countries' present technological circumstances. Developing countries stand to gain more from the digital revolution in music than do the developed market economies, largely owing to a much larger number of Internet users in the DMEs than in the developing market economies, and to their greater purchasing power. The number of Internet users grew by 55 per cent in the 1990s (for 1998 to 1999). In 2002 there are expected to be 250 million Internet users, 75 million of whom will be based in Europe and 125 million in the United States (Andersen, Kozul-Wright, Kozul-Wright, 2000).

All Internet users are potential consumers of the music product. Analysts predict that the value of Internet retailing in music will reach \$7 billion by 2000 (in 1998 the e-commerce turnover was more than \$15 billion or about 0.5 per cent of the total retail market). The United States and Canada represent 55 per cent of total online users, Europe follows with 24 per cent, and the rest of the developing world (Africa, Asia/Pacific and Middle East) account for the remaining 21 per cent of online users (Kern, 1999). Although the United States dominates the Internet, the rest of the world is catching up quickly, including some developing countries such as India and several East Asian economies, where the number of Internet users is growing rapidly.

Developing countries' participation in e-commerce in global music trade

Although the current value of developing countries' share in global e-commerce transactions is relatively small (approximately 0.05 per cent) relative to other types of retailing, it continues to grow at an astounding rate (ITU, 1999). Consequently, there is an urgent need for all players in the developing world, including the public and the private sector participants, to adapt to the new digital revolution. The current global trends clearly demonstrate that the share of developing countries participation in e-commerce-type activities in global trade is minuscule, but is likely to increase (Andersen, Kozul-Wright, Kozul-Wright, 2000; ITU, 1999; UN, COMTRADE, various years). All of the indicators are on the increase, especially in the area of music, owing to the following unique characteristics of music products and music-related products:

- (a) Music is universal, and has fewer languages and cultural barriers than any other tradable product; hence it lends itself easily to transmission and distribution over the Internet;
- (b) Music can be relatively easily transmitted (compressed and transmitted, even in a narrow-based environment) in order to obtain good-quality CD musical sound;
- (c) The Global demand for music is increasing worldwide, associated with proliferation of cable and media channels in broadcasting (Andersen, Kozul-Wright, Kozul-Wright, 2000);
- (d) The future of musical transmission is digital downloading directly from the Internet to portable players (such as the MP 3). This means of transmission is of great interest to global consumers and is likely to be an important channel of music acquisition in the near future (i.e. customized listening). Customized listening is already very common in DMEs, and is catching up quickly in many developing

countries. This is an emerging trend that is likely to increase the demand for music online in the next decade;

- (e) The rapid rate of technical change in ICT-based entertainment technologies. New digital services, starting with the application of the optical disc to manufacturing CDs (now over 30 years old), which improve and multiply access to music, as well as to improved sound quality, represent very important new developments in the global music industry;
- (f) Increasing acceptance and use of e-commerce as an additional channel of distribution by global music consumers.

Cultural and economic activities, based on intensive use of information and communications technologies (ICT), have been identified by UNCTAD as important new trading opportunities for many developing countries, including LDCs (UNCTAD 1998, 1999a, and 2000). E-commerce, an integral part of the new digitally based information-intensive activities propelled by technical change in ICTs, has been heralded as revolutionary for the music business since it will substantially reduce the traditional costs of marketing, production and distribution and generally alter the established routines of the music business as we know it today, giving rise to trade expansion of all audio-visual products, particularly music.

The easy dissemination of digital music has already occurred and will continue to impact profoundly on the music sector. For example, the use of the Rio – a portable device allowing consumers to transfer MP3 files for their private purposes on to portable digital players – represents an important new format in the contemporary music recording industry.⁵ The advent of e-commerce has been facilitated by technologically advanced developing services (in new formats, such as online music, with high audio quality – in addition to the traditional ones, such as radio and TV broadcasting).

Opportunities generated by Internet-based electronic commerce include those arising from better availability of information, lower transaction costs, and production and distribution costs, facilitating market entry, improving customer service, extending geographical coverage and increasing competition. As in trade of other types of services, for the music industry participants from the developing countries it is expected that these opportunities will be translated into significantly higher rates of profit owing to lower costs of production and more introduction of innovative new products and services. This will be expected to lead in turn to increased economic growth and welfare for all concerned, and most of all, the final consumers (ITU, 1999; UNCTAD, 2002).

However, many challenges lie ahead in this new scenario. The first relates to the totally unregulated nature of the Internet environment, with serious implications for trade expansion. Most significantly, online pricing remains a serious challenge, i.e. evaluation of intangible intellectual property (IP). Pricing of transaction and advertising revenues etc. and piracy, illegal transmission of music without adequate copyright payments and online delivery without legitimate compensation have not yet been fully evaluated. Few would dispute that e-commerce will be the engine of future economic growth for this sector. World Intellectual Property Organization, (WIPO) is working on the harmonization and development of new international treaties in the area of international licensing in a new digital environment. However, the national

⁵ By the end of the 20th century, there will be millions of users of portable players (Forrester Research, 1999). Most of the major media companies are already developing their own portable players or are planning to do so shortly (RIAA, 1999).

treatment of copyright infringement over the Internet has not kept up with the most technological and business activities discussed above. Improving the efficiency of local postal services will remain critical in any evaluation of effective e-commerce in music.

While some industry specialists claim that the Internet will redefine the entire global music business, others are less optimistic about its real chances of replacing the traditional music markets. Successful international licensing over the Internet will largely determine the outcome of the debate. In either case, few dispute the emerging importance of e-commerce in this sector and the need to prepare for the new digital economy, including those in the developing world, where this sector has, up to now, not been seen or supported as an export sector (nor has it enjoyed the benefits associated with traditional export sectors). Policy initiatives in interested developing countries needs to focus on the following:

- Regulation of the Internet (i.e. international licensing); e-commerce, while being market-led, needs to be protected against copyright infringements and piracy; legal issues: legal implications of electronic commerce and music transmission (i.e. international licensing); or IP protection on copyright protection, and credit card arbitration;
- Provision of credit card support systems, e.g. alternative mechanisms for credit cardholders transactions (through Government banks or providing loan guarantee schemes, etc); security – data protection: online payment systems in relation to the security and privacy of transaction;
- Financial and fiscal policies, taxation policy, and credit card transactions;
- Public policy towards e-commerce (import tariffs, taxation, import duties);
- Market access issues such as regulatory trade framework of a regional nature;
- Content regulation in relation to the protection of language and local culture (content regulation is designed to foster cultural identities and stimulate the growth of indigenous industries);
- Banking transactions: offering viable supportive infrastructure to e-commerce by Government banks or by offering insurance to e-commerce costs, through public sector guarantee schemes or insurance incentives, and favourable tax regimes; facilitating access and training for personal home and to (PCs) throughout society, not just the privileged who can afford it privately.

Important challenges will need to be tackled by Governments in implementing electronic commerce, specifically those associated with the improvement of their domestic technological infrastructure and with adjustment of their legal, financial and logistic conditions to the new requirements of electronically based commerce.

Despite the fact that developing countries are lagging behind in the deployment of Internet commerce, they may have a remarkable advantage in leapfrogging not only the infrastructure but also the implementation of electronic commerce. An increasing number of Asian and even African countries are building state-of-art infrastructures to connect to the global electronic markets, and at the same time they could become the innovators in new technologies. But this new dawn still remains in the distant horizon. For the moment, 90 per cent of Internet commerce is based in the United States and developing countries are more likely to be customers than competitors (ITU, 1999).

While the new digital environment offers many new strategic trading opportunities for developing countries, the intangible nature of intellectual property such as music simultaneously poses considerable new challenges that need to be addressed without hesitation, both at

national and international levels. Internet piracy is the obvious challenge (WIPO, 1999; UNCTAD, 2002). The papers presented at the second session of the Youth Forum discuss the implications for some developing countries.

Session 3: Raising the volume: Policies and best practice cases in the music industry

The third session of the Youth Forum will examine some successful cases and best practices in the development of music industries to draw lessons for LDCs. Particular attention will be given to policies for building supply capacities, improving market access, strengthening copyright legislation and interacting with TNCs. The possible role of regional cooperation and of international agencies in strengthening LDCs in the music sector will also be examined.

Policy challenges for the least developed countries in the music industry

Effective policy design needs to take into account the following specific attributes of this sector. Cultural industries are characterized by a number of special aspects that distinguish them from other goods and services, including the following characteristics:

- (a) Cultural assets (such as music) are intangible; for example, the music product is based on musical ideas relying on creativity and talent as the basic resources, but its expression is tangible (in sound, recordings, films etc);
- (b) Cultural goods are the result of joint products; they are produced collectively and can be consumed collectively; rapid market expansion is the key to profitability;
- (c) The production of cultural goods and services involves significant fixed costs;
- (d) Many cultural goods, such as music products, have a very short product cycle; this implies higher degrees of innovation, risk and hence instability.

This implies that cultural industries are characterized by the following features:

- They are rent-based industries with globally oligopolistic structures;⁶
- They are characterized by a high degree of risk and technological sophistication;
- Non-market support structures ranging from an efficient IPR (copyright) regime to geographical clustering of activities;
- Owing to market fluidity, there is room for the entry of smaller players.

If music and cultural resources are to become part of the development strategy of least developed countries these special features need to be given careful attention. Unfortunately, most Governments in the developing world have not yet recognized the potential of cultural industries for growth in their development strategy. Yet in addition to the well-known economic gains, there are important social benefits of various types of cultural activities.

Appropriate support structures for the development of the domestic music industry in the music-intensive developing countries, backed by a well-designed copyright regime and accompanied by other complementary sectoral policies, can in a reasonably short time make this sector very

⁶ Only five multimedia TNCs control up to 85 per cent of the global music market (including the IPRs): Vivendi, Sony, AOL-Time Warner, BMG and Warner Universal.

profitable for those nations. Such profits would come from the substantial incomes that can be generated via *inter alia* improved management of copyright and related rights and hence increased collection of performance and mechanical royalties, other payments by users and from proceeds from sales of music products, the sale (or rental) of complementary music-related services, and improved terms of licensing arrangements. In addition, and potentially even more important, is the development of sustainable employment and income in “linked” industries that rely on the use of music products, such as tourism, dance festivals, restaurants selling local cuisine, information technologies, radio, television and other broadcasting activities, collective management institutions and the legal regime. Moreover, backward linkages would also be strengthened in the supply chain to complementary industries that provide local sourcing for the domestic music industry, including the information technology sector.

The copyright system, in addition to creating a market, can, by promoting a common interest in the effective commercial exploitation of cultural ideas, help reduce conflicts between different asset owners and share some of the risks arising from a volatile market. However, copyrights are not the only way to promote and protect composite quasi-rents. Another mechanism discussed by Marshall was the geographical clustering of these industries into what he called industrial districts, which would allow relations of trust to develop among specialized suppliers, guarantee more regular employment of specialized assets, and ensure that knowledge spillovers be maximized for the benefit of the industry as a whole (Marshall, 1919). A number of studies have found such districts in industries where ideas are an integral component of the production process.⁷

Copyright represents the salient institutional mechanism that can facilitate the creation and dissemination of cultural works through modern business enterprises by providing a framework to manage problems that arise out of the public-good nature of cultural products. The copyright is the main mechanism for protecting rent derived from intellectual/rental resources, and is an important part of the institutional framework that helps to define the marketable product (as well as income flows) through royalties.

Copyright thus represents a non-market institutional arrangement as income generated from copyright royalties corresponds to Marshallian composite quasi-rents (which arise when combining separately owned specialized assets). A rent that is created jointly from such a collective scenario Marshall was called by a “composite quasi-rent”. As such, music represents an ideas-based industry whose products are defined by specific talents needs to rely on the copyright system, that, in addition to generating revenue from intellectual property rights (IPRs), the copyright also represents the means to reduce conflict between different asset owners and to share the risks from a high volatile market.

In addition to copyright, another important mechanism to promote and protect copyright quasi-rents, is again, Marshallian industrial districts where economics of scale presence emerge from spatial clustering, close co-production, interdependence, specialization, a highly developed division of labour and repeated interaction amongst many agents in the productive system (Marshall, 1890; Kozul, 1993). Geographical clustering of cultural industries such as music generates more regular employment of specified assets and ensures knowledge expansion through the industry. The most successful music industries are industrial districts such as those found in Mumbai (Bollywood), New Orleans, Nashville, Los Angeles and New York. Indeed, the

⁷ See Kozul-Wright (1995) for a discussion of the furniture industry, where design is a key factor. See Storper and Sorenson (1987) on the film industry, as well as the discussion in Krugman (1994).

presence of scale economic, non-competitive pricing implies a need for two main forms of institutional arrangements, i.e. copyright and clustering, which determine the optimal degree of competition in the industries. The design of Government policies, including appropriate forms of regulation, for industries where knowledge and/or talent is the prime resource has to be sensitive to the role of rents as the driving force for economic success high degrees of risk facing the agents in the media industry and specific institutions which can accommodate the presence of rents and high degrees of uncertainty.

This has generally been accepted in the regulated markets and is evident in their growing dependence on the production, use and distribution of intellectual property (Ryan, 1998; Thurrow, 1999). But it is somewhat more challenging to see that it is also true of every country, including those in developing countries that have not relied on copyright-based industries for their comparative advantage. The importance of the sector could be gauged from the fact that copyright and related rights, a small but increasingly important component of intellectual property rights, accounted for 6.7 per cent of the European Community's GDP in 1998. For the United States, they accounted for 5.72 per cent of GDP and 4.8 per cent of total employment. A selected core of copyright activities was found to yield over \$53.25 billion of foreign sales to the United States in 1995.

Of special importance in this context of growing dependence on the copyright dimension of intellectual property is the relatively rapid growth of the international audio-visual sector generally and the music industry in particular. Led by continuous change in the technologies of production and marketing, and information technology especially, the global music industry grew at a rate of about 5 per cent per year between 1991 and 1996 (UNCTAD, 1999b: 48; Henry and Nurse, 1996: 5, 6). It is projected to grow by 3.4 per cent per year between 1996 and 2003. In 1997, this volume generated \$38.1 billion in legitimate sales of sound recordings. In the process which extends from music production and sound recordings to distribution, the dominant countries are the United States and Japan, and the major participants are the five major international corporations with headquarters in OECD countries (Andersen and Miles, 1999). In the resulting world trade in sound recordings, developing countries have won a small but increasing share, with their share of exports growing from 8.3 per cent in 1988 to 13.9 per cent in 1997, and their share of imports growing from 3.1 per cent in 1988 to 5.5 per cent in 1997. They have also achieved an overall positive trade balance in music-related activities. This gain has been achieved mainly through their creativity in musical composition, creative lyrics and performance, itself fostered by the extensive networking of the individuals, institutions and activities involved in cultural activities.

The most significant leading technological changes have been the advent of technologies that have facilitated international trade in intellectual property, such as satellite communications, together with the application of the Internet (and the growing options it presents for interactive use of copy). The growing dependence of the world economy on intellectual property was also accompanied by a rapid increase worldwide in piracy. According to IFPI, the unauthorized production of copies of music, film and other forms of music recordings was reported to exceed \$5 billion in 1996 (IFPI, 1998).

The experts participating in the Youth Forum's Music Industry Workshop in Brussels will examine briefly the state of this craft-based industry in their own countries from their own personal perspectives with a view to facilitating the establishment and growth of a recorded music industry in the least developed countries.

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SESSION 1

**CHALLENGES AND PROSPECTS
IN THE MUSIC INDUSTRY
OF LDCs**

1.1. Cultural industries in smaller economies: Some pertinent aspects of Irish experience

*by Fionan O'Muircheartaigh
Chief Economic Advisor, Enterprise Ireland*

Introduction

The recent successes of the Irish economy have led to a greatly increased interest in the Irish development experience. There have also been considerable successes in the cultural field in general, and music in particular. This paper is designed to give an initial insight, in the time available, into that experience. At the same time, the reality of development is that there are no magic wands, the development process is a difficult process for developing countries, and Ireland has been no exception to this rule. But it is possible to learn from experience. I hope this paper may help those of you involved with development to avoid the mistakes Ireland made on the development road, and to learn more quickly than we did from those mistakes. I will address the subject under five headings:

International development of cultural industries
Irish development process
Special aspects of cultural industries
The Irish music industry
Questions to be addressed in LDC strategy.

1. International development of cultural industries

For analysis purposes, the United Nations (UNESCO) defines cultural industries as “the result or product of individual or collective creativity, and include printed matter (newspapers and literature), music, the visual arts, cinema and theatre, photography, radio and television, games and sporting goods”.

International statistics collected to measure trends illustrate a number of important background points.

- Cultural industries have grown exponentially over the period 1980/1998;
- Trade in cultural industries has grown faster than economic activity in general – their share in total trade has increased;
- Within cultural industries the share of music has grown by 50 per cent, from 18 per cent to 27 per cent of cultural goods trade;
- Trade in cultural goods has shown an enormous concentration;
- 13 countries account for 80 per cent of exports;
- 12 countries account for 80 per cent of imports;
- Import patterns have been stable;
- Export patterns are more volatile.

Therein lies opportunity.

The question is how to exploit it. I believe that the development of music and cultural resources should be a part of the strategy of LDCs. Irish Governments have recognized the potential of cultural industries for growth for some years now in their development strategy.

Increasing recognition is given to the economic as well as the social benefits of various types of cultural activities in Government Plans. To set the scene for today's discussion I will give a short outline of Ireland's development experience, indicate some special characteristics of the evolution of cultural industries in general, and make some brief remarks about the music industry in Ireland. This will point up some issues that will be treated by the expert LDC discussants who have come today to outline characteristics of the music industry in their countries and the particular challenges faced by LDCs.

2. Irish development process

Following independence from the United Kingdom in 1922, Ireland pursued a number of flawed development efforts. It is interesting to look back at that experience now. With the benefit of hindsight, some will find it ironic, maybe even amusing, that such a now successful development story should have had such inauspicious beginnings. But there was nothing amusing about the hardship endured by the broad mass of the population in the first 60 years of the 20th century. In the 1950s alone 16 per cent of the population emigrated. Net emigration continued right up until the 1990s. A common characteristic of the disappointments was an emphasis on outdated objectives and protectionism. This is most easily seen in enduring emphasis on agriculture as the primary engine of growth. Between independence (1922) and 1933 there was an emphasis on unbridled free trade, with predictable consequences in the underdeveloped Irish economy in a period of a UK and subsequently a world recession.

The 1930s ushered in a form of extreme protectionism of industrial goods. The Control of Manufacturers Act introduced a new emphasis on manufacturing, but it was low value-added, direction and control of new industrial enterprises were restricted to persons of Irish nationality, and duties were imposed on imports which competed with any Irish-based manufacturer, regardless of the economic burden on the broader community. This had the effect of increasing employment, but at the cost making the cost structure of the Irish economy completely uncompetitive. Industry become dominated by assembly and low-value-added enterprise, with token employment and very high prices.

The 1950s demonstrated that these policies were unsustainable. International solvency required exports. While agriculture and food remained a key focus, they now shared the limelight with exporting industry, which was offered relief in respect of corporation taxes on exports. The control of Manufacturers Act was repealed, and foreign direct investment was encouraged.

A contested review of industrial policy in 1980 found that the strategy being pursued was not sustainable. It placed insufficient emphasis on indigenous industry and indigenous resources. There was an undue emphasis in FDI on semi-skilled sub-supply that made the economy extremely vulnerable. A new emphasis on indigenous industry, industry based on indigenous raw materials, was combined with a more structured approach to foreign investment and integration of the indigenous and overseas industry. The 1990s saw that policy further modified, with increased emphasis on research, human resource development and internationally traded services.

The development process in Ireland reflects a very slow shift in development emphasis from agriculture, through assembly and fabrication industry, to the development of more integrated FDI enterprise, with a high service content, and with parallel development of indigenous industry.

I would point to two relevant aspects of Irish development experience.

First, it is by no means an overnight miracle – but rather, until recently at least, it has been a slow, difficult and evolving process.

In the 80 or so years of development endeavour the emphasis for half that time was exclusively or preponderantly on agriculture. This strategy was not a success. Then there was the effort to develop Irish-owned industry behind a wall of protection. This raised costs and arguably accelerated emigration. Then there was entry in to free trade area agreements first with the United Kingdom and then with the EU. There was development of FDI, and more recently there has been the development of more integrated, high-skill overseas investments.

The second general lesson to emerge has been the importance that attaches to education and the development of skills and of facilitating enterprise in the development process.

While infrastructure investment is essential, it is not a sufficient condition for modern development. Ireland has been actively involved in stimulating and encouraging enterprise development. The removal of internal barriers to development has also proved important in Ireland's case. In particular, restriction of entry can, with the possible exception of natural monopolies, lead to impeding the development process and adding unjustifiably to citizens' costs.

While it may be unfashionable to say so now, Ireland made many mistakes in the development process. And contrary to the popular perception, once it made a mistake, it did not learn immediately from the experience.

LDCs when addressing their development agenda should consider to what extent they can skip or shorten some of the development phases that have been so costly for countries such as Ireland in terms of lost population, low incomes and social deconstruction of the regions. This can be done by focusing on the appropriate sectors, and by agreeing and pursuing as far as possible appropriate trade policies with trading partners, and harnessing the advantages of foreign direct investment.

3. Special aspects of cultural industries

Cultural industries in general have specific aspects that are of particular interest to those interested in economic development:

- Creative component / labour-specific
- Labour-intensive
- Market character
 - voluntary/professional
 - income-elastic
- Intellectual property challenges
- Production / distribution / marketing challenges
- New technology dimension

The creative component is specific to the individual, or the group of individuals, and is a large part of the resource of cultural industries. It is not therefore the preserve of developed countries. It is also a resource in that it can be encouraged and grown by appropriate policies, and can be damaged or destroyed by neglect. To transform the cultural resource into a marketable product requires facilities for production, knowledge and experience of markets and resources for development and promotion. These are the critical barriers for developing country artists, and indeed artists in developed countries too. The way in which these artists are produced, promoted and marketed will affect the benefits they derive and the benefits that may accrue to their country.

The labour-intensive nature of these industries puts them under pressure as income rises. As countries grow and develop the market sector expands and some, but by no means all, of the best artists tend to migrate to the commercial sector. It has been observed that the relative price of some cultural goods rises relative to others as income rises. This factor can lead to a shift in relative demand from, for example, theatre to film.

The intellectual property regime is an important factor in stimulating artistic effort and ensuring rewards for artists and those involved in promotion at this stage of commercialization. As this is an expensive business, more investment will be forthcoming if appropriate arrangements are in place, and are respected.

New technologies have introduced new possibilities. They are not without pitfalls, and do not come cheap. In fact, the weakness or absence of accessible broadband and digital networks in LDCs puts artists there at a further potential disadvantage.

Cultural industries have both amateur/voluntary and professional components. The musical tradition can provide the seedbed for developing dynamic and internationally attractive music. Voluntary/social organizations can play an important role in fostering some of the “genetic material” of a country’s international musical contribution. In some cases that influence is direct, in some cases indirect. This is not simply an issue of cultural identity, but musical exposure and appreciation. Development can reduce the relative significance of voluntary associations, but it can increase the incentives and rewards for performers, while the voluntary organizations can continue to support musical diversity and develop its traditions.

Public enterprise can help the development and commercialization of artists. State support for production facilities, marketing support for promotion, and fiscal arrangements to encourage artistic endeavour are of potential importance. State broadcasting services, and mass media generally, also have an important role to play. They can bring exposure, help with professional production at the early stages of development of a musical act, raising standards, and provide national and international platforms – as a building block for international recognition.

Language is an important consideration in music commercialization. Globalization has tended to increase the importance of English as the popular language of popular music. There are also important markets in China, India, Japan and Africa, and of course, francophone, German and Spanish markets.

4. The Irish music industry

A number of key factors have contributed to the development and growth of the Irish music industry:

Creativity
International recognition/commercial success
Voluntary organizations
Young musicians
Private enterprise – management/promoters
Public policy

Creativity

The excellence and professionalism of performers and the creativity they have shown over a wide range of music types over a long period have been a major factor in the success of the Irish music industry. In some cases this has drawn heavily on musical traditions, while in others it has almost been as a reaction to them. But in all cases the musical offering has been based on an evolution or revolution of musical movements or trends.

International recognition/commercial success

Since the 1960s Irish performers have had significant commercial success in major music markets with music ranging from folk (The Clancy Brothers, The Dubliners), to traditional (The Chieftains/Clannad), to more contemporary artists such as Bob Geldof, U2, the Corrs, Enya, the Cranberries and Westlife.

Voluntary organizations

Cultural industries have by their nature a non-market and a market component. Thus some of the most widely enjoyed cultural activities in Ireland, e.g. traditional music and Gaelic football and hurling, were essentially social and amateur activities. Activities organized by the voluntary social movements – the Gaelic Athletic Association and Comhaltas Ceoltoiri Eireann (the traditional music association)– regularly attracted tens of thousands of people to regional festivals or events. Comhaltas in particular played a major role in the conservation, development and evolution of Irish traditional music.

Young musicians

Ireland has maintained a very vibrant young music scene. A recent report suggests that there is in the region of 1,000 young groups performing in Dublin's music scene at any one time.

Private sector entrepreneurs – management and promotion

Management, marketing and promotion are critical factor in success in the modern music industry. There has been a heavy reliance on established major labels and on the major music distributors, but there have also been a significant number of independent record labels. Most of these are small in scale. But Irish music development has shown the possibilities of independent promotion in special circumstances.

Independent entrepreneurs and promoters have played an important role in the promotion of Irish musical talent. They have married musical talent with the necessary knowledge and experience of the industry, and the necessary resources for effective marketing and exposure.

Public policy

Public policy can be critically important. This was reflected in the artists income tax relief scheme in the 1960s, which exempted all income derived from certain artistic activities from income tax. There were industrial supports for facilities, support for artists overseas and taxation arrangements that were cultural-industry-friendly. Public broadcasting on radio and television over the years has given important exposure to emerging artists, and facilitated the raising of standards of recording and performance. Over a long period of years Governments in Ireland have shown an increasing appreciation of cultural industries, and this has been given renewed emphasis as the economic benefits become apparent.

In Ireland, major challenges lie ahead. These include:

- How best to develop the musical talent of the citizens, and provide more musical opportunity to the population at large?
- How should commercial talent best be promoted and developed?
- Can more of the benefits of musical artists be captured for the artists?
- How best can the economy capitalize on this success?
- How can more of the value added in this industry be secured for the artists and creators and entrepreneurs?
- What steps need to be taken to fully utilize the new possibilities and challenges of digital technology and broadband distribution of music?

5. Questions to be addressed in the strategy

The following priorities/considerations emerge from consideration of these points which will be addressed in a more LDC-specific context by the expert contributors we have here today.

1. What can voluntary organizations do to develop music in the economic development contexts including links with tourism and sales of music product overseas?
2. What arrangements are necessary for commercialization of the musical products of developing countries?
3. What obstacles exist to that development in production, promotion, distribution and marketing?
4. What other arrangements can be made for the development of the musical product?
5. What production facilities exist, and are the associated skills in place? Are these part of the critical path for music industry development in LDCs?
6. Where should promoters come from for LDC music?
7. What tax regime should apply for musicians and composers and their products?
8. Are there arrangements in place to protect the intellectual property of LDC artists, at home and overseas? How can the IP of artists be protected? What steps can be taken to protect against exploitation?
9. Do these arrangements adequately protect the interests of artists, composers and lyricists?
10. What integrated actions can be taken so that LDC artists can avail themselves of the possibilities of new technology? What specific challenges do new technologies pose for the music and the musicians of developing countries?

How can national and international broadcasters help the development of the music industry in developing countries?

These are the topics which will be discussed in more detail throughout the workshop.

1.2. The role and contribution of folk song in the Bangladesh music industry

by **Professor Abdul Khaleque**

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1. Identity of Bangladesh

Bangladesh is situated on the south-eastern side of India, with the Himalayas to the north, Burma in the east and the Bay of Bengal in the south. The total area of Bangladesh is about 56,900 square miles and the present population is about 12 crore. Before 1947, at the time of British rule, Bangladesh was part of the Indian sub-continent. When British rule came to an end in August 1947, the Indian sub-continent was divided into two parts – India and Pakistan. Bangladesh became a part of Pakistan. Pakistan had two East Pakistan and West Pakistan. At that time Bangladesh was named East Pakistan. Separating West Pakistan and East Pakistan was a distance of about 1,000 miles. Moreover, the race, language and culture of the people of East Pakistan were completely different from those of West Pakistan. So from the very beginning, the relations between East Pakistan and West Pakistan were not normal. With regard to the State language and economics, the gap widened day by day and on 26 March 1971, under the leadership of Bangabandhu Shaikh Mujibur Rahman, Bangladesh became independent.

2. Identity of the people of Bangladesh

As regards the ethnic composition of the Bengali-speaking population, it is not known for certain where the first inhabitants of Bengal originated: at least three distinct blood groups contributed to the make-up of the existing race in the country. The Mongols or the pro-Australoids, the Dravidians and the Aryans merged in the blood stream of ancient Bengal.¹ Regarding the identity of the Bengali people, our great poet Rabindranath said:

“Hetha Aijya hetha anarjya,
Hethay Dravir Chin,
Shak I loona Dal Pathan Mughal
Ek Dehe Halo lin.”²

Translation:

“Here Aryan and non-Aryan
Here Dravidians and the Chinese
Shak, Hun, Pathan and Mughal
All merged together and became a single nation.”

In fact, ancient Bengal was a paradise for food-producing primitive races. As a result, all the races which once settled in pre-historic Bengal made it their permanent residence and in time each developed its respective culture. In mediaeval India, there was a saying which meant that “there was a way in but no way out of Bengal”.

The identity of the people is related to the folklore of the land. William Thoms was the scholar who coined the term “folklore” in 1846 to replace “popular antiquities” and “popular literature”.³ After the introduction of the word there arose a controversy about its definition, which lasted for

a long time, leaving a turbulent history behind it. Twenty-one definitions given by different scholars as quoted in the folklore dictionary edited by Maria Leach⁴ (New York, 1949, 398-408) prove the gravity of this disagreement. According to a prominent folklorist, Archer Taylor, "Folklore is the material that is handed on by tradition, either by word of mouth or by custom and practice. It may be folk songs, folk tales, riddles, proverbs or other materials preserved in words. It may be traditional tools and physical objects like fences or knots, hot cross buns or Easter eggs; traditional ornamentation like the walls of Troy, or traditional symbols like the swastika. All these are folklore."⁵

If we want to know the identity of the people of Bangladesh, the folklore of Bangladesh must be discussed. Folklore can be defined as the mirror of the people. According to Professor Mazharul Islam, an eminent folklorist, the folklore of Bangladesh can be broadly divided into material folklore and non-material or literary folklore. Folk tools, folk carts, folk notes, folk weaving etc. are examples of material folklore. Folk tales, folk drama, folk ballads, folk songs etc, can be identified as non-material or literary folklore.⁶

The folk songs of Bangladesh are very rich both in quality and in quantity. Folk music that has come down to us has passed the test of time. It is music everlasting. The spontaneous outflow of charged hearts, folk songs bear the impress – the vital touch – of the hearts of those who were close to mother earth. The themes that figure in them are the joys and sorrows, hopes and aspirations, thrills of love and pangs of separation of the common man. Folk songs are therefore the expressions of the elemental passions, impulses and emotions of people such as cultivators, fishermen, boatmen, weavers, potters and blacksmiths.⁷

Just as Bangladesh is a land of rivers, so is she a land of music. The murmur of her flowing rivers and the cadence and harmony of her music are inseparably blended in the mind of her people. Her folk songs are an integral part of her culture. They reflect the life and mind of her people more faithfully than anything else. They are the natural expressions of their mind and soul, and they depict their hopes and aspirations as well as the thousand and one feelings that the facts of life and the manifestations of nature call forth. They portray the ardour of their fervent hearts. They cover all the areas of their mundane and spiritual life and reveal what they are and what they aspire to be and to achieve.⁸

Let us now turn to the divisions of Bangladeshi folk songs. More or less there are 70 types of folk songs in Bangladesh – for example Bhawaiya, Bhatiali, Baul, songs of Lalon Shah, songs of Pagla Kanai, Songs of Hason Raja, Sari, Murshidi, Gambhira, the snake-charmer's songs, Jhumur, Kavi song, Alkaf, Tatja, Jatra, Toppa, Jari, Sampanwals songs, Baromashi, Marfati, boat-race songs, songs of Santals, Songs of the Oraons, Meyeli songs (songs of women), East Bengal ballads.⁹ Some of these can be explained here shortly:

(1) Bhawaiya: a very popular kind of folk song native to the northern districts of Bangladesh – Rangpur, Dinajpur and Mymensingh, Cooch Bihar, Goalpara in Assam, Jalpaiguri and West Dinajpur in West Bengal. It portrays the pangs of love and separation in the local dialect. The characteristics of the land are reflected in its sharply rising and falling rhythms.¹⁰ Example of a Bhawaiya:

The substance of the song is:

"I am in the prime of my youth
And still a virgin I am
Oh my bitter fate, tell me,

How long do I live to stay unmarried?
My parents are unsympathetic
They haven't given my hand in marriage,
And I can't express myself to them for my shyness.
Oh my bitter fate!
Slowly my body burns within and there is no end to it.
I wish I had gone away with a young man of my choice.
I know that people will blame me.
Let them do so: I care not a fig for that.
For I shall then happily enjoy myself."

(2) Bhatiali: native to the "bhati" or low-lying regions. In other words, the kind of folk song from the low-lying areas of Bangladesh is known as Bhatiali song. In fact, the term "Bhatiali" is derived from the word "bhati". Most of the lyrics belonging to this kind of folk song are characterized by a feeling of the soul's longing for the eternal. The dominant theme is love and its pangs. Bhatiali is very popular in lower Bangladesh. It is sung solo.

(3) Baul: Baul song is a kind of mystic song, which originated with a class of religious devotees known as Bauls. This mystical order has been in existence since time immemorial. The Baul seeks the simple path and aims at reaching the height of spiritual experience through music. Lalon Shah, the chief artist of Baul songs and a remarkably gifted poet, infused a new spirit into the Baul song and caused it to develop along a new line. The innermost experiences of the human soul have found expression in his songs. Lalon Shah was illiterate but composed songs in lucid and simple language in keeping with his natural genius. The following can be taken as a fine example of Lalon song.

The concept of this song is this:

"Where is the Lord the sympathizer?
Search for him with the sentient guide
The mind misleads the eyes
The mountain is often lost behind one's own hair,
What fun, Oh my Lord, you always see
While sitting on the nigam
If I am so fortunate as to meet him in the world hereafter
How shall I possibly recognize him
For I haven't had any glimpse of him as yet?
You should adore him intelligently.
You may find nearby the treasure
On which you have set your heart."

In this song Lalon expresses the idea that God can be found with the help of a spiritual guide. If one has no teaching, a lock of hair can stand between him and a mountain. If one does not know God in this world, how will one know him in the world hereafter?

(4) Sari: Sari song is connected with boats and water. Sari is a functional song. It inspires group spirit and deepens the morale of the oarsmen and the boat, cutting its way through the water at great speed. The Sari song has a lively and quick rhythm.

(5) Gambhira: Gambhira song is a kind of musical drama, suggesting diverse settings or scenes and presenting different kinds of conflicts and dramatic actions. In fact, the art of play-acting outstrips the appeal of its music. The principal singers in its performance are two: a grandfather and his grandson. Their witty dialogue depicts all sorts of social and economic evils. It is full of

bitter satire and spares none. The harmonium, tabla, mandira, khanjani and do-tara provide the musical accompaniment.

(6) The snake-charmer's songs: "Bedes" catch snakes and play with them. Like gypsies, they travel from village to village in boats and entertain people doing tricks with snakes. As they play with their snakes, they sing a certain type of song, which is known as the snake charmer's song and which differs from other types of folk song in content and rhythm.

(7) Alkaf: a kind of action song. Its singing is therefore accompanied by dramatic action. A handsome boy is dressed as a girl when it is sung. Alkaf song is a combination of song proper and rhymes. Its common themes are the love of Radha and Krishna and current events and problems.

According to the statistics of the Bangladesh Folklore Society, folk songs are at the top of the Bangladesh music industry. They capture about 70 per cent of the market in the Bangladesh music industry. Some of the renowned folk song artists who are contributing in the music industry are as follows:

Rathindrath Roy	Ashraf Uddin
Kironchandra Roy	Shefali Ghosh
Ferdausi Rahaman	Selim Chaudhuri
Farida Pervin	Bali Siddiqui
Indramohan Rajbonshi	Akramul Islam
Abdul Quddus Boyati	Liton Sarkar
Abdul Rahaman Boyati	Borhan Uddin
Kanghalini Sufia	Seraj Boyati
Momtaz Begum	Kallyani Ghosh

3. Music as an industry

The word "industry" refers to commercialization of any product or thing. Music as an industry is a relatively modern concept. It is the non-physical aspect of industry. Music is very often considered the fountainhead of all arts. In fact, it originated in nature. The earliest form of music is link music, as it stands for a group of non-literate, unsophisticated musical performers who share a common idea or feeling.

The sophisticated communication technology of the modern age is now being used for recreating and preserving all kinds of music, including folk music and dances. In fact, modern communication technology also offers vast opportunities for promoting unity in diversity in the field of music as a performing cultural art. It is in this context that the concept of music as an industry has been developed. Music as an industry is now linked with economic, educational and technological planning. It has been felt by many cultural activists that rapid industrialization could have a devastating impact on our culture, particularly on music. The potential of modern technology, particularly modern electronic media, can now be fully exploited by persons engaged in the music industry. The use of computers with software programming can go a long way to the making of a global music industry. Modern communication technology, which is audio-visual in character, is ideally suited for development of music as an industry. In fact, music is now a big industry as everybody in the world uses it for various purposes. Advertising is facilitated by music. No medium other than music is effective for advertising. Music is now also being used as therapy for patients. It is also being used for creating social awareness.

Politicians too use music for propagating their ideas. Modern life thus cannot go on without music and therefore music as an industry has the upper hand in relation to other industries.

Even though Bangladesh is an agriculture-based country and her economy is also agriculturally based, the present Government of Bangladesh is searching for a way to switch to an industry-based economy. Various kinds of industry are growing day by day in Bangladesh. The music industry is a newly created industry for Bangladesh. The Bengali nation is a music-loving nation, and so the music industry has good prospects in Bangladesh. Unlike in the past, music is not free of cost, and is highly commercialized. Every artist earns a lot of money by singing songs. Folk songs are more popular than modern songs in Bangladesh, and are therefore in greater demand. The role of commercialization of folk songs in Bangladesh and its contribution to the music industry can be explained as follows.

No industry can develop without government sponsorship. Because folk song is the root of our culture, our present Government is interested in developing it for the music industry. To achieve this goal, the Government encourages regional folk institutes by granting money. Regional folk institutes are producing a good number of folk song artists every year. All over Bangladesh there are a huge number of folk song artists who are earning a lot of money by performing folk songs.

Regional folk song artists

Regional folk song artists are playing an important role in the Bangladeshi economy. According to the statistics of the Folklore Research Institute of Rajshahi, more than 2,000 Bhawaiya artists, 3,000 Bhatiali song artists, 5,000 Baul song artists, 3,000 Kavi, Jari and Sari song artists, and more than 1,000 Gambhira and Alkaf artists are maintaining their families on the income of these regional songs.

Radio, television and cinema

Because folk songs are very popular, a large number of commodity producers are using folk song in their advertisements on radio and television. Various kinds of folk songs are in demand by radio and television and that is why our renowned folk artists are earning a great deal of money from radio and television programmes. Our folk artists also earn a lot from cinema.

Earning foreign currency

The folk song is popular not only in Bangladesh, but also around the world. Our younger generation is becoming more interested in folk songs. Those who are renowned folk song artists in Bangladesh are receiving invitations from foreign countries. By performing folk songs, they are earning huge amounts of foreign currency and this foreign currency is helping to develop the Bangladeshi economy.

Cassettes of folk songs

Because folk songs are very popular all over the world, the market value of folk song cassettes is now very considerable. Cassettes are part and parcel of the music industry. Without folk song cassettes, the music industry will fall. A large number of folk song artists are living on the income of their cassettes.

In this way if we discuss all kinds of folk songs item by item, we will get a good result. A huge number of folk song artists are in Bangladesh. They are now all professional artists. They are maintaining their families with the income from folk songs. They are earning a large amount of foreign currency, which strengthens the economy of Bangladesh. If the Bangladeshi economy is strengthened, the global economy will also feel comfort. These days the Bangladeshi economy

is not separate from the global economy. According to statistics, the music industry of folk songs is helping to develop the Bangladeshi economy rapidly.

Although Bangladesh is economically an underdeveloped country, it has a very rich cultural heritage, and that is why there is good prospects for music industry in Bangladesh. The music industry exists in Bangladesh, but only on a small-scale in the private sector. Government sponsorship is needed to supplement the private sector in order for the music industry to thrive.

There are about 30 recording studios all over Bangladesh. These studios are sponsored by the private sector, without any government subsidy. The cassette industry, the CD industry, the musical instrument industry, and the cinema, radio, and television industry are all closely related to the music industry.

In Bangladesh there are some government-sponsored industries which can be identified as “sick” industries, such as the sugar industry, the paper industry and the jute industry. In these sectors, the Government is spending crores of taka, but there is no good return for logical reasons. Regarding the sugar industry, most of the village people of Bangladesh prefer molasses to sugar. Regarding the paper industry, 70 per cent of the Bangladeshi people are illiterate, and do not use any paper. Regarding the jute industry, polythene and synthetics are cheaper than jute-made materials. But in the music industry these types of problems do not exist. People from every background, literate and illiterate, educated and non-educated, urban and rural, young and old, are fond of music in Bangladesh. So we can say that the music industry has greater prospects for success than the sugar, paper, and jute industries in Bangladesh. Because the music industry has good prospects, I would like to offer some proposals to develop the music industry in Bangladesh at this LDC Conference.

The World Bank and the Asian Development Bank could give grants or loans to develop the Bangladesh music industry. If these were provided, the Bangladesh Government will use the money in the following ways:

- (1) To raise Bengali music to an international standard, music schools, colleges and institutes would be established in every district of Bangladesh, and a separate university for music could be built.
- (2) Because folk song is the most successful sector in our music industry, a national folk song institute could be established in Bangladesh.
- (3) As in Jamaica, Trinidad and Tobago, Cuba, Ireland, Brazil and India, a Music Industry Development Initiative (MIDI) could be created.

I make the above proposals on behalf of Bangladesh. In conclusion, I thank the LDC Conference for sponsoring this presentation and for considering those proposals. By developing folk song in the music industry of Bangladesh, we will see the development not only of the economic level of Bangladesh, but also of its rich cultural heritage and national pride.

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1.3. The State and prospects for the music industry in Africa

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Introduction and context

This paper aims in an exploratory manner to highlight as well as analyse the status and prospects of the music industry in Africa, with particular reference to the economic potential of the sector. Given the paucity of hard data on aspects of the industry, I have drawn mainly on the Nigerian case with which I am most familiar. Even so, the chaotic nature of the industry, and the influence of piracy and the absence of proper record-keeping habits, tend to constrain in some ways an appraisal of what is a rapidly changing situation.

It should be observed in passing that African music in general, and its instrumentation in particular, leans heavily on the melody and rhythm of speech and is closely connected with the ability to sustain a notion of time even when deploying complex rhythms. Through the use of repetitive patterns, it evokes communal themes and seeks participation (Akpabot, 1986).

In general, the status of the music industry is to be understood within the overall economic situation of the African continent and its peripheral connection to the New World Order. Ihvonbere (2000) goes so far as to assert, for instance, that Africa is not part of the new world order, hence the title of his book, "Africa and the New World Order", rather than "Africa in the New World Order", which, according to him, was the title originally proposed. A few indices will make the point clearer.

The United States Internet Council in its report for 2000 points out that "The monthly connection cost for the Internet in Africa exceeds the monthly income of a significant portion of the population" (Africa and Internet News Update, No. 36, November 2000).

That is not all. There are fewer than 0.5 telephone lines per 100 people in Africa, and the continent has only 0.3 per cent of the world's Internet services. This contrasts with North America, for example, which has 50 per cent of the world's Internet users (News Africa, 14 August 2000, 34-35).

Consequently, most African musicians are either ignorant of or prevented from making use of the dramatically increasing opportunities for musical promotion, export and global reach which musicians in other parts of the world increasingly take for granted. South Africa, a country which is projected to spend close to 50 billion Rands on the World Wide Web by next year, is a clear exception in this regard. So, as we shall see, are the increasingly influential ranks of African musicians in the diaspora.

To underline the very fluid nature of the African market, the well-known South African musician Ynonne Chaka Chaka complained in the course of her visit to Nigeria last year that

"My first album (Thank You, Mr. D.J.) was seriously pirated by Nigerians in 1987. I didn't make any money out of it. This time around Nigerians are just going to watch

the performance of my new album. I am not going to distribute the CDs.”
(Interview, *The Guardian* (Lagos), 29 July 2000).

This is not an isolated complaint, for even Nigerian musicians themselves complain of being fleeced by recording companies and the widespread practice of piracy.

The Nigerian musician Bongos Ikwere told a Nigerian journalist who sought to know about the status of his best-selling album that:

“I haven’t been paid 1 kobo in the last 19 years. I know they are selling my works. I am aware that some of my works are now on CDs. I don’t know who recorded them and I don’t know who is selling them and I don’t have a clue. But I have not received any royalty from anybody.” (Interview, *The Guardian Lagos*, 8 January 2000, 29).

It should be noted that the exit from Nigeria of Polygram, which became Premier; EMI, which became Ivory; and Decca, which became Afrodisia made the scene even more chaotic than it was in the early 1990s. As we shall see, however, the odds have not prevented Nigerian and other African musicians from making strides that connect them, however feebly, to the global market place. Before we look at the problems and prospects, it should be pointed out that music and entertainment pervade African life, being intimately bound up with the worship of nature gods, the festivities which mark the rotation of the agricultural season, the moonlight tales which are instructional devices, and the media of agitation by the ruled. Christianity, and Islam to a lesser extent, impacted on this traditional musical genre by introducing religious harmonics via the hymn mode, for instance, which were incorporated into an evolving African musical style. The African version of Christianity is, consequently, more celebratory and uses a robust, expressive style in which music, clapping and dancing are distinct features.

Musicians are not just entertainers; they are enablers, facilitators and counsellors. The Yorubas of Nigeria have a saying:

*Ngo Wi;
Oba ki Pokorin.*

Translation:

I will have my say
The King does not slay musicians.

This resonates and evokes free speech festivals all over traditional Africa, at which royalty and authorities were subjected to songs of insult and rebuke by itinerant singers not linked to the praise-singing musicians residing in the palace. (Olukotun, 2000). Last year in Zimbabwe, Thomas Mapfume updated this tradition when he tackled Mugabe’s dictatorship with protest lyrics which caught the attention of the world (*Time Magazine*, 2 May 2000, 36). Similarly, in Nigeria, Fela’s caricature of the military as “Zombies” and mockery of transnational exploitation in his “International Thief Thief” find wide audiences across the developing world and beyond. Musicians are politically influential, as the appointment of Sir Victor Uwaifo, highlife legend, to the post of Culture Commissioner in Edo State, Nigeria, illustrates. More often, they are driven by poverty to sing the promises of the custodians of State power, as the dramatic capitulation of many Nigerian musicians to General Abacha’s so-called 2 million man march in 1998 demonstrates.

Given the woes of structural adjustment in Africa, the havens of Europe and North America have increasingly provided succour to many African musicians. Indeed, it is impossible to understand contemporary African music without taking account of the Cameroonian Manu Dibango, who has lived in France for several years; the exiled musicians from Kenya, Ghana and Southern Africa who experiment with Africanized rock music in Seattle; Salif Keita, the Malian; and several others. Success for many African musicians is increasingly packaged in the West. Angélique Kidjo from Benin, Omani Acheampong from Ghana and Femi Anikulapo-Kuti from Nigeria are increasingly taking advantage of Western technology in the production of hit albums. The attractions are stronger copyright regimes and an environment that better enables creativity and productivity, despite the setbacks associated with exile status.

In general, there are stars here and there, but the typical picture is that of an industry mired in the outlook of small-scale producers and struggling against severe odds. Weak copyright regimes, poor infrastructure, unethical recording companies, weak demand for musical output, and ignorance of or incapacity to connect with international windows are some of the obstacles. Nonetheless, there are encouraging advances and a display of stamina and innovation, which can be the basis for further improvement. In the next section I examine the constraints, while the last section looks at opportunities and prospects.

1. The constraints

The music industry or any industry for that matter must be situated within the context of the broader African matrix, which in spite of a few successes remains a dismal one. While it is unnecessary, and even unfortunate, to go as far as for *The Economist*, which last year came in for severe criticism by declaring that Africa had no future, the larger picture remains one of declining income per head, a debt burden in excess of \$270 billion, imploding States, swelling urban populations struggling against pandemics such as HIV/AIDS, declining welfare and soaring food prices (Ihonvbere, 2000). Among Afro-Pessimists, Kaplan's overdrawn 1994 portrait of West Africa is suggestive. According to him,

"West Africa is becoming the symbol of worldwide demographic, environmental and societal stress, in which criminal anarchy emerges as the real strategic danger. Disease, overpopulation, unprovoked crime, scarcity of resources, refugee migrations, the increasing erosion of nation-states and international borders and the empowerment of private armies, security firms and international drug cartels are now most tellingly demonstrated through a West African Prism" (Kaplan, 1994 p.45).

It should be noted, however, that some States which appear to have collapsed in the mid-1990s have found their way back to statehood and enough calmness to hold democratic elections, while the doomsday scenario presented by Afro-Pessimists, who prefer to view Africa as a cocktail of disasters, never materialized. Nonetheless, there are compelling odds which affect musicians, like everyone else. In Nigeria, for example, and as hinted earlier, Africa's giant, only 100,000 people surf the Internet out of an estimated population of 120 million.

Apart from South Africa, computer technology is poorly diffused around the continent. Japan with a population of 120 million has more telephone lines than can be found on the entire continent, which has a population four times that of Japan and a land mass over 70 times greater. Rural areas are virtually disconnected from the urban environment and are a generation behind in terms of infrastructure.

Computer adaptation is epileptic and rests on insecure power generation, a narrow skill base and low purchasing power. In Nigeria foreign multinational recording companies have withdrawn from the scene, leaving 35 or so struggling local recording companies. E-commerce is still a distant prospect and very few musicians are into CD production. In any case, at \$70 a CD player is out of reach for the majority of Africans, while very few would go out of their way to buy a CD at \$25. In place of the latter, there are pirated CDs from Asia selling for \$2 on the streets of Lagos. A cassette player which sells for \$20 or less is the norm for most music lovers, while cheap, pirated cassettes, selling at 80 cents are in popular demand. In spite of an elaborate copyright law, predating the current global copyright regime, Nigeria remains quite remiss in enforcing copyright law. Most musicians earn the bulk of their income from live shows and money “sprayed” on them at parties, but demand for these remains uneven and weak, except for the stars. Consequently, life is tough for the bulk of musicians in Nigeria, as in many parts of Africa.

2. Opportunities and prospects

A group of youngsters from Côte d’Ivoire, by the name of Magic System, made a breakthrough in their first album released in September 1999. It sold 250,000 cassettes in Côte d’Ivoire and 35,000 CDs in Europe within a few weeks of its release (interview). Ironically, it took two years for the album to gain popularity in Nigeria, where it is threatening to displace the popular lyrics of the Congolese Awilo Lagwumba. Of interest, too, among recent advances made is the debut of Nations Africa, a recording company begun by a Nigerian of Lebanese extraction, Carl Raccah. What is interesting is that the new company has leapfrogged into CD production, without going through earlier stages (interview with Maurice Achibong).

The efforts of Salif Keita to establish an independent recording company in Mali are part of the progress being made. In short, the odds have not prevented Africans from going ahead to connect with the rest of the world. The popularity of African music overseas, the slowly spreading use of information technology, the African’s innate love of music and the potential of Africa’s own largely untapped market are some of the advantages that can be built on.

Given the increasing importance of music as an export earner for the developing world (Kozul-Wright et al. 2000), there is no reason why Africa cannot pool its musical resources and minimize the drawbacks enumerated earlier, for the benefit of economic development and enhanced productivity. Part of this agenda should include deepening intra-African musical trade, which remains quite slim, largely because of poor infrastructure and, as discussed earlier, the prevalent practice of piracy.

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1.4. Building musical capacities in Africa

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Music is the product of inspiration and creativity. It is an important vehicle for thoughts and ideas, which transmits ethics and cultural values. In Africa it plays a great social role in the spiritual life of the people and communities owing to the beauty and the emotional discharge of its contents. Traditional music has been passing from generation to generation, through the voice of the “griots” and other popular singers, its value which gives meaning to cultural identities. In the ethnolinguistic diversity which is characteristic of African countries, music is the potential common caller for multicultural unification able to consolidate nationalities and promote harmony among the people and the nations.

Because of the challenges facing us today, educating new generations and imbuing them with traditional music inspiration are becoming even more urgent. Contact with traditional music in their first years at school will permit the children to dive into the world of sounds and acquire knowledge in an environment where African tradition and modernity are contemporaneous and coexist in a balanced form. A notable initiative is the one taken by music teachers in Ghana, who collected traditional songs which are now part of the education curriculum in their country.

I believe that governmental institutions such as the Ministries of Culture, Education and Tourism, as well as the Ministry of Information, in promoting scientific knowledge and artistic production, and the preservation and awareness of cultural patrimony, could together play a major role in preventing conflicts through the promotion of music festivals as part of a culture of peace and tolerance, and create a proper environment for a more just and prosperous society.

Let me give you a concrete example: the tourism industry makes people move from their areas of origin and start a world of adventure and discovery of other wonderful places and interesting people of different cultures and habits. But it does not end there because the discovery becomes knowledge and this knowledge is actually shared and discussed from different angles, whereby the awareness (information) becomes a way of spreading an understanding of human differences and compatibilities. People learn from each other's culture, and find a way of improving their knowledge and change their way of living. Some are then called anthropologists and others are known as sociologists and historians. Tourism promotes culture, and culture promotes the world of the intellect. Tourism sells the image of a country, including the people's habits, culture, art and history etc., while culture is the originality and the real identity of its people and the country itself. Culture is the country's pride because it speaks louder for its people's souls and spirits.

In order to create musical capacities in Africa, it is first necessary to establish music archives and schools of music both of a formal and an informal character. This is the only way to ensure that youth willing to follow a career in music will have the option of becoming stage artists or composers, arrangers or orchestra leaders, instrumentalists and musicologists, etc.

In the modern world, which is each and every day more globalized, the choice of the people in listening to music in its diverse forms of presentation (live shows, CDs and cassettes, radio, audio-visual, etc.) makes music the choice of consumers at the international level.

Consequently, music is a recommended economic means at the level of production and exploration. In recent years African music has gained great sympathy internationally thanks to the efforts by musicians in dignifying their African culture. According to statistics, African music represents 10 to 15 per cent of worldwide sales of music. Unfortunately, this sale does not bring any benefits to the artists' country of origin as most of the works are produced and commercialized in Europe and the United States, where the music industry has a huge market and is well developed. To build a musical and artistic potential rent ability in the continent, African leaders should adopt strategies and policies to create bases for industrial culture development. Private sectors should be sensitized so that they become interested and invest in the music industry. Furthermore, the concept should be disseminated of duty-free in order to facilitate the import of musical equipment. This would guarantee the rapid growth of the music industry in order to enhance effective participation by musicians and producers in economic development projects.

A body should be created to protect authors' rights and to assist in the processes of creation, production and marketing, as well as to ensure free circulation of cultural goods. Piracy is a major problem that adversely affects artists' living conditions and the national economy. To combat it, police and customs agents need to be trained in the detection and confiscation of pirated materials. In addition, severe penalties should be instituted in order to discourage piracy. The studies done by FIM (International Music Federation) in March 1998 in collaboration with the International Labour Organization on African musicians' social situation revealed that they were living in a critical situation since their social rights as intellectual creators and workers were totally neglected. Fortunately the Movement for the Musicians' Associations at the international level is bringing more music representatives into FIM. The Federation has been undertaking an extremely important role in support of the development of African musicians' organizations. During the past five years it has organized many workshops, which have functioned as capacity-building courses in subjects such as author rights copyright, the social status of musicians, intellectual property rights, contracts and the combating of piracy. The exchange of information and the transmission of knowledge which these workshops provide to the representatives of the musicians' associations from different regions of the African continent and their European colleagues have created conditions for acknowledgement of common problems and a wish to find solutions in a spirit of solidarity. Thus, the idea of empowering the associations in Africa in order to enable them to organize their own concerts and production of records, as well as other initiatives which could guarantee the development of productive activities to sustain the associations, is even more consistent. This scheme of self-employment could become a strong instrument for the development of cultural industries in African countries.

A communications network for musicians could open up ways of achieving fruitful cooperation, for example the establishment of agreements for mutually advantageous co-production of records and concerts. To the extent that the right to techno-professional training, health and medical aid, work and social protection, as well as the rights of authors, artists and producers, are respected and secure material and spiritual stability for all who work in this area, the music industry will flourish, creating new sectors of services and sound engineering, light techniques, graphics, marketing, scenography, concert production, sound and audio-visual industries, tourist entertainment etc. Access to new technologies, which is required in the music industry, is very important, but exceptional measures must be taken to facilitate their acquisition.

The assistance of Governments and funding organizations in respect of the institutional capacity of unions, music associations and author rights associations is fundamental for harmony and team relationships between musicians and producers as well as those who play a role and earn an income through music (excluding pirates!).

The experience of Mozambique is very interesting. The General Cooperation Accord between Mozambique and Sweden provides for a three-year programme to support various sectors of culture, namely associations, culture houses and governmental cultural services. Funds are channelled through ASDI (International Swedish Agency for Development). The programme is contributing satisfactorily to cultural organizations' capacity-building. The involvement of the Government, and donor and cultural institutions, ensures better definition of projects and better monitoring, evaluation and results.

Allow me to remind you here of the Dakar Plan of Action, which in 1992 referred to the development of the music industry in Africa, with the objective of:

- Persuading leaders to make decisions regarding the cultural industry's economic potential and its integration into development strategies;
- Creating a common market and developing intra-African cooperation;
- Empowering the role of the private sector;
- Developing North/South cooperation as well as South/South cooperation;
- Improving organization and protecting authors.

There are a number of matters in the Dakar Plan which need our attention and await our answers. But the Development Initiative of Music Industries in the LDCs, in conjunction with UNCTAD and WIPO, represents an advanced global vision that will allow medium- and long-term objectives to be achieved. A number of initiatives are relevant here: the proposed SADC/UNCTAD project for the development of the music industry in Southern African countries; the ILO initiative to study African musicians' professional situation in order to recommend to Governments adequate measures for professional recognition and effective social integration; the UNESCO Conference recommendations to member States about artists' social status; and the initiative to create an African organization to combat piracy.

The positive reception accorded by the Cameroon Government to the idea of installing in Cameroon an African organization to combat piracy is an encouraging indicator of the will to work towards building an African music industry capable of capturing the international market. It is essential that the meetings held every year to debate music industry issues, which bring together a wide range of people, be followed up with concrete actions. Governments must draw up global strategies on which States, financial organizations and civil society can cooperate in a combined effort to develop the music industry in Africa. In this process, the mass media are called upon to play a major role in promoting debates and the exchange and sharing of experiences.

1.5. Caribbean music in the international context: Dancing to the beat of a small place

*by Ralph Henry, Development Economist,
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This presentation is divided into five parts. In the first part, I shall attempt to identify some of the factors responsible for the distinctiveness of Caribbean culture that gives it a special identity and in particular the identity of its musical forms. In the second section, I shall look at the emergence of Caribbean music on the world stage, in spite of the many factors that would have made that possibility unlikely, in the view of some. The third part of the presentation will deal with the relevance of the lessons of the more recent experience in music in guiding industrial policy in the Caribbean, having regard to the nature of industrial development in the region.

The fourth part of the paper looks at the threats and challenges to the further expansion of the industry, and the mechanisms that will be necessary to overcome them. A brief examination will be undertaken of the degree to which Governments and other agents in these countries are geared to meet these challenges. The presentation concludes with some observations on the lessons of the Caribbean experience for the least developed countries in the context of the new economic order.

There is a need to make two observations that should underpin any discussion of music and culture. Firstly, culture is an important element in all final goods and services. In other words, we eat, drink, wear, travel and re-create in culture, every day of our lives. That is a truism, but one that is often ignored. Secondly, certain aspects of culture reflect the essence of a people and are the basis for the self-actualization of individuals within culture, this being particularly the case with music. Thus besides the demand for music and for other forms of culture, in a stand-alone sense, which can be identified in the market place, there is culture that derives from intrinsic demand that is to say, people will entertain themselves by singing and creating music whether or not there is an audience willing to pay for their renditions.

1. Distinctiveness of Caribbean culture

Even without importing sociological definitions of what defines the Caribbean and more so the Commonwealth Caribbean or English-speaking Caribbean on which this paper is focused, it is possible to argue that the region derives its cultural distinctiveness from being the confluence of cultures of Europe, Africa and Asia in particular. Of course, the culture contact was anything but one of equality and mutual respect. Africans were taken to the Caribbean in slavery a few centuries ago, and everything was put in place to deprive them of their cultural moorings. They lost their language, their religions for the most part, and their names as the demands of plantation slavery required the elimination of anything that could create resistance in the slave. Indian indentured immigrants replaced African slaves on the plantation following the end of slavery. At least the formal end of slavery and the fact that they were contracted to provide their labour over a set period curbed the corrosive effect of the plantation on the cultures of the new addition to dependent people of the region. The Caribbean is today well known for reggae, calypso, soca, salsa and zouk, and now for Chutney.

With the pan, an instrument first made from discarded oil drums from its oil industry, Trinidad and Tobago can boast the only substantial addition to musical instruments in the 20th century.

This is not the place to recount the historical development in each of these genres. It should suffice to note that these small countries in the Caribbean have created sounds that have become popular much beyond their narrow geographical space.

The former slaves developed their musical forms after the end of slavery, but the memory of Africa had not been totally eroded. Dance, the drum, call and response were all reinterpreted within the Caribbean. Musicologists have been able to trace the influence of Africa in the early musical traditions. In places such as Jamaica, where substantial communities had developed following their escape from the plantations, the so-called Maroons developed distinctive musical traditions, some elements of which can be seen today in reggae music. What is important for present purposes is that there has been considerable interpenetration of these cultures which has resulted in a certain richness. This has meant two things. First, persons brought up in the cultural traditions of Europe, Africa and the Asian subcontinent can hear something with which they can identify, and this is particularly so in respect of the music of Trinidad and Tobago, where this level of interpenetration has taken place most. This capacity is perhaps the most remarkable feature of Caribbean music, namely that almost everybody can “tune in”. Secondly, the interpenetration of the cultures has maintained a capacity for distinctiveness as experimentation leads to new products and strains, both at the level of self-expression and in the realm of market-related output.

2. Emergence on the world stage

In the first half of the 20th century, Caribbean music was to break through to the larger international stage. The war years brought many grass-roots people on both sides of the North Atlantic into contact with Caribbean people. Trinidad provided a southern base in the Caribbean for the United States and a substantial American contingent was there during the Second World War. The Andrews Sisters, who were a popular group in the United States, came to entertain the troops and were much taken by the song, “Rum and Coca Cola”, which showed the effect of the American presence in Trinidad far beyond the realm of alcoholic drinks. They went on to record their own version of the song without attribution and created the earliest copyright case that the country was to have. The little people of the Caribbean were not entirely ignorant of their rights.

What is significant for present purposes is that the period was characterized by the institutionalization of the tradition of Caribbean artistes recording under labels in the United States. At the very least, the demobilized American soldiers created a burgeoning market, as recordings from Trinidad provided memorabilia for soldiers of the campaign in the Caribbean. Rum and Coca Cola had fused two cultural traditions beyond popular drinks. The more recent spread of Caribbean music is associated with the penetration of Caribbean people into the metropolitan North Atlantic. Caribbean people have been highly migratory ever since the end of slavery. In early post-slavery period the islands that were basically plantation islands were the earliest source of migrants, as the former slaves sought escape to other locations. In islands where there was a greater supply of land outside plantation slavery there was relatively less emigration. Barbadians had started migrating in large number as early as the 1850s and went to other Caribbean islands and to Africa, and even as far as Brazil: Barbados was the most densely populated Caribbean Island.

Migration to the metropolitan North Atlantic started in the period of the Second World War with the enlistment of Caribbean people in the British war effort. Migration to Great Britain reached massive proportions following the Second World War as the process of rebuilding created a large demand in the labour market, the lower echelons of which could be filled by West Indians

seeking escape from the poverty of the islands. But as Britain's post-war economic expansion slowed, racism and tightening labour markets prompted the closure of the British door. At the same time the United States and Canada adopted less racially and ethnically particularistic immigration rules as their own labour demand expanded, which led to the redirection of the flows of English-speaking Caribbean people to North America as the preferred locus of emigration.

For present purposes, we may note the effect of these migratory trends in the development of a substantial Caribbean diaspora in Britain and North America. These Caribbean people took their festival culture with them and this has led to the emergence of street festivals in the metropolitan context, with the Trinidad model providing the exemplar. The Notting Hill Carnival, Labor Day in Brooklyn and Caribana in Canada are now the largest outdoor festivals in these countries, and these have spread to other cities in these countries such that there are scores of Trinidad-style carnivals in the metropolitan North Atlantic. There is nothing of American origin that compares with Labor Day in the United States. The Notting Hill Carnival is the largest outdoor festival in Europe, and is decidedly Caribbean in origin.

Not least, other Caribbean countries have copied the Trinidad Carnival and these are now events attracting tourists and are the occasion for the homecoming of the nationals of the respective islands. There is emerging a Trinidad-style Carnival or Mas in Sydney in Australia, and there is emerging interest in Carnival in South Africa. There has emerged as well a circuit in which the Trinidad and Tobago Carnival is a main event in a calendar in which Calypsonians and other entertainers appear in February in Trinidad and immediately after this Carnival, they are on tour to other Carnivals across the Caribbean and the North Atlantic for the entire year, resuming the following year with the start of the circuit in Trinidad again. These Carnivals get their musical stimulus from the Caribbean.

If the south-eastern Caribbean is the main source of festival music, there is Jamaican music, and in particular reggae, that is significant as party music outside Carnival for most Caribbean people, the largest percentage of whom are likely to be Jamaican in origin, given the relative size of Jamaica and the fact that its economic conditions for over 25 years have prompted a larger relative exodus than from the other countries that might have fared better in adjusting to the external international economy. While the hard data are emerging only slowly, it is clear that Entertainment contributes immensely to the tourism product of Jamaica, that sector being the largest single contributor to foreign exchange earnings in the country. But the earnings abroad from entertainers are also considerable, if just by way of "back of the envelope" calculations of entertainers who have been able to attract the big labels. In spite of all of this, however, Caribbean music is still largely on the fringes of the mainstream in the North Atlantic, as vital as that market is for the income growth of Caribbean entertainers. Bob Marley was perhaps the most successful in the last half century, and was clearly, successful in becoming an icon in world popular music in the latter half of the 20th century. His name stands near that of the Beatles in capturing and winning international popular appeal.

The rise of a Marley to international status, and the existence of over 100 Trinidad-style Carnivals, emphasize the fact that Caribbean people, in their little island places, have been able to place their footprints in dance across a wide geographical space as the world has learnt to dance to the beat of people from a small place. The Commonwealth Caribbean numbers barely 6 million people and when one adds the rest, the region approaches about 40m, inclusive of the Dominican Republic, Haiti, Cuba, and the French and Dutch Antilles. Migration and the assertion by Caribbean people of their entertainment culture in their new homes have created a metropolitan Caribbean musical presence, from which the music extends, given the dominance

of the North Atlantic in many areas, including in the area of broadcast technology, to the rest of the world.

3. Caribbean music and industrial policy

Caribbean music has been perhaps the most successful export from the Caribbean. However, this export has arrived in the international market place largely unaided by industrial policy initiatives. It is unlikely that JAMPRO, the main industrial promotion agency of Jamaica, would have entertained any request from Bob Marley, had he approached this organization in 1965, seeking a market development grant or some form of assistance comparable, at least in structure, to the fiscal and other incentives provided to foreign investors or the large formal-sector enterprises in Jamaica.¹

The creative people in music and entertainment in most of these countries have emerged from the lower echelons of their societies. The music business is composed of small operators who function mainly as informal sector firms initially. In the sociology of the Caribbean, they belong to an entirely different social group from those that run the State apparatus and who are responsible for the industrial policy decisions that impact on investment, and through this, on the capacity of the country to enter market niches for earning foreign exchange.

Musicians were not seen, until recently, as capable of generating considerable foreign exchange earnings. In other words, the inclusion of entertainment as part of the industrial policy initiatives of the promotional agencies is almost something of an afterthought. This is also part of the tell-tale story of misplaced concreteness in industrial policy. For most of its post-colonial history, the region has had difficulty in developing sustainable industrial activity.

Admittedly, industrial policy in the small Caribbean countries with populations of less than three million for the most part has to anticipate the short shelf-life of Caribbean product, given that their internal market size prevents them from having a diversified industrial base; and thus they are required to exploit niches that may be relatively temporary. However, the underlying premise of industrial policy has been that foreign investors can be attracted to bring with them export markets, or part of their home markets, and would simply utilize Caribbean labour and other resources in exporting back to their home country, thereby providing the Caribbean economy with employment and foreign exchange earnings.

A greater willingness to look inside, however might lead to the recognition that there are factors deriving from domestic sociology that can create the distinctiveness and the room for product differentiation which is an important ingredient in international competitiveness. This is particularly evident in food and clothing, where the culture of the Caribbean has led to distinctiveness of product, which have not been well recognized. In other words, Caribbean entertainers have created an external market when their industrial policy analysts saw none.

If the lessons of that experience are taken further, there is much that the Caribbean may be able to create for export where its own creativity can be justly rewarded. It is very possible that a comparable hiatus exists elsewhere in the so-called least developed countries where there are products and services, which, with enough entrepreneurship within our State bureaucracies, could lead to exports in respect of which we do not have to seek special concessions for market entry. This is perhaps the most important lesson from the experience of Caribbean music.

¹ An official at JAMPRO agreed that he would have been shown the door, in view of the mentality that prevailed at that time. JAMPRO has since sponsored an Industry Advisory Council on Music and Entertainment.

4. Threats and challenges

The main challenge that Caribbean music faces is to escape from the stranglehold created by the distributional structure in the industry in metropolitan markets. As noted above, Caribbean music is very much on the fringes. The level of concentration has increased in the industry as a result of the march of the technological revolution in information technology and the convergence in a number of areas. Firms that have been dominant in one area have extended their dominance into other areas. This pattern links right back to the control of the broadcast media, which are the main highway for market penetration. Lacking access to the mainstream, Caribbean music has not got the airplay and viewing that might have been expected. A key question is whether the Caribbean music industry has to court one of the majors in targeting entry into mainstream markets, or has to develop a focused approach with the independents in growing a market in a collaborative partnership, in competition with the majors, clear in its understanding of the barriers that will be placed in the way. Such an approach will require that particular countries create the institutional arrangements for working with entertainers and the particular independent that is selected. Implicit in this recommendation is the notion that one cannot expect to take up challenges with firms operating in oligopolistic ways, without collaborative endeavours, in this case with other underdogs. Moreover, small firms, especially informally oriented operations, that are adaptable in perfectly competitive markets have no hope of success if they have to compete with firm structures that constitute industrial combines in themselves.

Quirks in the technology may lead to a Napster, but that is likely to be a passing phase as the majors perfect the technology to restore dominance in the market place, not that Napster was going to provide much help for Caribbean musicians in any case. The challenge remains to find for Caribbean music an equitable place in the main potential market. Caribbean entertainers will like to earn income beyond the returns made from touring, but the existing market structure limits their reach.

5. Lessons for LDCs

There are many lessons to be derived from the Caribbean experience. Some of the discussion above already hints at some of these. Two main lessons will be identified here. Our countries have received much advice about the dangers of Governments getting involved in directly productive activities. This has prompted the notion that Governments have no role in identifying possibilities and encouraging the domestic private sector to seek to attain them.

Meanwhile, the advanced countries continue to refine industrial policy through a range of institutional arrangements that allow their firms to grow and prosper, all as part of competition policy. Focused training is one such area. Beyond identifying a niche, capturing it and sustaining it require that one's people be adept in taking on board modern technology and growing the sector or subsector. Jamaica is the only country to have developed some semblance of respectability in the provision of education and training in the entertainment arts, and can be deemed to recognize the first element in industrial policy supportive of a nascent industry. Another area that cries out for attention is commercial presence. In the globalized environment, market presence is a sine qua non for entry of product in some areas. As expensive as the process is, the fact of high levels of emigration to the metropolitan countries should provide the opportunity for the creation and/or promotion of firms abroad, able to penetrate markets or overcome obstacles to the freer flow of goods and services from the least developed countries. The implication is that a more aggressive Caribbean would already have established effective distributional arrangements in metropolitan markets for its entertainers.

Perfect markets are a theoretical construct. Most markets depart considerably from this construct, and are therefore not perfect. They operate by rules and procedures that the initiated understand and can manage over time: that means that the institutional environment is simply different from that of perfect markets. In the Caribbean context, therefore, the sooner one sets about building effective institutions, the better. Otherwise, Caribbean people will continue to sit and wait in hope of things that may never come to pass. And the lesson has a wider relevance to the developing world: whether we produce diamonds, bauxite, sugar or coffee – that is the real lesson to be learned. Almost unaided, Caribbean entertainers have been able to demonstrate how to get a wider clientele to dance to the beat of a small place. It will not always happen, but if industrial policy is equally creative, more will dance, and for a longer time.

SESSION 2

NEW TECHNOLOGIES AND COPYRIGHT

2.1. Updating copyright protection in LDCs and worldwide: an incentive to music creation and business

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Introduction

The World Intellectual Property Organization (WIPO), which I have the pleasure to represent here, is a specialized UN agency with a membership of 175 States. Its mandate is to promote and enhance the protection of intellectual property (IP) worldwide, for the benefit of economic, cultural and social development. WIPO proposes, administers and develops the international legal framework of IP, which consists of a variety of multilateral treaties, executive regulations, guidelines and recommendations. WIPO, in addition, provides legal and technical assistance to member States, particularly developing countries, in establishing, modernizing and/or strengthening their national IP system, components of which are the national legal framework, the IP policy and administration offices, collecting societies of creators in the field of copyright and related rights, the relevant human resources, etc.

1. The role of copyright protection in developing the music industry and the music business

I am here at risk of partly repeating what has already been very properly highlighted by UNCTAD Secretary-General Rubens Ricupero:

- (1) Legal protection is a decisive tool for cultural creation and subsequent marketing. Creators and producers need, and are entitled to, exclusive exploitation rights that allow them to determine and control the commercial use of their music and to be rewarded for their effort and investment.
- (2) Music authors and performers cannot be left alone with just contractual rights against producers. Their original property rights are, as a minimum guarantee, necessary as the starting position for fair bargaining with producers and/or distributors.
- (3) Rampant music piracy, whether domestic or imported, ruins the potential market in LDCs for their own music industry and must be combated through proper legal tools and their serious enforcement.
- (4) Digital technology and the Internet communication and dissemination facilities have not only enormously eased market access for new music business enterprises, including direct marketing by artists, but also provided new opportunities to misappropriate intellectual property or take it for granted.
- (5) In the Internet environment, legitimate music business must protect itself from misuse and free use by using appropriate technologies, such as access control. Legislation should support this self-defence by providing rightholders with legal remedies against commercial circumvention activities of third parties.

- (6) Creators must themselves contribute to controlling the legitimacy of the local music market. An indispensable instrument for achieving this goal is a strong collecting society with a reasonably representative membership. Setting up efficient collective management of rights in music creation, performance and record production is a difficult task, which most often demands policy and financial support from Governments.
- (7) A key question for establishing local music creation and business is whether local broadcasters remunerate their use of music recordings, and if so, how. They are certainly important promoters for local music creators. But that does not justify their broadcasting sound recordings of music for free all the time. Experience shows that in many developing countries music creators encounter huge difficulties in having their rights enforced against domestic broadcasters, not only, but in particular, if these are public ones or have links with politics in other ways.

3. The kind, and level, of legal protection required

The music industry is particularly complex as regards the way in which music is created and distributed. In copyright terms, this means that there are at least three groups of rightholders to be protected independently from each other:

- Music authors (composers and song text writers);
- Performing artists (musicians, singers, conductors); and
- Sound recording (= phonogram) producers.

It is, first, a matter for the national legislation of LDCs to provide for the necessary rights of these actors. The home market is where music creators should find their first and foremost basis of recognition and revenue. In their own country, they should find conditions to live their culture and identity as creators. If they do not feel themselves legally protected, they will have to go elsewhere for better protection.

To a certain degree, the different categories of rightholders will have to align their independent exploitation rights in appropriate contractual arrangements, either individually or collectively. Their professional organizations must support them in this respect. The legislator's task is to oversee the introduction of rightholders in order to ascertain whether their interests are reasonably well balanced in business negotiations.

National legislation and Government bodies have the responsibility for making copyright protection effective and ensuring that it is enforced.

It is important that copyright policy in LDCs also recognizes the need for international copyright protection, which is twofold. Foreign music productions, if they are not protected in LDCs, will be cheaply pirated and deteriorate the market for home-produced music. In addition, trade relations with the foreign country of origin might suffer. Furthermore, adherence by LDCs to the international protection framework will help their music creators enjoy protection in other countries – that is, it will facilitate their pursuing business success beyond the domestic market, thus also actively contributing to international cultural exchange and balance in external trade. Governments have a moral and policy obligation to do their utmost to provide their own creative community with legal protection for exploitation abroad, which is in principle available only through the country's adherence to the international protection systems.

The most modern update of the international protection system are the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT), which were adopted in 1996 and will enter into force, most probably, towards the end of this year (2001). These two treaties together provide protection for the above-mentioned three groups of rightholders and constitute the necessary responses to the Internet challenges. Those LDCs that are already members of the World Trade Organization can also rely on the more basic protection ensured by the Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement).

4. Outlook

Will LDCs have equal opportunities in the music market, as it may develop via the Internet? Technologically speaking, there are much better opportunities for everyone to reach clients via the Internet than through the traditional music distribution channels. Much will depend on the future development of the Internet as a legitimate music dissemination market. Will big multinational conglomerates manage to dominate commercial music distribution on the Internet? Would this automatically disadvantage LDC producers? There are many open questions. How easily will the music consumer identify where to find the music which is to his/her particular taste? It seems that LDC producers will need specific marketing strategies to bring the originality of their productions to the attention of a worldwide audience. Hopefully, the music consumer using the Internet will become increasingly experienced in using search techniques and, consequently, increasingly selective. This will favour smaller "exotic" and "eccentric" offers of music over the Internet.

This future is uncertain. But it is worth trying!

2.2. Copyright in Cultural Production in Haiti

par **Willems Edouard**, Directeur,
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Le rôle du droit d'auteur dans la production culturelle en Haïti

Les innovations technologiques qui permettent d'écouter une composition musicale sans la présence des auteurs et interprètes, ont opéré une révolution. Depuis, la musique est devenue un disque, une K7, un clip, un CD, en d'autres termes, une marchandise. Plus qu'un produit commercial, il s'agit d'œuvres propres à une culture. De ce point de vue, outre la place qu'elle occupe dans le monde, la culture, expression de la créativité, peut être perçue comme un produit et, tout comme les œuvres qu'elle inspire, elle doit bénéficier de la protection du droit d'auteur. Ainsi, en Haïti, protéger les créations revient à protéger, entre autres, **le Compas, la Musique Racine, la Nouvelle Génération** et bien d'autres formes d'expression musicale auxquelles la communauté s'identifie. Cependant, au regard de la place importante prise par le droit d'auteur dans une industrie musicale haïtienne de plus en plus exposée aux assauts de la mondialisation et à la déferlante numérique, loin de prôner un repli sur soi, le respect des propriétés littéraires et artistiques ne peut plus être envisagé du seul point de vue de l'auteur de son œuvre et des limites territoriales.

Marché de la musique

La généralisation des technologies de diffusion nous plonge dans un bain musical constant. Aujourd'hui, à tout moment et en tout lieu, échapper à la musique relève de l'exploit tant les mélodies imprègnent le plus profond de notre être. Les morceaux qui nous accompagnent à la maison, en voiture, au bureau, dans les espaces commerciaux et de loisirs, sont aussi des disques, des K7 et CD, bref, des biens culturels circulant dans un marché en constante précarité. Cependant, malgré cela, la musique demeure le loisir culturel le plus populaire qui regroupe en effet, la plus forte population de créateurs et d'interprètes, un public proche des 8 millions, une production phonographique en constante progression, une large diffusion médiatique et des exécutions publiques pluri-hebdomadaires. Cette présence envahissante fait de la musique un loisir culturel de première importance.

La production

Dans ce qu'il convient d'appeler l'industrie du disque haïtien, les relations des auteurs avec les producteurs privilégient des pratiques relevant davantage du droit commercial. En effet, pour un groupe musical, un compositeur ou un auteur de chansons, publier des œuvres musicales sous forme de disque, K7 ou CD se résume à vendre, par l'intermédiaire d'un impresario ou non, une maquette à un producteur. Celui-ci l'accepte et offre en moyenne 4 000 à 6 000 dollars américains. Cette transaction consacrant, à titre définitif, un transfert de propriété, est scellée par un accord verbal à partir duquel le producteur s'engage à produire généralement 1 000 CD et 500 K7. ces CD et K7, fabriquées à l'étranger se vendent respectivement 15 et 5 dollars américains et rentrent au pays sous forme de marchandises importées sur lesquelles est prélevée une taxe s'élevant à 40 % du coût de fabrication.

La distribution

La circulation d'un CD ou d'une K7 produit entraîne nécessairement sa mise en distribution. Sur 15 producteurs recensés, seuls Antilles Mizik et Crossover possèdent chacun un point de vente dans la capitale. Les 13 autres, selon les disquaires, n'ont aucun représentant local. A la sortie d'un CD ou d'une K7, certains producteurs se chargent de distribuer eux-mêmes les produits de

leur catalogue. Comme la plupart d'entre eux résident à l'étranger, les disquaires ont toutes les peines du monde pour se réapprovisionner lorsque les stocks sont épuisés. D'autres, moyennant une commission de 10 pour cent, peuvent utiliser les services d'un des 7 distributeurs installés sur place. Celui-ci propose à son tour les CD et K7 qui lui sont confiés aux 10 disquaires et 20 points de vente établis à Port-au-Prince. Ces derniers prélèvent 20 pour cent et font payer au public un prix représentant 3 à 10 fois le salaire minimum de base. Dans le cas d'une production émanant d'un indépendant, l'artiste ou le groupe musical se retrouve à tous les maillons de la chaîne du disque et cumule les rôles pour pouvoir distribuer son produit. Que l'on ait recours à un distributeur officiel ou que l'on distribue soi-même ses propres produits c'est le caractère 'informel qui est la règle : la musique est distribuée sans contrat exclusif, voir même sans l'ombre d'un contrat

Aucun producteur ou distributeur n'est représenté sur le plan national. Ceci explique que la sortie d'un CD ou d'une K7 crée une demande que l'offre peut difficilement satisfaire. Cette situation se traduit par le développement d'un marché contrôlé par les pirates. Dans un tel contexte, un enregistrement de musiques protégées sur un CD ou une K7 vierge coûte 5 fois moins cher que les originaux. Les CD et les K7 contrefaits sont aussi chers que les produits distribués légalement . Le contrebandier concurrence les produits d'origine. Si les produits piratés pénètrent le marché avant les CD et des K7 d'origine , c'est le marché légalement établi qui est réduit à néant . S'ils sont déversés quelque temps après, les pirates n'ont même pas besoin de pratiquer des prix bas car leurs produits répondent à un besoin que les CD et les K7 légalement produits ne peuvent satisfaire. Aussi, les fabrications illicites occupent-elles les 99 % du marché non couverts par les produits d'origine limités en moyenne à 1 000 CD et 500 K7 pour une population de 8 millions d'habitants.

Si, sur le plan national, la distribution est mal assurée, la situation n'est guère meilleure sur le plan international. Aucune structure de distribution locale n'a de contrats avec des multinationales du disque, ni avec de grandes sociétés . En dehors d'une ou deux exception(s), le recours aux relations personnelles fait office de règle principale.

Avec un tirage insignifiant pour une population de 8 millions d'habitants, une distribution limitée à la capitale, des prix prohibitifs, la mise sur le marché des CD et des K7 crée, depuis longtemps, une demande de loin supérieure à l'offre. Une telle situation fait le jeu des pirates et favorise la copie privée généralisée auprès de 65 % des jeunes qui représentent 5,2 millions d'acheteurs potentiels.

La diffusion médiatique

Le développement technologique expose de plus en plus les CD et les K7 produits à une exploitation massive. Soixante-cinq stations de radio et vingt-et-une chaînes de télévision les utilisent abondamment dans leur programmation. Quinze sites web les diffusent régulièrement. Des milliers d'espaces commerciaux sonorisés en font un large usage. Utilisée tantôt comme produit d'appel, tantôt comme contenu de programmes, la musique est fortement prisée certes, mais son utilisation continue à se faire sans autorisation, ni paiement de redevance.

Les revenus

Jusqu'à présent, l'exploitation des produits musicaux légalement produits ne donnait droit à aucune rémunération. Les revenus des auteurs et des artistes proviennent d'autres sources. Si quelques producteurs s'en tirent plus ou moins à bon compte comme l'atteste la longévité de certains d'entre eux, les auteurs et les artistes, pour survivre, se rabattent sur les spectacles musicaux. Là encore, en dehors de quelques grosses pointures qui arrivent à tirer leur épingle du jeu, rien d'extraordinaire. Un groupe musical gagne en moyenne 1 500 dollars américains par spectacle. Ses membres, un peu plus de 60 dollars américains chacun.

Situation du droit d'auteur

Aussi surprenant que cela puisse paraître, la protection des propriétés littéraires artistiques en Haïti est plus que séculaire. La législation locale a depuis longtemps consacré le droit moral et les droits patrimoniaux.

Droits patrimoniaux

Haïti en est déjà à sa troisième législation. La dernière en date est le décret-loi de 1968. Ce texte, quoique vieilli, é, protège les compositeurs, les auteurs de chansons ainsi que leurs œuvres et ce, quelque soit le support utilisé. Il reconnaît les droits de reproduction et de représentation. Ces droits restent dans le patrimoine des auteurs 25 ans après leur mort.

Droit moral

Ce décret reconnaît les droits de divulgation, de paternité et d'intégrité. Cette reconnaissance ne couvre pas toute la série. Il existe un dernier droit enseveli dans le silence des dispositions. Il s'agit du droit de retrait ou de repentir.

Lacunes

Il existe certes une protection des propriétés artistiques et littéraires mais cette dernière est inadéquate. En effet, le décret de 1968 n'accorde aucun droit aux artistes-interprètes ou exécutants, aux producteurs de phonogrammes pour ne citer que ceux-là. Ce texte ne dit mot des droits relatifs à la copie privée et ne fait aucune référence à la gestion collective. De plus, protégeant uniquement les œuvres contemporaines, il ne prend pas en compte les œuvres folkloriques. Quant aux sanctions, il n'y a aucune mesure dissuasive. Les dispositions relatives prévoient des amendes négligeables allant de 0,80 à moins de 20 dollars américains pour punir les utilisations illicites et la contrefaçon. Ainsi pour bénéficier des rares droits que l'exploitation publique des œuvres rapporte, les auteurs, les artistes et les producteurs les mieux informés cherchent la protection de sociétés d'auteurs étrangères.

Droit d'auteur et développement de la production musicale

Il faut certes oeuvrer pour permettre l'exercice effectif du droit des compositeurs, des auteurs de chansons, des artistes et bien d'autres titulaires mais l'ampleur du développement technologique ne cesse de montrer que l'exercice des droits sur les propriétés littéraires et artistiques se prête de moins en moins à l'action individuelle. La constante position de faiblesse des auteurs dans les négociations face aux producteurs conforte également cette idée. Outre une nouvelle législation proposant un cadre de protection plus efficace, cette prise de conscience, dans le cas d'Haïti, a conduit à l'ouverture du Bureau Haïtien du droit d'auteur (BHDA) le 29 février 2000.

L'existence du Bureau, outre la volonté de faire du respect des propriétés littéraires et artistiques une réalité, répond à une préoccupation: celle de mettre en branle le processus devant aboutir à l'établissement d'un système de gestion collective. Ainsi, l'exploitation d'une création musicale donnera naissance à une rémunération appropriée. Cette nouvelle réalité, nous en sommes convaincus, doit permettre aux auteurs et aux artistes de percevoir une augmentation de leurs revenus et aux producteurs, un revenu sur leur investissement. Pour les premiers, cette nouvelle ère donnera la possibilité de vivre de la musique et par conséquent de produire davantage et mieux, pour les seconds, elle apportera une plus-value susceptible d'être réinvestie dans la production de nouveaux CD et K7. Donc, l'usage de la gestion collective, tout en créant un cadre favorable au respect des droits sur les compositions musicales, favorisera l'apparition de nouveaux talents et le développement de la production musicale. De plus, l'établissement de la gestion collective contribuera certainement à l'intégration économique de ces gagne-petit que sont les auteurs et les artistes. Leur nouveau statut économique signifiera que ces ambassadeurs de la culture haïtienne ne seront plus livrés à eux-mêmes et n'éprouveront plus, pour unique motif financier, le besoin de s'expatrier ou d'abandonner la création musicale pour une profession. Vu sous cet angle, la gestion collective peut aider à mettre en déroute la déperdition chronique qui frappe le secteur musical en Haïti.

Outre les retombées économiques, la gestion collective des droits d'auteur et des droits voisins, de notre point de vue, suscitera une solidarité entre auteurs et artistes d'une part et entre auteurs-artistes et producteurs d'autre part puisqu'ils seront bénéficiaires d'une protection juridique plus efficace, étant exposés aux mêmes risques et motivés par les mêmes enjeux. Auteurs, artistes et producteurs seront de plus en plus contraints de s'allier pour défendre la même cause, la cause des droits sur les productions musicales.

Comme nous l'avons déjà indiqué, les relations entre auteurs, compositeurs, artistes-producteurs et utilisateurs se sont tissées sans aucun respect des droits des uns et des autres. L'administration collective des droits, sous l'empire de la nouvelle loi, en imposant la formalisation des relations, aboutira à une redéfinition du rapport à l'utilisation des créations musicales. Les uns apprendront à mieux exercer et défendre leurs droits, les autres, à respecter leurs obligations. Ainsi, la production d'un CD ou d'une K7 ne se réduira plus à l'achat d'un ensemble de compositions musicales qu'un producteur pourra reproduire à volonté, ni à des utilisations au mépris de la législation mais portera sur l'obligation d'obtenir l'autorisation permettant de dupliquer ces morceaux sur une quantité fixe d'exemplaires. A partir de ce moment, un nombre plancher pourra être exigé, ce qui permettra de dépasser rapidement le tirage moyen de 1 000 à 2 000 unités généralement en pratique. Cette augmentation du nombre de CD ou de K7 conduira, d'une part, à la nécessité de mettre en place un système de distribution plus ambitieux, capable de satisfaire en grande partie les 2 millions d'habitants de Port-au-Prince, et d'autre part, à l'extension du marché, d'abord sur le territoire national, ensuite à l'échelle internationale.

Aujourd'hui, la prédominance de musiques étrangères dans 70 % des programmes des médias électroniques façonne inévitablement le goût du public. Le recours à la gestion collective, en garantissant le respect des droits, mettra en évidence un paradoxe. La préférence pour les musiques étrangères drainera la majorité des droits à percevoir au profit des auteurs et artistes d'autres pays. Si l'on veut que la diffusion médiatique, par une meilleure répartition du contenu musical, réserve un meilleur sort aux œuvres nationales, il importe, pour assurer une plus forte présence des œuvres locales sur les ondes, d'imposer un quota. Cette présence renforcée conduira certainement à une augmentation de la rémunération proportionnelle au profit des auteurs et artistes haïtiens. Et au-delà de l'aspect économique, c'est un plus grand accès à cet élément de la culture haïtienne qui en sera favorisé.

Droit d'auteur et enrichissement du patrimoine musical

Les créations musicales contemporaines constituent notre mémoire future dans ce sous-secteur de la culture. L'application de la nouvelle loi, au-delà de l'aspect économique, protégera un bien constitutif de notre patrimoine de demain. Ainsi, l'obligation d'aménager un cadre juridique plus efficace adhère à une démarche de politique culturelle.

Dans ce nouveau texte, qu'il s'agisse de compositions musicales originales ou dérivées, le critère fondamental retenu est l'originalité. Ainsi, son application permet d'encourager l'effort personnel, incite au dépassement de soi et fait, en même temps, du droit d'auteur un facteur de renouvellement susceptible d'enrichir le fonds musical local.

Les œuvres, comme les hommes, ont vocation à circuler. En ce qui concerne les œuvres musicales, l'émergence des médias transfrontaliers, la banalisation des technologies de diffusion et de reproduction, le développement vertigineux d'Internet et du numérique ne font qu'accentuer cette tendance. La migration des œuvres par le biais des supports, des spectacles, de la diffusion médiatique témoigne d'une ouverture au monde permettant de montrer des talents, des valeurs confirmées, un savoir-faire, bref, un potentiel générateur de capital culturel. Quels que puissent être les facteurs qui influencent cette migration, ce qui importe, ce ne sont pas les barrières qui, de toutes façons, sont appelées à disparaître mais

c'est la mise en place d'un cadre juridique efficace capable de vitaliser la créativité et de dynamiser la fluidité des échanges dans le respect réciproque du droit d'auteur.

Devant un tel constat, la protection des auteurs, ainsi que de leurs œuvres musicales, doit être d'emblée envisagée au-delà des frontières. D'ailleurs, pour nous autres, l'existence d'un marché potentiel composé pour le moment d'une bonne partie des populations de certains pays tropicaux et de près de 1 million d'expatriés haïtiens justifie pleinement cette démarche. En effet, notre pays a déjà proposé une série d'actions allant dans ce sens pour garantir le droit des auteurs nationaux à l'étranger et vice versa. Outre la signature de la Convention universelle sur le droit d'auteur, le pays a réintégré la Convention de Berne en 1995 et a également signé l'Accord sur les aspects des droits de propriété intellectuelle qui touchent au commerce (Accords sur les ADPIC).

Il convient de renforcer cette démarche. A cet effet, des rapports du Bureau Haïtien du droit d'auteur établissant déjà la nécessité d'adhérer à la Convention de Rome, à la Convention phonogramme et aux traités de l'OMPI ont déjà tracé la voix à suivre. Ces préoccupations traduisent non seulement la volonté d'étendre la protection à d'autres catégories de titulaires, mais aussi celle de combattre la production, la distribution, l'importation et l'exportation des produits pirates. Ainsi, une fois ancré dans les mœurs, l'usage du droit d'auteur et des droits voisins aura un effet attractif. Haïti attirera des auteurs, compositeurs et artistes d'autres cultures qui, sans craindre pour leurs droits, viendront s'y établir. Il naîtra de ce côtoiement de créateurs haïtiens et étrangers une effervescence culturelle propice à un enrichissement réciproque des musiques en présence. Outre les auteurs et les artistes, un marché haïtien du disque sécurisé, dans le cadre des délocalisations, peut, à notre avis, *attirer des producteurs internationaux spécialisés dans la production des musiques du monde* par exemple. Producteurs indépendants ou grosses sociétés, ce qui est sûr, c'est que leur entrée sur le marché local peut aider à une meilleure et une plus grande diffusion de la musique qui, pour le moment, se limite à un public presque essentiellement haïtien et antillais. De toute évidence, cette ouverture au monde pourra permettre, par le jeu des influences réciproques, un développement de la production musicale susceptible d'enrichir ce pan de la culture haïtienne.

Rôle culturel, rôle économique du droit d'auteur : le respect des propriétés littéraires et artistiques est un impératif. La nouvelle loi qui l'impose existe. Elle a pendant un an et quelques mois attendu la constitution du nouveau Parlement. Aujourd'hui, elle fait partie des trois lois prioritaires que le Ministère de la culture et de la communication doit déposer à la chambre législative. Après la publication de cette nouvelle loi, les initiatives d'Haïti pour offrir aux créateurs et à d'autres titulaires de droits ne s'arrêteront pas là. Il est important pour notre pays :

- de mener des actions de sensibilisation pour gagner la société à la cause du droit d'auteur et des droits voisins;
- de contribuer aux efforts des organismes internationaux pour aider à la modernisation des instruments internationaux en matière de protection du droit d'auteur et des droits voisins;
- de participer à toute décision visant à mener une lutte plus efficace contre la piraterie;
- de procéder à une actualisation du code pénal en vue de sanctionner les infractions au droit d'auteur et aux droits voisins;
- d'exonérer sinon de baisser de manière substantielle la taxe sur les CD, K7 et autres produits musicaux du même genre;
- d'appuyer toutes mesures visant à favoriser l'enseignement des propriétés artistiques et littéraires dans les différentes facultés de droit;

- de militer activement dans les organisations régionales et internationales pour un renforcement du droit d'auteur et des droits voisins;
- de solliciter l'appui d'institutions internationales pour obtenir des sociétés d'auteurs d'autres pays qu'une partie des rémunérations de nos ressortissants classés répartissables soit dédiée à la mise en place d'organismes d'auteurs dans les PMA, à la promotion du droit d'auteur et des droits voisins ainsi qu'à la production musicale de nos artistes à l'étranger.

Nous bénéficierons bientôt d'une nouvelle loi, d'un organisme d'auteur opérationnel, d'une protection efficace des propriétés littéraires et artistiques dans un marché sécurisé. Une hirondelle ne fait pas le printemps certes mais s'il faut donner au droit d'auteur une protection à la mesure de son rôle économique et culturel, l'engagement de l'Etat doit en toutes circonstances inspirer confiance aux auteurs, compositeurs et producteurs. Et le jeu en vaut la chandelle.

Droit d'auteur et développement de la production musicale

Ouvrer pour permettre l'exercice effectif du droit des compositeurs, des auteurs de chansons, des artistes et bien d'autres titulaires doit interpellier au quotidien la responsabilité de tout Etat démocratique. Cependant, l'ampleur du développement technologique ne cesse de montrer que l'exercice des droits sur les propriétés littéraires et artistiques se prête de moins en moins à l'action individuelle. La constante position de faiblesse des auteurs dans les négociations face aux producteurs défend également cette idée. Cette prise de conscience, dans le cas d'Haïti, a conduit à l'ouverture du Bureau Haïtien du droit d'auteur (BHDA) le 29 février 2000.

L'existence du Bureau, outre la volonté de faire du respect des propriétés littéraires et artistiques une réalité en Haïti, exprime un souci : celui de mettre en branle le processus devant aboutir à l'établissement d'un système de gestion collective. Ainsi, l'exploitation d'une création musicale donnera naissance à une rémunération appropriée. Cette nouvelle réalité, croyons-nous, doit permettre aux auteurs et artistes, une augmentation des revenus et aux producteurs, un retour sur investissement. Pour les premiers, cette nouvelle ère témoignera de la possibilité de pouvoir vivre de la musique, pour les seconds, elle apportera une plus-value susceptible d'être réinvestie dans la production de nouveaux CD et K7. Donc, l'usage de la gestion collective tout en créant un cadre favorable au respect des droits sur les compositions musicales favorisera l'apparition de nouveaux talents et le développement de la production musicale.

Outre les retombées économiques, la gestion collective du droit d'auteur et des droits voisins, de notre point de vue, pourra susciter une solidarité entre auteurs et artistes d'une part et entre auteurs-artistes et producteurs, d'autre part puisqu'ils bénéficieront d'une protection juridique plus efficace. Etant exposés aux mêmes risques et étant motivés par les mêmes enjeux, auteurs, artistes et producteurs seront de plus en plus contraints de s'allier pour défendre une même cause, la cause de la production musicale.

Comme nous l'avons déjà indiqué, les relations entre auteurs, compositeurs, artistes-producteurs et utilisateurs se sont tissées sans aucun respect des droits des uns et des autres. L'administration collective des droits, en imposant la formalisation des rapports, aboutira à une redéfinition du rapport à l'utilisation des créations musicales. Les uns apprendront à mieux exercer et défendre leurs droits, les autres, à respecter leurs obligations. Ainsi, la production d'un CD ou d'une K7 ne se réduira plus à l'achat d'un ensemble de compositions musicales qu'un producteur pourra reproduire à volonté, ni à des utilisations abusives au mépris de la législation mais portera sur l'obligation d'obtenir l'autorisation permettant de dupliquer ces morceaux sur une quantité fixe d'exemplaires. A partir de ce moment, un nombre plancher pourra être exigé ce qui permettra de dépasser rapidement le tirage moyen de 1 000 à 2 000 unités généralement en pratique. Cette augmentation du nombre de CD ou de K7 par

production conduira, d'une part, à la mise en place d'un système de distribution capable de satisfaire les 2 millions d'habitants de Port-au-Prince et d'autre part, à l'extension du marché, d'abord sur le territoire national, ensuite à l'échelle internationale.

Aujourd'hui, la prédominance des musiques étrangères dans 70 % des programmes des médias électroniques façonne inévitablement le goût du public. Le recours à la gestion collective, en garantissant le respect des droits, mettra en évidence un paradoxe. La préférence pour les musiques étrangères drainera la majorité des droits perçus au profit des auteurs et artistes d'autres pays. Si l'on veut que la diffusion médiatique réserve un meilleur sort aux œuvres nationales, par une meilleure répartition du contenu musical, il importe, pour assurer une plus forte présence des œuvres locales sur les ondes, d'imposer un quota. Cette présence renforcée conduira certainement à une augmentation de la rémunération proportionnelle au profit des auteurs et artistes haïtiens. Et au-delà de l'aspect économique, c'est un plus grand accès à cet élément de la culture haïtienne qui en sera favorisé.

Il reste à adhérer à la Convention de Rome, aux Traités de l'OMPI pour garantir également les droits voisins et renforcer la protection internationale des œuvres musicales, des auteurs et d'autres titulaires de droits sur les CD et les K7 produits..

Continuer de ne pas imposer son application dans les pratiques professionnelles, en attendant une nouvelle loi plus conforme à la réalité moderne, c'est faire fi du rôle du droit d'auteur dans l'assainissement du marché de la musique, dans la valorisation du travail des compositeurs et d'autres titulaires de droits, dans la stimulation de la production, dans le développement de ce secteur des industries culturelles.

Droit d'auteur et enrichissement culturel mais...

Les créations contemporaines constituent la mémoire future du peuple haïtien. Protéger une œuvre musicale, c'est également protéger une partition, un disque, une K7, un CD, bref, un bien culturel constitutif du patrimoine de demain.

Qu'il s'agisse de compositions musicales originales ou dérivées, le critère fondamental que la législation haïtienne retient est l'originalité. S'il y a application, un tel critère encouragera l'effort personnel, incitera au dépassement et fera du droit d'auteur un facteur de renouvellement. Ainsi, le caractère personnel d'une œuvre, le respect du cadre juridique sur les propriétés artistiques et littéraires nourrira une diversité susceptible d'enrichir le fonds musical local.

Garantir cette diversité créatrice, c'est permettre le respect effectif du droit d'auteur. Il en résultera pour un titulaire la possibilité de recevoir une rémunération proportionnelle à l'exploitation de ses droits. Une fois le principe du respect des droits encré dans les pratiques professionnelles, vivre de sa musique deviendra de plus en plus évident. Les auteurs et les artistes seront beaucoup plus enclins à s'améliorer et à produire davantage, ce qui se traduira par la production et la diffusion d'une musique haïtienne compétitive capable de s'attaquer au marché international et de se faire une place.

Les œuvres, comme les hommes, ont vocation à circuler. En ce qui concerne les œuvres musicales, l'émergence des médias transfrontaliers, la banalisation des technologies de diffusion et de reproduction, le développement vertigineux d'Internet et du numérique ne font qu'accentuer cette tendance. La migration des œuvres par le biais des supports, des spectacles, de la diffusion médiatique témoigne d'une ouverture au monde permettant de montrer des talents, des valeurs confirmées, un savoir-faire, bref, un potentiel générateur de capital culturel. Quels que puissent être les facteurs qui influencent cette migration, ce qui importe, ce ne sont pas les barrières qui, de toutes façons, sont appelées à disparaître mais la mise en place d'un cadre juridique efficace capable de dynamiser la fluidité des échanges culturels dans le respect réciproque du droit d'auteur.

Devant un tel constat, la protection des auteurs et leurs œuvres musicales doit être d'emblée envisagée au-delà des frontières. L'existence d'un marché potentiel, composé pour le moment d'une bonne partie des populations de certains pays tropicaux et de près de 1 million d'expatriés haïtiens, justifie pleinement cette démarche. Aussi importe-il d'adhérer aux différents instruments internationaux pour garantir le droit des auteurs nationaux à l'étranger et vice versa. Haïti s'est déjà engagé dans cette voie comme l'atteste la signature de la Convention Universelle sur le droit d'auteur, la réintégration de la Convention de Berne en 1995, la signature de l'Accord sur l'aspect des droits de propriété intellectuelle qui touchent au commerce (Accords sur les ADPIC). Il reste à adhérer à la Convention de Rome, aux traités de l'OMPI pour garantir également les droits voisins et renforcer la protection internationale des œuvres musicales, des auteurs et d'autres titulaires de droits sur les CD et les K7 produits.

La conformité d'une nouvelle législation nationale aux divers textes internationaux sur le droit d'auteur et les droits voisins, tout en favorisant une protection efficace, pourra également avoir un effet attractif. Haïti attirera des auteurs, compositeurs et artistes d'autres cultures qui, sans craindre pour leurs droits, viendront s'y établir. Il naîtra de ce côtoiement de créateurs haïtiens et étrangers une effervescence culturelle propice à un enrichissement réciproque des musiques en présence. Outre les auteurs et les artistes, un marché haïtien du disque sécurisé, dans le cadre des délocalisations, peut *attirer des producteurs internationaux spécialisés dans la production des musiques du monde*. Producteurs indépendants ou grosses sociétés, ce qui est sûr, c'est que leur entrée sur le marché local peut aider à une meilleure et une plus grande diffusion de la musique qui, pour le moment, se limite à un public presque essentiellement haïtien et antillais. De toute évidence, cette ouverture au monde pourra permettre, par le jeu des influences réciproques, un développement de la production musicale susceptible d'enrichir ce pan de la culture haïtienne.

Ces quelques points évoqués montrent clairement le rôle culturel que peut avoir le droit d'auteur dans la vie culturelle. Or, en Haïti, bien qu'un changement s'amorce avec l'inauguration le 29 février 2000 du Bureau Haïtien du droit d'auteur (BHDA), la protection des propriétés littéraires et artistiques est loin d'être une réalité.

Le droit d'auteur et la production musicale

En Haïti, la législation sur le droit d'auteur, forte de ses 137 ans, malgré les enjeux économiques et culturels qu'elle représente, n'a jamais été appliquée. Sa non-application, au fil des années, a, au détriment des titulaires de droits, complètement fait place aux pratiques informelles, aux exploitations illégales, à la piraterie généralisée. Livrés à eux-mêmes, les auteurs et les artistes, plutôt que de se consacrer à leurs créations, se soucient davantage de leur gagne-pain et versent dans la facilité. Conscients que le marché musical leur est de moins en moins favorable, certains compositeurs, auteurs de chansons et interprètes, parallèlement à leur activité musicale, exercent un autre métier qui, dans 95 % des cas, finit par l'emporter. D'autres profitent des tournées pour s'expatrier à la moindre occasion, le reste vivote ou se contente d'une pratique d'amateur. Tous ces facteurs entretiennent une déperdition chronique et préjudiciable au secteur musical.

Ce constat révèle une chose : la reconnaissance seule ne suffit pas. Cependant, même dans le cas où des dispositions permettraient le respect effectif des droits, l'ampleur du développement technologique ne cesse de montrer que l'exercice des droits sur les propriétés littéraires et artistiques se prête de moins en moins à l'action individuelle. La constante position de faiblesse des auteurs dans les négociations face aux producteurs vient également renforcer cette idée. Ce qui lie l'exercice et la défense des droits à l'instauration d'une gestion collective.

L'existence d'un tel système signifie que, dans un proche avenir, les titulaires de droits sur les œuvres musicales vont pouvoir recevoir, pour l'exploitation desdites œuvres en Haïti, une rémunération appropriée. Cette nouvelle réalité permettra aux auteurs et aux artistes une

augmentation de leurs revenus et aux producteurs, un revenu sur l'investissement. Pour les premiers, cette nouvelle ère donnera la possibilité de pouvoir vivre de la musique, pour les seconds, elle apportera une plus-value susceptible d'être réinvestie dans la production de nouveaux CD et K7. Donc, l'usage de la gestion collective, tout en créant un cadre favorable au respect des droits sur les compositions musicales, favorisera l'apparition de nouveaux talents et le développement de l'industrie du disque en Haïti.

De plus, l'exercice des droits voisins pourra créer une solidarité entre auteurs-artistes et producteurs puisque bénéficiaires d'une protection légale efficace. Exposés aux mêmes risques et motivés par les mêmes enjeux, les auteurs, les artistes et les producteurs seront de plus en plus contraints de s'allier pour défendre la production musicale.

Comme il a été indiqué maintes fois dans le texte, les relations entre auteurs, compositeurs, artistes-producteurs et utilisateurs se sont tissées sans aucun respect des droits des uns et des autres. L'administration collective des droits, en imposant la formalisation des rapports, aboutira à une redéfinition du rapport à l'utilisation des créations musicales. Les uns apprendront à exercer et défendre leurs droits, les autres leurs obligations. Ainsi, la production d'un CD ou d'une K7 ne se réduira plus à l'achat d'un ensemble de compositions musicales qu'un producteur pourra reproduire à volonté, mais portera sur l'obligation d'obtenir l'autorisation permettant de reproduire ces morceaux sur une quantité fixe d'exemplaires. A partir de ce moment, un nombre plancher pourra être exigé, ce qui permettra de dépasser rapidement le tirage moyen de 1 000 à 2 000 unités généralement en pratique. Cette augmentation du nombre de CD ou de K7 conduira, d'une part, à la mise en place d'un système de distribution capable de satisfaire les 2 millions d'habitants de Port-au-Prince et d'autre part, à l'extension du marché, d'abord sur le territoire national, ensuite à l'échelle internationale.

Aujourd'hui, la prédominance de musiques étrangères dans la programmation de 99 % des médias électroniques façonne inévitablement le goût du public. Le recours à la gestion collective, tout en garantissant le respect des droits, mettra en évidence un paradoxe. La préférence pour les musiques étrangères drainera la majorité des droits perçus au profit des auteurs et artistes d'autres pays. Si l'on veut que la diffusion médiatique de la musique rapporte aux auteurs et artistes haïtiens, il importe d'imposer un quota afin d'assurer une plus forte présence des œuvres locales sur les ondes. Cette présence renforcée conduira certainement à une augmentation de la rémunération proportionnelle. L'attribution de revenus alléchants aux auteurs et artistes, tout en donnant à ces derniers un statut économique enviable, pourra non seulement contribuer à professionnaliser l'industrie musicale mais aussi à attirer les jeunes vers ce sous-secteur culturel devenu de plus en plus porteur.

L'exercice de la gestion collective, le respect réel des droits pourra également aider à des actions de formation, de production et de promotion. En effet, selon une enquête réalisée dans le département de l'Ouest pour le compte du Ministère de la culture et de la communication, il y existe à peine 10 écoles de musique. D'autres données ont révélé que le pays dispose de 10 studios d'enregistrement dont 2 dits professionnels. Les 350 groupes qui occupent la scène musicale locale participent rarement à de grands événements internationaux. Comme cela se fait dans beaucoup d'autres pays, une partie des droits perçus devra être consacrée à une action culturelle susceptible d'assurer la production d'une musique de qualité et une présence internationale permanente.

2.3. Music and intellectual property rights (IPRs) for business and society A new agenda on interactive learning for capacity building in LDCs

by Birgitte Andersen¹ and Fiona Macmillan²

Abstract

This paper studies the channels, mechanisms and conditions that create music innovations and transfer them into commercial use, growth and prosperity. We are especially interested in how Intellectual property right (IPR) systems can act as a stimulus to, or constraint on, creative or innovative behaviour, as well as in the performances of the overall socio-economy. We argue that commercialization of IPRs for business and society needs to take place in an entrepreneurial paradigm of close collaboration, interaction and dialogue between industry, government and university or academia. We address the specific role and scope of academic research in such an entrepreneurial paradigm. Finding that our knowledge concerning the dynamic elements of IPRs is still seriously incomplete, we highlight central research questions, which ought to be addressed in order for policy and business management to move forward. The paper has implications for what constitute appropriate IPR regimes, policy and IPR management for business and society in the least developed countries (LDCs) and the global socio-economy.

Introduction: the regional socio-economic innovation system problem

It is now commonly recognized that innovating regions have higher gross domestic product per capita, and that innovation is important for increasing local competitiveness, local productivity and local living standards.

- But what are the channels – and which mechanism and conditions apply – to generate innovations and subsequently transfer them into commercial use? How does this process diffuse and create wealth for firms, regions, nations and societies?

Such questions are especially relevant for the poorest regions of the world in general, and they are indeed important for the countries specializing in the music industry. Many less developing economies are good in innovating music but they are less good in creating all the product, process and application innovations associated with their music, as well as less good in transferring their music and application innovations into commercial use and economic operation. Hence, they often let developed countries or major corporations do this job and instead stick to production of primary resources (in this case musical ideas). That is, countries with good transfer systems also tend to do better.

General policy has not helped the situation of the regional innovation and transfer problem. Much general policy has been for many Governments to subsidize research and development (R&D) programmes and institutional building. However, it has been illustrated that poorer

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regions with most need for Government and business spending on R&D and institutional building have the least capacity to absorb such. Benefits from R&D programmes and entrepreneurial support tend to be absorbed by the rich regions, which tend to have big successful companies, and the role and scope of institutions such as the collecting societies are often poorly understood in least developing countries and hence poorly used. Furthermore, education, universities and academic research in rich regions also seem to flourish, because the rich companies in those regions collaborate and channel more funding into universities in terms of R&D, investment and training. Hence, in many international and national Government programmes that actually spend more on R&D, entrepreneurial initiatives and institutional building have often been found to make things worse in terms of regional divergence. It was especially interesting that this evidence was not merely at the level of nation States but even more so at the level of regions within countries (Oughton, Landabaso and Morgan, 2000). Inequality is not just a global issue but also a national one. Consequently, we can conclude that innovation push policy for music industry development (including funding of R&D programmes, education and training, building institutions such as property right regimes and collecting societies, and so on) is not enough to get poorer regions to innovate and to make them appropriate the benefits from such innovations.

This leaves us with two interrelated puzzles. First, the evidence provided above suggests that innovation supply push policy is not enough. We also need to understand the role of the demand side. In this context, we need to stimulate demand for innovation and institutions in the poor regions in order to avoid the possibility of all public policy initiatives (including public and private research funding and entrepreneurial support) being exploited and absorbed only by the firms and universities in the rich developed regions. We need to stimulate a local demand for R&D as well as investment demand in business and education and research. In this context, we need to help poorer regions to express their innovation demands and needs. This includes coordination of firms' demands for innovation inputs (their desire and capacity to use knowledge and supporting institutions) and regional supply of such. We also need to open gates for external innovation sources and partners capable of addressing the innovation needs of the regional economy. Science, whether pure or applied, has always been an international enterprise and transnational corporations (TNCs) have an increasing influence on regional and national R&D efforts (Andersen, Metcalfe and Tether, 2000, p. 30).

The second puzzle is that the evidence above suggests that more information is needed for policy makers regarding an understanding of the dynamics and the performance of socio-economic innovation systems. We are convinced that socio-economic innovation systems are not neutral. By its own working the system may create stakeholders, monopolies and other social constraints and power structures. In this context it is vital to ask to what extent the emergence of the so-called big five – Warner Music, Sony Music, Universal, BMG and EMI – are an outcome of the “natural” market forces, or to what extent they are a reflection of market failure shaped from the interactive outcome of all the economic, social and political factors involved in the innovation and economic system. In accordance with conventional criticism of the notion of “perfect competition”, we have to bear in mind that suppliers or firms on the market are not homogeneous for the following reasons:

- They have different corporate cultures, including different inherited corporate norms and routines and practices matters.
- Their bargaining power and collaboration in the market vary. Such behaviour also includes heavy marketing and promotion (or more likely creation) of so-called popular (pop) music.

- The financial systems and institutional national contexts in which the firms operate vary.
- Overall access to the market and geographical distance varies.
- In addition, consumers are not homogeneous, as they differ in (i) income, (ii) taste, (iii) social, political and cultural attitude, (iv) language, and (v) overall access to markets.
- Furthermore, the notion of “perfect competition” does not apply, as markets are regulated by means and institutions such as IPR law and government-imposed standards that are part of setting the “rules of the game”. In a very gripping paper Aboites and Cimoli (2001) document how the trade-related aspects of intellectual property rights (TRIPS) framework does not promote and diffuse innovation in the Mexican innovation system, but rather has the adverse effect. In general, the lessons from Mexico confirm how imperfect competition underpins IPR-based industries, and in particular they illustrate how major TNCs use patents to block competition.

In addition, innovation systems may not be working because links within the system are weak or missing and such links need to be identified and strengthened or established. For example, IPR enforcement mechanisms are not very efficient or simply missing in many LDCs. In this context, the important role of the royalty-collecting societies in enforcing the IPR system needs to be appreciated.³ As argued in Andersen, Kozul-Wright and Kozul-Wright (2000), it must be recognized that while the IPR regime may underpin the industry, the enforcement of the system of royalty flows between music users and copyright holders is by no means automatic, but needs to be monitored and administered through a complex machinery.

However, both the existence and institutional capabilities of collecting societies differ across regions and countries, and also, even collecting societies are not neutral. As argued by Andersen, Kozul-Wright and Kozul-Wright (2000) the structure (that is, the division of labour in managing music rights) of collective societies differs significantly across countries in terms of their size (that is, numbers of members and affiliates such as publishers, total revenue, number of employees); their internal organization, including whether they are public or private bodies, eligibility criteria, the structure of the board and members’ influence, their methods of monitoring copyright use and their basis for revenue distribution; and their external organization, including methods of licensing, structure of tariff agreements, and international collaboration.

Hence, all those factors on the supply and demand side of the market stimulate as well as constrain the way in which the innovation and economic systems function and operate, and they thereby have a say in the configuration or structure, including social constraints, of the system. We agree with the evolutionary perspective (Andersen, Metcalfe and Tether, 2000; Andersen, 2001) that the emergence of socio-economic structures and the shaping and appropriation of innovative activity may be distributed across a wide matrix of interrelationships, social constraints and trade-offs throughout the socio-economic system. In this context the macro socio-economy is regarded as the complex outcome of various micro relationships and interactions, rather than the aggregation of the behaviour of micro units. (Thus, our system

³ As it would be far beyond the majority of “copyright holders” to negotiate and collect their own royalties, royalty-collecting societies have evolved to perform this service. They are essentially non-profit-making monopolies controlled by their members. They are central private agents in most countries, but they are providing almost a public service standing halfway between the legal and financial systems, on the one side, and the system of music right holders and music users, on the other side, and thus cover both the macro and micro aspects of the economic system enforcing the IPR legal system when it comes to music rights and agreements as well as monitoring of those. Basically, their function is to license work in which they hold copyrights for specific uses, to monitor use of copyrightable material and collect revenue, and to distribute the revenue as royalties to members of the society.

perspective takes a holistic approach in which a system represents “more” than the sum of its parts.)

This paper is concerned with the second puzzle. That is, it is concerned with understanding the internal dynamics of the socio-economic innovation system. In this context, we are especially interested in addressing the role and scope of IPRs for sustainable socio-economic development in the LDCs.

We will now address the importance of dialogue and interaction between Government, industry and university or academia within socio-economic innovation systems, as well as address the importance of interdisciplinary perspectives in problem solving. We then move on to address the specific role and scope of academic research in such an entrepreneurial paradigm, especially in relation to music and IPRs for business and society.

1. Interactive learning for capacity building

Innovation strategies for regions (which may be anything from local, national, to supranational entities) must be about creating a productive “innovation system” geared for socio-economic development. By an innovation system is meant the “institutions and mechanisms supporting technological outcomes” and the “set of institutions whose interaction determines the innovation performances of national firms” (see Andersen, Metcalfe and Tether, 2000, for a review of the innovation system literature).

A study by Nelson and colleagues (1992), which covers fifteen nations, is the only large-scale attempt to put the concept of an innovation system within a comparative framework of study. The countries studied were: Argentina, Australia, Brazil, Canada, Province of China, Denmark, France, Germany, Italy, Japan, the Republic of Korea, Israel, Sweden, Taiwan Province of China, the United Kingdom and the United States. One of the considerable strengths of the work is its breadth of view, indicating that there is much more to innovation processes than public and private R&D. The various contributions trace the public and private institutions directly or indirectly involved in innovation activity, their profit or not-for-profit basis, together with the broader cultural and national characteristics, which shape innovation activity. Evidence has shown that more successful nations and regions have constant and continuous interaction and dialogue between university (academia), industry and Government agencies. The systems of innovation argument can be compared to the arguments illustrated in the Triple-Helix model of university-industry-Government relations (Etzkowitz and Leydesdorff, 2000; Etzkowitz, Webster, Gebhardt and Terra, 2000; Sutz, 2000). Such views were also expressed in a major report of the OECD (1992) that addresses the key relationships that link technology with economic growth processes.

Thus while firms naturally appear as the primary innovating institutions they are supported by complementary activities of universities and other research organizations. Universities, for example, provide general support in terms of advances in generic knowledge and experimental methods and in terms of the supply of trained minds. However, they also interact more specifically with firms especially, but also public governmental institutions, in more or less tightly specified bilateral relationships to jointly develop and share knowledge. So significant have the latter become in some areas (for example, biomedicine) that the traditional openness of academic science has begun to be questioned by several observers (David and Foray, 1996).

In the system of innovation context, Lundvall and colleagues (1992) investigate the processes of interactive learning embedded in social relations. Lundvall focuses on the interdependence

within those social relations, which have conventionally been treated as independent, atomistic economic subjects. In this context we are especially interested in applying his concept of interactive learning to users and producers of knowledge across interdependent institutional contexts (Government agencies, business and university or academia). This matter is elaborated below.

We believe that the mission in such an institutional setting must be “interactive learning for capacity building”. Such a mission should be about education, basic and applied research and development, and commercialization of ideas, as well as transformation of these into socio-economic development and prosperity locally as well as globally. In this context it is vital that public policy (including public funding) in poorer regions (just as in developed regions) gets both business and university or academia (education, training, research centres) directly involved. Economists supporting the innovation system approach have also stressed a re-evaluation of traditional approaches to policy, and a greater need for interaction between technology policy, industrial policy, and other aspects of public policy such as education and training and research. They stress how those issues have become important for regional development in relation to employment and income distribution issues (Oughton, Landabaso and Morgan, 2000).

Problem solving should not happen within isolated institutional contexts

As argued above, an important aspect of a socio-economic innovation system is that learning is an interactive process amongst several interdependent players. Instead of having knowledge expansion and problem solving embedded within isolated channels of development we need constant and repeated interaction and dialogue between Government agencies, industry and university or academia. We need to put different players together.

In this context, universities, industry and Government provide different institutional contexts in which knowledge sources are processed or manipulated.

- Basic knowledge and perspectives in broader contexts are mainly provided by universities;
- Applied knowledge is mainly provided by firms and Government agencies;
- Commercial knowledge is mainly provided by firms.

Also Government, firms and academia are faced with different types of problems, and they ask different kind of questions.

- Abstract and theoretical problems are mainly addressed in a systematic way by universities;
- Real-life concrete problems are mainly addressed in an unsystematic ad hoc (often day-to-day) fashion by industry and Government.

Those different institutional contexts in which knowledge sources are processed or manipulated are highly complementary. For example, although music is craft-based within one institutional context, we need a whole range of other institutional contexts of specialized tasks and skills when developing associated product, process and application innovations, and when transferring these into commercial use and economic prosperity for business and society.

It is the collection of these institutional contexts and the associated specialized tasks or skills of the three parties (Government agencies, industry and academia) that provide the channels, mechanism and conditions through which music and related application innovations of individuals and firms are processed and transformed into improved economic performance at the firm, regional, national and global levels. In this context, we would like to argue that communication and interaction between Government and industry, on the one hand, and universities, on the other, are not only crucial at the regional system level, but also at the level of overall policy-making by international agencies such as WIPO, UNCTAD and the WTO, which must search for basic knowledge and understanding of many central issues concerning how the innovation system functions and creates industrial dynamics, prosperity and growth across regions. Such insight requires systematic research of the kind that can only be provided by universities or academia.

Even single problems cannot be defined within any single discipline

So far, we have discussed the different institutional contexts in which the knowledge sources of the music industry are processed and manipulated in different ways. We now turn to the knowledge sources, which are processed or manipulated within those contexts, in order to get a picture of the complex range of intellectual or knowledge properties of the music industry.

As we are well aware, the exploitation of knowledge embodied in product and process innovations and new ideas, or related to intangible assets and symbolic material, is in most mature economies protected through the use of IPRs. The study of IPRs covers a diverse range of subjects, disciplines and legal regimes (Torremans, 1998; Cornish, 1999). As such it includes a range of legal areas, such as property, contract and competition law, as well as involving a wide spectrum of economic, political and social issues relating to, for example, trade, monopoly, competition and accountability. Hence, in order to make the copyright system, for example, work as the basis of domestic capacity building in relation to cultural industries, it must be understood in the context of a range of factors that involve complementary knowledge sources regarding legal regulation, economic issues, matters of business management and strategy, as well as a broad range of political, social and development issues. Hence, although music is to a great extent created through craft-based cultural knowledge and musical talent, a whole range of interdisciplinary knowledge sources of specialized skills is needed when developing associated product, process and application innovations in order to transfer it into commercial use for economic growth and prosperity.

As an example of the commercial management of music resources we emphasize here the role of the royalty-collecting societies of the music industry. From an interdisciplinary knowledge viewpoint, it is relevant to mention that royalty-collecting societies have evolved, in large part, to reduce the transaction costs arising from the continuous and complicated task of monitoring and policing copyright exploitation and infringement, both domestically and internationally. This means building institutional capabilities with respect to knowledge about copyright legislation, as well as knowledge of (including building an interactive system of) all music right holders, music deliverers and music users. Their services involve technological capabilities in tracking the flows of copyrightable materials and monitoring royalty payments. This also means capabilities in establishing credible legal threats in the event of copyright infringement. Finally, collecting agencies can often play a large role in the industry, lobbying policy makers on music-related issues, providing information on the business to their members, promoting musical talent, through scholarships, and so on, which require a whole different set of capabilities. Hence, the role and capabilities of collecting societies are complex and important.

It can be argued that the collecting societies have come to play a central role in transferring, and in many cases creating and combining, knowledge resources in innovation systems. A mixture of the types of knowledge sources which are relevant to the function of the royalty-collecting societies was identified in Andersen and Miles (1999) as:

- **Aesthetic knowledge:** knowledge and appreciation of craft-related services such as performing art, for example music. It is of course very important that the royalty-collecting societies understand and appreciate the product, which is the basis for the rights which they are monitoring. The importance of this is associated with the importance of cultural knowledge and market awareness.
- **Cultural knowledge and market awareness:** knowledge and appreciation of institutionalized cultural aspects of their services. This is intertwined with market awareness and appreciation of the dynamics and interests of subcultures and associated practices as well as intertwined with knowledge about symbolic material. (Here the cultural aspects include everything from ethnic group cultures to business culture, leisure culture, shopping culture as well as other subcultures.) This paper will not elaborate upon the institutionalized cultural aspects of music use and the expanding socio-cultural dimension of music in society, such as the commercialization of the “cultural attributes” related to certain types of music and the cultural aspects of ways of receiving music. This aspect is, however, very important as most services of the collecting societies are client-based. This type of cultural knowledge is also relevant for the collecting societies to the extent that it helps them (i) to establish the most appropriate licensing agreements for the most appropriate users, and (ii) to develop the most appropriate information systems to track music use and monitor distribution of the royalties to the music right holders on an interactive basis.
- **Science and technology knowledge:** knowledge in applying new technologies to the functions of the collecting societies, and concerning future possibilities for such applications, as well as of the challenges that may be presented by technological change in music production, distribution and consumption.
- **Social, organizational and strategic management knowledge:** knowledge about administrative structures and procedures. This type of knowledge applies especially to knowledge intensive business services (KIBS) such as the royalty-collecting societies, whose ways of service delivery as well as capturing returns are mostly information and communication technology based, giving great scope for linking up and integrating agents within (and across) service production, service delivery and service consumption, as well as agents capturing returns from those.
- **Information-based knowledge:** this type of knowledge is associated with services of the collecting societies concerning knowing and managing a lot of information material such as institutional and legal knowledge (for example, IPR laws) as well as information about music use which is often processed into databases.

Whereas these types of knowledge domains were once distinct they have now become integrated (which is also one of the key aspects of the new service-based economy). For example, design of innovation systems such as those of the collecting societies, based upon science and technological knowledge, cannot be independent of organizational, strategic and management structures, just as appropriate organizational, strategic and management structures are not independent of the science and technological possibilities in interactive information system design. Inasmuch as these types of knowledge may seem neutral in form they are certainly not neutral in service function, as they are both dependent on the specific object to which their service is related. That is, knowledge concerning service monitoring in the royalty-collecting societies has to take into account the types of information that need to flow in an organized strategic fashion, as well as to take into account the human resources using the

interactive information systems of the royalty-collecting societies that are related to the institutionalized cultural aspects of music right holders as well as music users. Those latter types of knowledge involve aspects of cultural knowledge and market awareness, as well as aesthetic knowledge related to the service product and monitoring the service.

- Know-how: finally, a successful interaction all these types of knowledge domains when capturing rent from music intangibles is of course embedded in some kind of tacit element concerning knowing how to coordinate this sort of problem solving successfully.

Thus the collecting societies, operating as KIBS can be seen as contributing to a knowledge infrastructure within the music industry. It is essential to stress here the importance of interdisciplinary to all problem-solving processes regarding all aspects of the socio-economic music innovation system. The example of the royalty-collecting societies merely functions to illustrate one institutional context in which such interdisciplinary problem-solving processes happen.

Towards new modes in the production of knowledge within socio-economic innovation systems

Whilst at this point we do not plan to draw any firm conclusions concerning innovation processes within the music industry (as this requires a research agenda involving a full range of systematic research on the topic), it is clear that they involve, in at least some crucial cases, a combination or articulation of different types of knowledge that often have roots in different types of arts and sciences and disciplines, as well as in different public and private institutional contexts. This view can also be compared with de la Monthe and Paquet (1997), Gibbons, Limoges, Nowotny, Schwartzman, Scott and Trow (1994) and Etzkowitz and Leydesdorff (2000), who suggest that new modes in production of knowledge (and thus innovation) have evolved, the success of which depends on social cohesion, trespassing and crossing disciplinary fields, as well as on better networks and communication across public and private institutions.

3. Conclusion: the role and scope of research across disciplines and across institutional contexts in a new entrepreneurial paradigm

Accordingly, we believe that real problems in real life do not occur within any single discipline or only engage narrow (or specific) institutional contexts, and that they therefore should not be treated as if they did. For any meaningful attempt to be made to develop domestic capacity in a manner that will enhance rather than undermine aspirations towards sustainable socio-economic development, we must recognize the importance of (i) interdisciplinary research across disciplines previously following isolated channels of development, and (ii) dialogue and interaction across different institutional contexts involving Government agencies and business managers within academic research, and vice versa.

Research objectives

As copyright provides both the legal and commercial foundations for the music industry, a serious research agenda needs to appreciate and understand the importance of the dynamics of an interactive system of university, industry and Government stimulating constant and repeated interaction. This is mainly in order to shed light on what the channels are – and which mechanisms and conditions apply – to generate or create innovations and subsequently transfer them into markets for commercial use. Also, an examination of how such processes

diffuse and create wealth and prosperity for firms, regions, nations and societies needs to be the centre of attention.

Research needs to address the role of IPRs in relation to central context-specific and performance aspects of the new economy, locally as well as globally. An overall objective should be to understand empirically and theoretically the micro aspects of the IPR system in the context of the changing form, function and impact of cultural resources, occurring as a consequence of the development and outgrowth of new technologies. In this context, issues about international corporate regulation need to be linked with issues about the way in which the private sector exploits IPRs over cultural output (Macmillan, 1998b). We know, for example, that a feature of the recorded music business globally is that it is dominated by five major corporations, which display a high degree of horizontal and vertical integration. Horizontally, these corporate interests are integrated in business empires spanning a number of areas of cultural endeavour (for example, publishing, films, music and broadcasting), in relation to which they own a vast body of copyright interests. Vertically, these corporate interests generally have a stranglehold over the distribution process. Where a new technology threatens that distribution stranglehold, we can expect litigation, as in the Napster case.⁴ So far as developing countries are concerned, this type of stranglehold over an emerging music business may mean that the benefits of that business, in development terms, are not reaped by the developing country or even by those individuals who are responsible for the creation and development of a flourishing music culture. The bottom line here is that the insights into the micro aspects of the IPR system derived will help us to understand the dynamic factors and processes which underpin competitiveness and accountability in the new global economy, which faces an increase in the role of intangible capital, knowledge-based services, globalization processes, and e-business and e-commerce.

Such research ought to be considered in the light of the rationales of IPR systems nationally and internationally. That is, IPR regimes are often associated as much with the underlying moral, ethical, social, philosophical and information-based rationales as with the direct economic ones (Andersen and Howells, 2000; Andersen, Kozul-Wright and Kozul-Wright, 2000; Andersen, 2001; Drahos, 1996; Waldron, 1993). Ultimately, the insights will provide a platform to improve IPR-policy and IPR-related business management within the context of achieving sustainable cultural development and social integration in the new global economy (World Commission on Culture and Development, 1996).

Research questions

Therefore, in shaping legal regimes in order to build business capacity in developing countries we need to ask and answer the following types of questions.

⁴ For the texts of the preliminary documents, see http://www.riaa.com/Napster_legal.cfm. The injunction against Napster issued by US District Court Judge Marilyn Patel on 26 July 2000 was vacated by the 9th US Circuit Court of Appeals on 28 July 2000: see *A & M Records, Inc v Napster Inc*, Case Number C 99-5183 MHP (ADR), US District Court, Northern District of California, San Francisco, 26 July 2000. On 12 February 2001 the 9th US Circuit Court of Appeals handed down a decision affirming that the unauthorized distribution of copyright works by Napster was a copyright infringement and remanding the case back to the District Court for modification of the injunction so that liability arises only where Napster fails to prevent the distribution of copyright works after being notified that the work is on its system. On 6 March 2001 US District Court Judge Marilyn Patel issued a modified injunction to reflect the decision of the 9th US Circuit Court of Appeals. Since then the parties have been engaging in periodic legal skirmishing over the monitoring and enforcement of the injunction. On recent developments, see, eg, "Judge Steams; Napster Cooked?" *Wired News*, 10 April 2001, <http://www.wired.com/news/print/0,1294,42963,00.html>.

- How is income from copyright generated, appropriated and distributed?

While the legal structure of intellectual property rights is well discussed in the literature (Besen and Rasking, 1991), there is a pressing need for a theoretical and empirical understanding of how IPR legislation and regimes interact with the micro aspects of business and society, including company strategies, business practices, standardization processes, social constraints and social exclusion. (Andersen and Howells, 2000; Andersen; Kozul-Wright and Kozul-Wright, 2000; Burke, 2000).

Furthermore, the analysis of IPR in the economic literature has often been subsumed under the more general discussion of technological change, where the focus has remained on the role of intellectual property in industrial research and development, where patents play a key role (Andersen, 2001). However, copyright and trademark based industries remain under-researched, as with most service industries, with insufficient information or reliable data on their role in business and economic performance and on the way in which they affect issues of business accountability (Griliches, 1992; Bainbridge, 1996; Macmillan, 1998a, Andersen and Howells, 2000). Many sectors (especially intangible services) of the new economy are based on creative expression and intangible assets where copyright plays a critical role.

- How do methods of generation, appropriation and distribution of income from copyrights influence sustainable socio-economic development?

The economic importance of copyright industries in developed market economies has been thoroughly documented (Andersen, Kozul-Wright and Kozul-Wright, 2000; Jehoram, 1989), and these are becoming all the more important with the rise of KIBS.) (On the nature and growing importance of knowledge-based services, see OECD, 1996; Carayanuis and Alexander, 1999; and Andersen and Howells, 2000). Questions related to how income (or rent from IPRs in this case) is generated, appropriated and distributed, and how it influences sustainable development or business and social constraints have theoretically, and to a great extent, been discussed in the economic literature in relation to agriculture and the manufacturing industry, rather than knowledge-based services, and particularly they have not been discussed in relation to intangible aspects of the new economy (Andersen and Lundvall, 2000). Also, business scholars have had only limited insight into issues dealing with intangible goods and services (Freeman and Soete, 1997). Finally, the existing socio-legal literature on the exploitation of IPRs has not largely concerned itself with the dynamic effects of that exploitation on the general profile of corporate power, or the accountability of that power, either nationally or internationally (see, however, Macmillan, 1998a, 1998b; and Bettig, 1998).

Not only does the scholarly literature show little understanding of the micro aspects of the IPR system (for example, the relations between IPR incentives and corporate strategies and accountability), but also the current IPR legal framework and enforcement system is similarly limited in dealing with IPR (especially copyright) issues. This is reflected in recent Copyright Directives of the European Union (EU) and in the World Trade Organization (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement) (see Blakeney, 1996), as well as in other initiatives such as the Communication and Information Industries Directives of the United Kingdom Department of Trade and Industry (DTI).

When aiming to understand the dynamics of the socio-economic innovation system in the LDCs, we will also be able to shed light on whether it is the lagging institutions enforcing IPRs that

hamper sustainable development, or whether it is the dynamic processes internal to the socio-economic IPR system that are counter-productive, or whether it is both.

- How, if at all, does copyright law facilitate – or constrain – the growth of socio-economic power of corporate interests in the media and entertainment area?

The existing socio-legal literature on IPRs has not largely concerned itself with dynamic effects of the exploitation of IPRs on the general profile of corporate power, or the accountability of that power, nationally or internationally. The existence of industry concentration around IPRs in general and, in the context of this paper, copyright in particular, is well documented, but we do not entirely understand to what extent IPRs are responsible for this concentration.

- What are the socio-economic effects of corporate power bases in the media and entertainment area?

Here we are interested not only in accountability of firms, but also the extent to which the facilitation of corporate dominance is consistent with the promotion of diversity and multiculturalism. This issue was noted by the World Commission of Cultural Development (1996).

Further relevant questions to raise in this context include:

- To what extent is the exercise of private power over copyright interests related to the achievement or failure of cultural development ?
- What mechanisms might be adopted to achieve competitiveness, accountability and legitimization of the copyright-based power of the media and entertainment sector ?
- Finally, can new technologies be expected to make inroads into corporate power based on copyrights ?

With respect to this last question, the Napster case gives rise to some concern. Not only does the outcome of this case suggest legal limitations on the ability of new technologies to make inroads into such corporate power, but also it indicates the way in which copyright might function to stifle innovation in music delivery. Generally, however, there is a need for further consideration of how information and communication technology (ICT) may change the way in which music is created, delivered and used. We believe that it will revolutionize the dynamics of the music industry or socio-economy, as well as the role of the players within it. (This is an issue that was highlighted in the Introduction to this paper.)

It is relevant here to remember that IPRs for the music business are about not only protecting the music itself, that is “content” (which is protected mostly via copyright and neighbouring rights), but also about “content delivery” (which is generally protected via patents on music carriers, such as magnetic tapes, LP, CD, MP3; sound systems for recording and playing; musical instruments; and ICT, and software and hardware for broadcasting). It is not enough to master or control only content or delivery. Rather, effective exploitation of the relevant IPRs appears to demand control of both content and content delivery. Consequently, there is a current trend for institutional mergers across content and delivery systems in the ICT-based sectors (especially within media and banking). The AOL and Time-Warner merger is an example of this trend.

We think that if we can understand theoretically and empirically the operation of IPRs (especially copyright) legally, economically and socially, it is possible to answer the questions posed in this paper. This, however, requires systematic research on those issues, drawing upon the type of research universities provide. As a result, it will be possible to put in place a legal regime that has a chance of ensuring that the benefits of emerging domestic capacity in the cultural industries generally go to developing countries and their nationals, and not to the shareholders of global business enterprises.

So far as copyright law, specifically, is concerned, its content may be considerably circumscribed by the TRIPs Agreement, but this Agreement is on the agenda for re-negotiation at the 4th WTO Ministerial Conference in November 2001. Interdisciplinary academic research and cross-institutional dialogue with governmental agencies and businesses may provide the basis for informed negotiation on the ambit of the TRIPs obligations with respect to copyright. After all, cultural resources, like biological and genetic resources and traditional knowledge, are areas in which developing countries are particularly rich. It is important in the renegotiation of the TRIPs Agreement that developing countries secure amendments that allow them to fully exploit those riches.

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SESSION 3

**RAISING THE VOLUME:
POLICIES AND BEST PRACTICE CASES
IN THE MUSIC INDUSTRY**

3.1. The recording industry and the dominant global agenda: the dilemmas of roots and routes

by Keith Negus

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My observations here are drawn from research I have conducted on the music industry (mostly in Britain, the United States and Puerto Rico, and Japan) in which I have mainly focused on the acquisition and promotion of artists, and the corporate strategies which shape this process. I have tried to trace the institutional dynamics which both allow and impede the movement of an artist from local obscurity to public recognition. My comments here are really reflections on some of the ideas which have emerged from this research. In writing this paper I'm very conscious that many people who are contributing to this forum have a huge amount of knowledge and experience of the international music industry, and the factors which influence the circulation of recordings. So, I hope that what I present here is more than just stating the obvious or repeating what others have written, although, as those of us who love music know, there is often a certain value in the repetition of familiar themes.

I want to raise three questions. These are signalled in the title of my talk. First, how might musicians and their representatives work with or against the agendas of the international corporations involved in music production and distribution? The second question concerns the issue of roots or foundations. How might musical roots be established that can provide a sense of permanence which will weather the storms of fashion? My third question concerns geographical routes and the importance of movement for the vitality of musical creativity. Music cannot be contained within geopolitical boundaries (whether nation State or continent). What are the benefits and disadvantages of this?

As is well known, a small number of major corporations account for the vast majority of income derived from the sales of recordings across the world. This does not necessarily mean that these corporations account for the diversity of recordings being produced and circulated at any one time (in quantitative terms). But they are involved in financing the production and distribution of the bulk of recordings that sell in large numbers and make the most money. And they have the power and institutional infrastructure to collect this money, according to their own preferred regimes of remuneration and rights. Hence, these corporations are able to exert a defining influence on the character of contractual relations and the institution of copyright.

The major recording corporations have pretty clear and straightforward agendas and corporate strategies. They wish to maximize the sales of their artists' recordings, and they seek ever better ways of finding ever more purchasers who will pay for more music in ever more ways. Over recent years copyright has become one of the key institutional imperatives shaping agendas within the media and entertainment industries as a whole, defining a particular notion of individual authorship (and specific ideology of individualist creativity), and encoding particular assumptions about where the public domain might be and what the public can legitimately do. A skim through assorted music business publications since the early 1990s might lead you to reach the conclusion that the opening up of ever more record label offices in different parts of the world is driven more by a desire to enforce copyright locally and promote the sales of existing artists than by a desire to open up to new sounds and ideas. As other contributors are

focusing on copyright I shall move from this issue and deal with the “global” strategies adopted by the major record companies.

I put the term “global” in inverted commas here because since the late 1980s the major labels have been increasingly presenting themselves as “global” corporations concerned with “global markets”. Yet despite the numerous references to the term, there are not simply “global markets” waiting out there on the planet or spontaneously forming as citizens gravitate towards certain artefacts and not others. The “global market” is an idea that is constructed in a specific way by the music business (and made up in a contrasting but similar manner by other industries). As I have written about this at greater length elsewhere,¹ here I shall just summarize the key judgements which emerged from my interviews with senior executives in the music industry. These judgements inform how the major companies construct what they call global markets. These factors are important for understanding how international agendas are established. I’ve abstracted six judgements made by senior executives in the major record companies:

1. Economic judgements about the number of potential consumers who can be reached and assessments about parts of the world where the corporation may have difficulty collecting revenue.
2. Political judgements about areas of the world considered to be “unstable” or where certain types of music are banned for moral or religious reasons.
3. Financial legal judgements about the existence of copyright law that will ensure that recordings broadcast by the media, played in public and purchased, will generate rights revenue that will accrue to the corporation. Hence, the “global markets” tend to be those which have strictly enforced copyright legislation and highly priced CDs rather than cheaply priced cassettes (so, at the moment, Japan is considered an important global market, whereas India is not).
4. Marketing judgements about the arrangements for the distribution of recordings (the availability of radio, retail outlets, television broadcasting); they assess the spread of the technologies of musical reproduction (tape machines and CD players).
5. Judgements about visual images – about faces, bodies, clothing styles – those that are considered more suitable for what is called an “international audience”.
6. Aesthetic judgements about the instrumental sounds, tempos, rhythms, voices and melodies that are perceived to be able to “travel well”, a point I will explain in more detail in a moment.

In this way the “global” is imagined in terms of a series of very particular criteria. These criteria become focused on the category of international repertoire, a term routinely used within the music business. International repertoire is marketed to what is called a “global” market, which means that the recordings are released simultaneously in what the record corporations consider to be the “major” territories of the world. The category of international repertoire can be contrasted with “regional repertoire”, recordings that are released in a broad area (such as Spanish-language popular music in Latin America or Mandarin pop in east Asia), and “domestic repertoire”, recordings released solely in one national territory. In practical terms international repertoire refers to a list of very specific artists who will receive preferential promotion. These are the sounds that will receive top priority and maximum investment. All major labels have their

¹ *Music Genres and Corporate Cultures*, Routledge, 1999.

global priority list. Artists are selected and admitted to this priority list according to very specific criteria. Musically, there is a clear preference for a type of artist who sings ballads, or soft melodic rock songs in a standard variety of accent-free English, and who does not refer too explicitly to grounded identities of place, class or ethnicity.

This immediately makes it difficult for artists who do not conform to the criteria of international repertoire, as this category sets an agenda which informs acquisition policies, and the prioritizing of performers, from their earliest days of signing a contract.

If we think of the music business as operating within a field of cultural production (to borrow loosely from the ideas of Pierre Bourdieu²), we could view this field in terms of a series of aesthetic hierarchies and struggles for position. Within this field, different genres, different artists and different parts of the world occupy different positions. Across this musical field, there is a continual struggle for recognition and reward. Musicians, and their representatives, are continually engaged in a struggle to be recognized as a certain type of artist. Being labelled as a rock, or a country, or a world music, or reggae, or a techno artist has consequences for how that artist will be treated. Musical classification can impact upon how much money will be invested in an artist, and on how he or she will be recorded, marketed and distributed.

At the apex of these struggles is the category of international repertoire. Whilst musicians may well be inspired to adopt the characteristics of a particular musical style, it can be economically advantageous to be labelled in one way and not another. Being admitted to the category of international repertoire, and conforming to its aesthetic and behavioural codes, will result in increased financial investment. In the long term, if leading to success, it could mean admittance to an exclusive artist aristocracy.

The struggles I am alluding to here occur within an economic and aesthetic space structured around a series of metropolitan centres, which set commercial and creative agendas, and these are located in Western Europe and the United States. Within this broader context, a key dynamic during these struggles is that of migration. Indeed, migration is an issue which is central to any consideration of the international music industry. I am thinking of two types of migration here. First, physical migration, the geographical movement of people from one place to another. Second, stylistic migration, the aesthetic movement from one type of musical genre to another. The two are often related.

Musicians have always moved, travelling from place to place. This is not a particularly modern phenomenon. But today the music industry has a great influence on the type of migrations which may occur, and this influence could be felt as soon as the first recordings began to be produced and distributed. Performers travelled from the countryside into the cities, from the south to the north, from east to west. For example, musicians moved from Caribbean islands to New York City or to London or to Paris; or performers travelled from North Africa to Paris. This was not simply motivated by greed, it was in part motivated by a desire for contact and communication with other musicians, and to gain access to a different public. It has also been increasingly influenced by the location of studios, record labels and other associated media. Many musicians, in various parts of the world, have made a conscious career decision to migrate to metropolitan centres (as have novelists, film makers, painters and dancers).

This immediately raises a number of issues. Do such movements inevitably involve musicians changing their style? If so, do we view this as a creative transformative process, or is this a

² P. Bourdieu, (1993) *The Field of Cultural Production*, Polity.

betrayal of a musician's origins and background? Is it a betrayal of the people and cultural practices they left behind? If cultures are always blending, creating hybrids, should we distinguish between more positive and negative blending? How should we think about the musicians who begin producing more for the markets of the metropolis and the elite parts of the world (the major markets defined by the recording industry)? Do they do this willingly? Do they do it under duress, perceiving no alternative? Do they do it strategically, as a way of gaining access to the system, with a view to achieving an autonomous position within the music business? Is this latter option really feasible? Could (and should) Governments and policy makers play any role here? These questions have occurred to me as a result of my own research. I have no easy answers here, but the questions surely require further attention from researchers and informed discussion amongst interested parties.

A further set of questions concern the cultural and aesthetic consequences, particularly the often voiced concern about a potential reduction in musical diversity across the world. Artists sometimes face two stark choices – to go in one of two directions. Either they move towards conforming to the so-called international repertoire agenda (by changing their vocal styles, singing in English, modifying their instrumentation, camouflaging their musical origins in an attempt to be perceived as more “international”). Or they direct their efforts towards the requirements posed by the category of “world music”. Here musicians must actively exploit their origins, emphasize their ethnicity, and promote themselves in the metropolitan centres as artists from exotic other places. International repertoire asks artists to deny their place and ethnicity; world music asks them to foreground it, but in a very particular way. Both pose dilemmas. For creative artists the possibility of developing new hybrid forms may seem attractive. But if you do not fit the existing categories you might be neglected.

There are many potential tensions here, between location and movement (or what I have called roots/routes). All trees have roots and branches. How might new roots be established that will provide an anchor, a stable nurturing environment within which musicians can produce? How might musicians be provided with a supporting structure so that they will not be blown away following the winds of fashion? Music and musicians do not just have export value, they create vibrant localities. Musicians contribute to the cultural life, economics and politics of a locality whether neighbourhood, city or nation.

But can stable rooted musical cultures be established whilst allowing for the geographical movements desired by performers? After all, intellectuals, artists, writers, poets and musicians all travel. Whilst some may wish to return to their place of origin, others have only a desire for escape. In addition, many creative people do not see themselves as bounded by and belonging to a city, nation or continent. They reject those voices who claim them as their sons and daughters. Instead, they wish to part of an international artist community (whether this idea is an illusion or myths it is a real belief). Such a stance poses a dilemma for those interested in questions of policy at a local level. Does it matter if musicians do not return? Do they draw attention to the locality regardless (even if they do not pay local taxes or bring back economic revenue)? Will they attract others (musicians, producers, audiences, tourists), and will this be economically and culturally beneficial? A critical issue here concerns how the economic well-being of local or national musical cultures has to be understood within the context of an ever greater sense of outer-national musical life and cultural creativity. Can small nations benefit from their obvious musical creativity, even if their musicians choose to migrate (permanently or for lengths of time) elsewhere?

Is it possible or even desirable to create routes, lines and pathways different from those set up and maintained by the metropolitan magnets of the music and media industries? Can alternative

networks and agendas be formed within or outside these existing structures? I have no easy answer to these questions, but I do think they are important, and I do think that any music industry policy for LDCs will have to grapple with the issues which arise around roots and routes.

3.2. Musical works and copyright protection in Brazil

by **José Carlos Costa Netto**, *Chairman
Dabliu Discos, São Paulo, Brazil*

I will discuss briefly Brazilian experience in independent musical production and share with you some ideas about fostering this type of production worldwide, with a view particularly to maintaining cultural quality in the new Brazilian music. Anyone interested in Brazilian music who goes to a disc mega store in New York, such as Tower Records, Virgin or HMV, will be surprised to find that the Brazilian music CDs no longer have to be looked for among the title “world music” or even Latin music. It is a fact today that Brazilian music, because of its variety and quality, has won a separate and important place for itself on the shelves of the big record stores in the largest cities of the world. But what kind of music is being sold in large retail chain outlets in the United States? A foreigner going to Brazil will soon note that the Brazilian music that is finding its own niche in the world is not the mass-produced sound being heard on our most popular radio and TV stations.

What accounts for this contradiction?

1. The mainstream of the music business: mass medium influence and levelling down

The notorious “market laws”, used basically by the large economic groups in their priority pursuit of increasing profits, are implacable: their success is due to the volume and speed of musical product sales and not to the development of artistic or cultural quality. Priority is therefore given to disposable entertainment, to the detriment of an enduring quality music market. This durability is not limited only to the country itself, but is also assimilated by other international markets. Let there be no mistake, therefore: the Brazilian music that today accounts for 70 per cent of the Brazilian record market, and also for practically the entire pirate industry active in Brazil, is composed basically of disposable entertainment consumed by the Brazilian population, the great majority of which are teenagers, as well as those who are susceptible to this aggressive marketing and who, although adults, very often have no access to more complete informative and cultural resources and end up hostages to the strong influence of the mass media.

2. The artistic relationship and the evolution of the independent musical production market in Brazil

Notwithstanding a few pioneer enterprises prior to the 1990s, it has in fact been only in the last decade that independent phonographic production has grown in Brazil. This is due mainly to the following:

- (a) The music produced expressly for the mass market, the increasing disregard for artistic quality as a standard for new releases and, especially, for assessing new musicians on the market; and
- (b) The evolution of digital technology, which has made excellent phonographic results (recording) possible, at accessible costs.

In this scenario, several Brazilian composers, performers and producers of high-quality music have moved away from the isolation of musical and poetic-musical creation to concentrate on recording. Undoubtedly, they also try to smuggle a minimum of cultural survival into this predominantly mercenary environment.

Nevertheless, the independent music market is taking hold in Brazil. At present there are some 400 small Brazilian record companies, as against the five large multinationals (Universal, Sony, BMG, Warner and EMI).

The number of CDs produced independently on the Brazilian market is beginning to be representative: of the 100 million records sold per year (Brazil is the seventh CD market in the world), about twenty 20 million are produced independently, which, in addition to the underlying cultural benefits, represents significant billings that can already be estimated at close to a hundred million dollars a year.

3. The difficulties of conventional dissemination and marketing of independent music

One should not disregard the fact that a large portion of the independent phonographic production is also concentrated on “disposable” entertainment, with a view to larger profits. Even with this commercially more attractive option it does not survive, however, owing to poor organization and a lack of investment potential, the latter being found only in the large players on this market (the above-mentioned five large recording companies).

Accordingly, with or without relevant concern for culture, and in spite of its development, independent production in Brazil has not reached its potential consumer public more widely because it still comes up against the great obstacle to its access to the mass media (basically, radio and TV), and, consequently, to conventional and department stores and other more significant (quantitatively) means and points of sale available to the Brazilian market.

This negative picture therefore also applies to Brazilian quality music, hampering publicity and sales. What have the alternatives been?

In the field of the conventional media, the independent companies that struggle to promote quality music have managed to survive to a certain extent as a result, basically, of the following activities:

- (a) Record dissemination
 - i. Access to certain more culturally selective cable TV broadcasters;
 - ii. University radios;
 - iii. The printed media (newspapers and magazines) of a more cultural outlook;
 - iv. Disclosure by the Internet (though still somewhat tentative).
- (b) Sales
 - i. Direct sales by the musicians themselves (mainly at shows);
 - ii. Sales points that also have a certain cultural connection (bookshops that also sell records, cultural centres, etc.);

- iii. Alternative sales points (such as news-stands, in the case of better-known musicians or more attractive recording projects);
- iv. Promotional editions by companies (that take up cultural incentives); and
- v. Distribution (although still small) by the Internet;
- vi. Export to more developed countries (mainly those in Western Europe and North America, as well as Japan).

4. How to overcome these difficulties?

However, it is noteworthy that in spite of the above problems it is possible to find in the sumptuous megastores of New York City, as well as in other important centres throughout the world, a significant portion of the current quality music of Brazil. What does this mean? It means that unlike disposable entertainment music, whether or not produced independently, basically for consumption in the same country (or market) where it was produced, quality music is more likely to attract interest and acceptance worldwide. If it has the necessary support, it can cross its country's borders, generating in return relevant economic and cultural development benefits. How can we then, mindful of these signs, surmount the obstacles to making independent musical production known throughout the world, particularly when it has intrinsic cultural quality?

The Brazilian experience, which in many ways is not very different from that of other countries, suggests a few solutions. I would like to mention three ways I believe would be more likely to succeed, provided that strategic support and funds (and investments) were provided by international organizations for the promotion of independent production of quality music worldwide:

- (1) Promoting more organized and efficient communication and distribution of this kind of musical production via the Internet, allied to safe and streamlined copyright protection;
- (2) Sponsoring projects in the more far-reaching means of communication, basically radio and TV, both cable and open-channel, for broadcasting cultural quality music programmes, and for events of the same kind (fairs, shows, festivals and the like), both national and international;
- (3) Implementing technological, operating and tax incentive facilities in activities that are relevant both from the international viewpoint and from each country's own, in order to improve worldwide circulation, publicizing, distribution and availability to the potential consumer public of independent musical production, particularly that of cultural quality.

5. What are the advantages of such support to independent musical production, its broadcasting and distribution, especially to cultural quality music?

In the current musical scene governed by market rules (without any concern for quality, but rather exclusively for quantity), the benefits of such support would be enormously wide-ranging:

- The evolution of the art of music in the market now dominated by disposable entertainment would balance commercial interests in general, and also by the economic revalorization of more culturally qualitative repertoires;

- The expansion and democratization of musical production, also favouring enterprises at present in a marginal position, bringing dividends in the form of cultural and economic progress to developing countries and regions as well, or even to those that are less developed, but have a culturally relevant regional music potential; and
- Efficient copyright protection would guarantee an effective economic return directly to the composers, performers and producers of music (i.e. the sources of all musical creation), to enable them to continue supporting and carrying out their activities, thus generating economic and cultural development assets for all regions of the world where music is created and produced to the benefit of all mankind.

Thank you.

3.3. The contribution of major record companies to developing music in emerging markets

*by John Sheehan, Managing Director
Sony Music – Ireland, Dublin, Ireland*

The world music market is dominated by five major record companies, namely Sony Music, Universal, Warner Music, BMG and EMI. These five companies control over 75 per cent of all recorded music sales. The question is often asked: is this a good situation? The answer is that free market forces have forged the market in this fashion. The independent record industry has not proved capable of sustaining itself. The majority of recorded music sales through major companies fall under the category of pop/rock. Of course, each of these companies has divisions which deal with classical, jazz and other categories.

The major companies have historically confined their operations to developed markets but, during the past ten years, have begun to expand into new territories in Eastern Europe, Africa and Asia. I think it is fair to say that record companies, whether they are small independents or major companies, can only operate satisfactorily if strong copyright laws exist and are enforced. Also, there needs to be an internal market in existence. It goes without saying that if there is no recorded music market in a territory, there is no business future for any record company. One may argue about the benefits of exposing least developed markets (LDMs) to the phenomenon of Western pop and whether it could be considered to be a cultural negative. I do not think it is for me to argue either way on this matter. From my own experience, I can say that exposure to what could be termed Western pop, dominated by United States and United Kingdom produced music, has resulted in Ireland being a major player in the world music market and ranking among the top five countries in the world's pop market.

This certainly has had an impact in Ireland on the creativity level in traditional music and folk music, which in the 1960s was an exceptionally strong category. The reason for the decline of this category of music is more to do with the changing profile of Ireland's population and modern communication methods. Improved communication methods have an impact throughout the world, including underdeveloped countries. Satellite TV is enabling even the poorest countries in the world to experience Western culture. I believe that in the years ahead, there will be a progressive blurring of the boundaries between the various cultures that exist throughout the world. Major record companies have a history of forging alliances with distributors or independent record companies in territories that are initially not large enough to warrant setting up their own operations. These alliances usually include a distribution or licensing deal for their catalogues. This normally means the employment of a senior executive in the territory to oversee the operation of their alliance.

This executive would invariably also have responsibility for A & R activity (the signing of local artists). All major record companies expect their local affiliates to develop a strong roster of repertoire from their own territory. Many affiliates of major record companies have a significantly higher level of sales from local artists than the international rosters available to them. This, I believe, is the great strength of the majors – if even a very small percentage of artists signed locally have the potential for international exposure, a ready-made infrastructure is available to exploit this opportunity globally and, if successful, very significant benefits accrue to the country of origin. The other opportunities which exist are for local artists to record with artists from other cultures. There are a number of successes in this category already and the expansion of major

record companies' activities should expand and grow this creative process. Also, the blurring of cultural boundaries will enable the mixing of musical cultures and will result in the creation of very exciting music in the future.

For example, artists from Africa who have made an impact on the world market include Youssou N'Dour, King Sunny Adu, Ladysmith Black Mombasa and Blunder Boys. The value of music has, as a cultural and economic industry, taken a long time to achieve the recognition it is due. Governments generally have been slow to recognize the benefits of this universal industry, which may in part be due to the rather poor image the industry developed in the 1960s and 1970s owing to excesses. Least developed countries need to build a legal and trading environment that will facilitate the establishment and growth of a recorded music industry. In addition, an educational and training capacity for artists will enhance natural creativity and interaction. These are areas that Governments and aid agencies should focus attention on.

Access to instruments and recording facilities should be subsidized and, if possible, grant-aided. A programme of work experience placements of key personnel from least developed countries with record companies and studios in suitably developed countries should be established. Exposure to proven systems and production processes, combined with an introduction to the creative process, should assist greatly in spurring development in least developed countries. The music business is a major global industry comprising artists, record companies, publishing companies, promoters, retailers and many more supporting businesses. It is an industry that will continue to flourish, although it will see massive changes in the years ahead in its method of distribution. Technology will replace the need to manufacture physical carriers – by this, I mean CDs, mini-discs and tapes.

This should enhance the prospects for development of the industry in underdeveloped countries, as the level of investment required to record and deliver music to the consumer should decline. In summary, I believe that major record companies will respond positively to markets where music is being created and where a market can be established.

Thank you.

3.4. Opportunities for the people of the LDCs through creative expression

*by Michael Ibo Cooper, CEO
Freshear Music, Kingston, Jamaica*

Greetings. My certified name is Michael Cooper and I am also known as Ibo. I am currently a teacher in the Caribbean, Latin and Jazz department of the Jamaica School of Music. The school is one of the schools that make up the Edna Manley College of the Visual and Performing Arts. The college is the English-speaking Caribbean's only institution for tertiary training in the arts. I also played an essential role in the origin and subsequent popularity of two of the best-known bands from Jamaica, namely the Inner Circle and Third World. In 1973 cellist/guitarist Stephen "Cat" Coore and I started Third World after he gave up his position as lead guitarist and I gave up my position as keyboardist and band leader of the Inner Circle.

The human expression that I refer to as the creative statement is an utterance, expression through movement or a combination of both that materializes the inner human energy that we call ideas. The resulting creative process usually entails:

1. Origin of the idea in the mind;
2. Making the idea real to the perceptive senses; and
3. Fulfilling the ideas intended or the unintended purpose and effect.

The process generally leads to a constructive or destructive use of human energy.

My experiences, so far, indicate to me that on the constructive side, people around the world have a need to express, and are going to express, the creative statement with whatever facilities are available, by whatever means are available, in whatever way or form available, through whatever medium is available and at the intelligence level available. This need to express is even more evident among young people, who, filled with the novelty of life and the world, and with the future ahead of them and their high energy level, are usually bubbling to express their creativity. The popularity and appeal of the creative statement is going to depend on how effective it is in communication of the invisible inner needs of the recipients. This must be taken into account when criticizing young people's trends, remembering that "every generation blames the one before" but every generation thinks the next one is going crazy. In countries where there are economic and social hardships, the creative statement also provides a system of tolerance and survival. My experiences also indicate to me that young people would prefer peaceful, entertaining and constructive use of their creativity than to continue the destructive experiences in their strife-torn existence. As an example, I take you to Malawi, where in my role as manager of the first privately owned and most popular radio station, FM 101, I visited a band called Melchizedek made up of male and female aspiring musicians in their teens and twenties. To my pleasant surprise, their chant-style vocal sound was accompanied by a young aspiring drummer, who for lack of a drum set, improvised with wire and bottle caps for cymbals, plastic stretched across old paint cans for toms and snare drums and clothes hangers for drum sticks. The guitarist built his "guitar" from boxes, boards and, clothes line.

Young people like these show that their tendency is towards the constructive creative statement. They show that they will not be hampered by a lack of convenience arising from the absence of electronic or other modern, expensive technological development but will of their own volition cut a flute from bamboo, drums from scraps, crate guitars and basses from boxes,

old tubs, sticks and string. It was this kind of innovation that achieved the world-renowned, highly distinctive steel pan cut from old discarded oil drums.

While the makers of the creative statement indicate that they find the rhythms and melodies of life so essential to their ability to cope with and survive the harsh economic and social conditions that they face, many of the leaders inside and outside the least developed countries consider the creative statement to be of minor importance and, as a business venture, high-risk. One of the results of this is an increasing tendency to direct youth towards using implements produced by destructive use of the creative energy. Such implements are not usually produced by the users, whereas their constructive creative statement can be and often is. The result is that youth who indicate a natural preference for building and using implements of harmony and entertainment are often misdirected into becoming officially appointed, seasoned killers. Where and what would Bob Marley be today had he been directed in this way? Bob Marley, who went from humble beginnings like most of these young people to national honour as the Honourable Robert Nesta Marley, and to international recognition as possibly the best song writer of the 20th century, contrasts vividly with a 14-year-old from any of the war-torn countries. The latter has probably already killed so many people. Another result is the seemingly apparent ease with which destructive implements are supplied, compared with the reluctance to support creativity. This reluctance is displayed right here at this conference in:

- (a) The absence of an affiliated cultural event. Such an event would be a perfect way of demonstrating the fact that some of the richest art comes from the depths of suffering; and
- (b) The lack of youth expression and opinion right here at this youth conference. Yet if the popularity of expression is beneficial to the powers that be in gaining popularity for themselves, they give the statement makers token support in an effort to curry favour.

Opportunities that arise from all this are the following:

1. The opportunities to redefine development to include the creative statement and its potential;
2. The opportunity to cease utilizing imported destruction that only further deteriorates an already bad situation. People want to and can create beauty from immediately available resources.
3. The educational opportunities for which the creative statement is a perfect vehicle for capturing people's attention and educating them simultaneously. Given the destruction caused by the AIDS epidemic, constructively occupying the mind, especially the minds of young people, in the least developed countries could have the beneficial result of reducing their reliance on sex and intoxicants for entertainment;
4. Opportunities for earning could help in poverty alleviation through employment. e-commerce plays an extensive role in broadening markets as well as the possibilities in film, TV, the press and media, video, the legal profession, management, the accounting profession, crew work, nutrition, publicity and manufacturing;
5. Instrument manufacturing, especially manufacturing and popularizing indigenous instruments;
6. National and personal recognition and gratification;
7. Helping with young people's social issues through mentoring and building self-esteem through production;

8. The larger international recording companies could recognize the music of the world in its truest sense by keeping themselves informed about artists who are popular in their own country, and could help to make people worldwide aware of their work;
9. Successful artists could assist other artists from their country of origin and do whatever they can to assist in those countries.

Participating in the New Way Education and Community Services Organization and appearing as a musical team called MURCY (Musicians United Regarding Crises in Youth), we successfully mounted a musical education programme called HUM (Healing, Unification and Murcy) in schools in Jamaica and the United Kingdom. The show/lecture was presented to all levels from kindergarten to Leeds, Oxford and Cambridge universities. We utilized the music of the Caribbean and some of its African roots to entertain and educate youth about music, the music business, music as a career (from both the practical and support areas), and to discuss social issues and possible solutions. Our experiment was based on research that indicated how exposure to music and training in music enhanced mental activities and improved education, improving students' abilities even in other subjects. Our conclusions indicated that positive music could have a positive effect. The programme was utilized in Florida, together with a company known as Nebular Arts, where we went beyond workshops and performance to assist in training towards major talent exposure opportunities. The JCDC (Jamaica Cultural Development Commission) is one organization that through the auspices of the Government mounts such a talent opportunity annually in commemoration of the countries' emancipation from slavery and subsequent political independence. There is a national song contest that offers prize money and recording careers opportunities for the winners.

Khalil Gibran says: "...when in the market place ...and if there come the singers and the dancers and the flute players, --- buy of their gifts also. For they too are gatherers of fruit and frankincense, and that which they bring, though fashioned of dreams, is raiment and food for your soul." When it comes to soul food it is clear in this 21st century that the people of the world do not care where it is coming from as long as it is nourishing. Hence we have internationally acclaimed artists from Mali such as Sali Keita, from Haiti, Boukman Eksperyans and from other parts of the world, irrespective of whether they are still considered least developed countries or not, great artist like Yousouf N'Dour, Kadjia Nin, Lucky Dube, Aster Aweke, Bob Marley, Carlos Santana, Third World, Angelique Kidjo, Baba Maal and the Chieftains, just to name a few. The artists have gained world fame paving the way for the future generation. We wish them a good journey!

Thanks.

**Statement by Mr. Rubens Ricupero,
Secretary-General of UNCTAD and of the Third United Nations
Conference on the Least Developed Countries,**

at the closing ceremony of the conference
Brussels, 20 May 2001

Mr. President, honourable ministers, ladies and gentlemen.

This morning, at the session on financing growth and development, the Minister for Cooperation and Development of the Netherlands, Eveline Herfkens, said that having been personally involved in the difficult discussions that had led to two major decisions – the “Everything but Arms” initiative of the EU, and the OECD’s decision to untie aid – she could assure all those present that neither of those decisions would have been taken had it not been for the Conference, that it was pressure from the Conference which brought those decisions into being. You yourself, Mr. President, said the same in your press conference, as did Mr. Nielson and Mr. Lamy in theirs. Thus, it is individuals who were involved in those decisions who are saying that this Conference has already made possible some important progress in vital areas.

But could we say that in the light of those decisions, we should be satisfied with the results? I am afraid not. We know that, many other decisions advocated, for example by the NGOs, have unfortunately still not been taken. We knew, of course, before we came to Brussels that the current state of international cooperation on development would not allow major breakthroughs in such areas as debt relief – not because there is no agreement on the principle, but because the current initiative is under funded. The same could be said of trade, because the trade negotiations will have to continue, and the WTO members will have to deliver on the promises. And it could also be said of official development assistance (ODA), where I am afraid the outlook is even less promising.

But in the face of this conclusion, what should we have done? I can see only three possible roads open to us. One would have been to go back to confrontation, as in the past, and we all know this would lead us nowhere. The second road would be resignation or passivity, which I am afraid, is a very serious threat, particularly regarding ODA, where I have to say that even people who are really committed are showing a strange passivity in the face of prevailing trends. This sometimes reminds me of the words of Yeats, in his poem “The Second Coming” – “The best lack all conviction, while the worst are full of passionate intensity”. This is an area where we should not give in to passivity. And I pledge to you that UNCTAD at least will continue to show rationally, rather than passionately, why it is necessary to reverse current trends if we want to break the dependence on aid. The third road would be to seek a new method of making progress. And this was what we tried to propose.

I know very well that this is only the beginning of a change in the way we do business when it comes to development issues. But we started from the assumption that if there is no consensus or political will at this point to move beyond what we were able to deliver, we should find ways of creating more consensus and more political will. And it was on the basis of this realization that we proposed – and the Intergovernmental Preparatory Committee agreed to – a new approach, which would be to keep the intergovernmental process, and to give it all the centrality it deserves, but to have another process working in parallel with this approach, one in which we

would not be called on to approve agreed language in a formal negotiating process among States. Rather, we would identify concrete, tangible problems and organize a debate to reach some positive outcomes.

This approach was based on the idea of broadening participation as much as possible: first, by bringing in all the international organizations, not in a purely formalistic way, but by giving them full responsibility to organize the events in their area, without any interference from outside. This was done with a large number of organizations. I personally visited 14 of them, speaking not only to the directors but also to the staff, in order to motivate them. They were asked to organize the debates and to deliver practical, tangible results. I must say that, as always in human matters, the outcome is of course mixed. Some organizations were better at the task than others, but I would like to stress that all of them were here and we had very strong participation by the World Bank, for instance, lending considerable credibility to many of those discussions.

The other idea behind the new approach was to broaden participation by bringing in the new development actors, and this is the great difference between this Conference and the previous ones, because here in Brussels non-State actors participated in an unprecedented manner. We had organized civil society, we had parliamentarians, we had mayors, we had the private sector. Ten or 20 years ago, it was not so clear that development was above all a responsibility of a dynamic private sector working in the framework of a market economy. Today we understand that, and as a result it would not have been possible to hold such a conference about development without bringing in the actors of development. We had chief executive officers from some of the biggest transnational corporations in the world, participating side by side with entrepreneurs from small and medium-sized enterprises, women entrepreneurs and young entrepreneurs, all of whom discussed not a diplomatic document but concrete problems with practical solutions.

I am only sorry that not all the participants in this Conference were able to experience the richness of those debates at first hand. In my case, as I had the institutional duty to attend practically all of them, I can tell you that those who did not follow the debates missed something of great value. To give you one example of a typical day – Wednesday – I started on health, moved on to migration, then to city-to-city cooperation among mayors, a technical meeting on export opportunities for small- and medium-sized enterprises, a fifth one on education, and then a sixth one on the environment. And in those debates there was much convergence, or consensus, and much political will. This was because they were discussing concrete projects – projects on railways in Africa, for instance.

So it is through this process that we can make progress. That means more than just discussing agreed language in documents; we have to move forward, even if it is by small steps. The deliverables, for instance, are of different orders of magnitude, but even if modest, they are all useful; their principal contribution is to create a momentum or a movement forward, on behalf of those who no longer have hope.

As I said, it is a pity that those who could not follow the debates also missed out on some real highlights. For example, during the discussion on migration, a minister from Mali told his personal story, of having had an excellent job in Europe but suffering discrimination against immigrants and deciding to go back to his own country to start a new life, even without the promise of a decent job. Or again, the woman from Mauritania who wanted to export camel cheese to Germany, found an importer willing to buy her entire production, but cannot sell the cheese because the European Union has no regulations on camel cheese, which is a very concrete problem.

And finally, there was the amazing diversity of going from human rights to fighting AIDS, to discussing export opportunities and the music industry. Yesterday, after opening the music industry event, I was interviewed by the French Service of the BBC for French-speaking Africa, and they asked me, "Don't you think it odd or strange that in the same conference where you are fighting AIDS, which is a tragic problem, you have also hosted an event on participation in the music industry?" I replied, "Well, you have to understand that of course fighting AIDS is a much higher priority, because it has to do with survival and with the sacred value of human life, but life is variety; life is not only suffering, pain, disease. Life is also music, and music is also a factor of development." The music industry now represents an annual market of \$50 billion a year, while coffee, which used to be the first commodity after oil, now accounts for only \$17 billion a year. And the LDCs are present in this field, boasting many creators – Cesaria Evora from Cape Verde, and many others from Senegal, Mali and elsewhere – who are making their mark on the international market.

And this brings me to my conclusion, something we should never forget: the LDCs are not only recipients of aid. We use the wrong nomenclature – donor countries and recipient countries. Of course, the LDCs need solidarity, they need help, but they also have a lot to give. They may have been behind in terms of Western technology, but they boast very ancient cultures. They have creativity, they have labour to offer, and the products of their imagination; they create music, but also colourful fabrics; they have the capacity to contribute to the emergence of a true globalization – not globalization confined to the concept of the unification of markets for trade, investment and finance, but globalization that can promote understanding, cross-fertilization of cultures, communication among human beings and a dialogue of civilizations. This is the real aim of this Conference, and I am sure that the LDCs have much to contribute to it.

Thank you very much.

Furthermore, the discussion focused on the national and international dynamics of the music industry and their implications for repertoires and the creative practices of musicians. A critical issue concerned the role of the major companies and their potential to both impede and facilitate musical creativity and the construction of markets within which a diversity of styles might flourish. It was particularly instructive to balance the critical comments of musicians, music business entrepreneurs and academia. For example, what is known as “Brazilian music” is not necessarily the same as the music that is played daily on the radio in Brazil. Internationally successful artists from LDCs are culturally, politically and economically significant; they can become ambassadors for a nation (perhaps more significant than politicians) and they can instil a sense of pride amongst a population. This in turn can help in directing the energies of youth towards more positive uses of creative energies, militating against the destructive tendencies which exist in many societies. Best practices and policies in a number of successful case studies, such as Ireland, Brazil, India, Sweden and Senegal, were considered with a view to sharing with other countries’ more successful experiences in the music industry. The main conclusion of the Youth Forum was that music is of crucial significance to any country’s political, economic, cultural and social life and that the music industry should be central to the economic and social policies of LDCs.

Although each LDC must adopt policies tailored to its own particular circumstances, lessons can be learned from those countries that have already successfully exploited their cultural assets. These lessons have a bearing on the management of copyright, partnerships between the industry and the public sector, access to capital, the use of new technologies, human resource development, training, and access to the media.

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