



International colloquium

# Culture for the Future

## Creativity, Innovation and Dialogue for Inclusive Development

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**Working paper TOPIC 3 – Towards an equitable, diverse and intersectional global cultural market**

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## Executive summary

Despite a promising recent increase in the volume of exports of cultural goods and services from developing countries, there is a persistent gap between these countries and their developed counterparts, with the latter remaining the dominant players in the cultural and creative industries market. The mobility of artists and cultural practitioners is increasingly hindered by restrictions on travels, which are in turn tied to the rise of anti-migration and nationalist sentiments. Trade agreements are putting high pressure on States to liberalise trade, while the new digital environment is challenging the public sector to review their policies for the protection of data and intellectual property. Dissuasive tax and regulatory environments, and inappropriate legal frameworks also limit proper access of cultural and creative industries to local, regional and international markets.

The discussion about access to markets in the cultural sector requires a multi-layered approach which takes into account the trade of cultural goods as such but embraces also the free circulation of creativity in a broader sense. Instruments such as the 2005 UNESCO Convention, as well as adequate institutional frameworks and funding structures, need to be thoroughly implemented in order for cultural expressions, goods and services to be protected and promoted in the global market. New kinds of policies and measures, based on the collaboration between the public sector, the private sector and civil society, are urgently needed to help reinforce capacities, access to information and communication technologies and promote the mobility of artists and the circulation of cultural productions. Moreover, international cooperation should play a key role to ensure that globalisation of the cultural markets does not lead to a reduction of cultural diversity but rather becomes a key factor to enriching cultural creativity, diversity and communication worldwide.



# 1. Overview of the flow of cultural goods and services from developing countries

In the field of cultural expressions, the scope of trade includes goods, services<sup>2</sup> and all related intellectual property (IP) rights. Statistics reveal promising examples from emerging economies such as Nigeria, where Nollywood is considered the 2<sup>nd</sup> largest employer after agriculture<sup>3</sup>, and Brazil, where CCI represents 10% of the country's GDP<sup>4</sup>. All the more revealing is the case of India, where the value of exports of creative goods jumped from 7.4 US\$ billion in 2005 to 20.2 billion US\$ in 2014. However, a broader view of the statistics, beyond these examples, reveals a rather alarming reality about the share of developing countries in global markets. Indeed, there is a persistent gap between developing and developed countries, with the latter remaining the dominant players in the market. The table, map and chart in Appendix 1 illustrate this point.

While the share of exports of cultural goods from developing countries shows a promising increase compared with previous years, the share of exports of cultural services remains very low. Moreover, while the increase in developing countries' share of exports of cultural goods has brought significant benefits, these are not equally distributed (Map 1). As a recent United Nations Development Program report has indicated, "Asia and the Pacific, Europe and North America account for 93% of the global CCI revenue and 85% of jobs. By contrast Africa, the Middle East and Latin America and the Caribbean have not yet capitalized on their potential."<sup>5</sup>

The paradigm shift brought on by the emergence of the digital sphere and the ongoing tensions in the geopolitical arena – which affect the freedom of movement of people, especially from the Global South (Figure 1) – are certainly not helping redress the inequalities between North and South. Indeed, traveling is a major condition for market access. However, restrictions on travels from the South to the North are getting worse even as developed countries remain the main target market destinations for developing countries' cultural goods and services.

Numerous are the cases of visa refusals reported by civil society activists<sup>6</sup>. Many practitioners, who used to get Schengen visas for periods of several months at a time, are now forced to grapple with the fact that that era is over. Their testimonies reveal a number of significant changes in the visa regulations for access to the Schengen space. Artists must often learn about those changes through painful experiences of expulsion or deportation. In February 2019, a group of three Moroccan dancers obtained visas for

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<sup>2</sup> Mobility of artists and other cultural practitioners is considered as part of cultural services

<sup>3</sup> <https://www.un.org/africarenewal/magazine/may-2013/nigeria%E2%80%99s-film-industry-potential-gold-mine>

<sup>4</sup> <http://scm.oas.org/pdfs/2013/CIDRP00451.cultura.eng.pdf>

<sup>5</sup> <http://hdr.undp.org/en/content/how-cultural-and-creative-industries-can-power-human-development-21st-century?fbclid=IwAROPJ99tjbnnHGwAFQzaW0IGTMXSHN36uZFG14tG5S3KCxQcOa9q2kjinYw4>

<sup>6</sup> [https://africasacountry.com/2018/12/the-most-powerful-currency-today?fbclid=IwAR3E7o7qN0AMT\\_g4wXFhS442TuIUN-S5b\\_dOzCjj1jgPyMxOPsHLYrS-ogk](https://africasacountry.com/2018/12/the-most-powerful-currency-today?fbclid=IwAR3E7o7qN0AMT_g4wXFhS442TuIUN-S5b_dOzCjj1jgPyMxOPsHLYrS-ogk)



the Netherlands. However, when they arrived at the Eindhoven airport, the border police refused them entry. Even worse, the dancers were locked in a detention center for five days and interrogated like criminals before being deported back to Morocco. When asked about this case, the spokesperson of the Dutch Ministry of Foreign Affairs told the French Press Agency “a visa doesn’t give automatic access to a country in the Schengen space. The border police is authorized to make their own evaluation on the admission into that space”<sup>7</sup>. The regulations that were cited to justify the dancers’ expulsion (and that of many others) are written nowhere, leaving practitioners without any way to access the necessary information or get prepared. The list of similar cases is long, but the data is scarce. Practitioners have been using social media<sup>8</sup> or petitions<sup>9</sup> to report on visa-related abuses. Organisations such as On the Move are also striving to bring attention these cases, but their limited funds don’t allow them to set up a mechanism for data collection or analysis.

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<sup>7</sup> <https://www.h24info.ma/maroc/detention-danseurs-marocains-aux-pays-bas-les-autorites-neerlandaises-bottent-en-touche/>

<sup>8</sup> <https://www.scotsman.com/news/opinion/joyce-mcmillan-festival-visa-problems-show-perils-of-hostile-uk-1-4781680>

<sup>9</sup> <https://www.ntgent.be/nl/nieuws/geen-visum-voor-congolese-artiesten>



## 2. Legal Frameworks

Trade in cultural goods and services is regulated by WTO agreements.<sup>10</sup> This framework has implications for the protection and promotion of cultural diversity, as mega-regional trade partnerships<sup>11</sup> put States under increasing pressure to liberalise trade. Meanwhile, the new digital environment must be adapted to include provisions covering e-commerce. Governments are using various methods<sup>12</sup> in their regional and bilateral trade agreements<sup>13</sup> to grant a special status to cultural goods and services, in recognition of their dual nature (cultural and economic).

The 2005 UNESCO Convention on the Protection and the Promotion of the Diversity of Cultural Expressions (hereafter “the Convention”) is designed to protect “the right of the parties to formulate and implement their cultural policies and to adopt measures to protect and promote the diversity of cultural expressions.” This right can be limited when the parties are committed to WTO agreements, unless they are using one of the methods mentioned above. Article 16<sup>14</sup> of the Convention stipulates that developed countries shall facilitate cultural exchanges with developing countries by granting, through the appropriate institutional and legal frameworks, preferential treatments to artists and other cultural professionals and practitioners as well as cultural goods and services from those countries. This provision is designed to give developing countries easier access to developed countries’ markets.

The EU is the only regional body that has ratified the Convention. It is also one of the parties that play a leading role in the field of trade in cultural goods and services, insofar as it uses the Convention as one of its frameworks in policy and strategy documents as well as in resolutions such as: Resolution 2016/2240(INI) “Towards an EU Strategy for International Cultural Relations”. The EU is also working towards the Convention goals through:

- The integration of preferential treatments in the Protocols on Cultural Cooperation attached to the EU’s Economic Partnership Agreements, e.g., with CARIFORUM States;
- The revision of the visa code, including the establishment of a “touring visa,” towards an improved visa application process;<sup>15</sup>
- The adoption of the Digital Copyright Directive.<sup>16</sup>

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<sup>10</sup> Such as General Agreement on Tariffs and Trade (GATT), General Agreement on Trade in Services (GATS), etc.

<sup>11</sup> Transatlantic Trade and Investment Partnership (TTIP), Trans-Pacific Partnership (TPP), Regional Comprehensive Economic Partnership (RCEP), Trade in Services Agreement (TiSA), etc.

<sup>12</sup> Cultural protocols, cultural exemptions, positive lists of specific commitments, formulation of some reservations or abstaining from making any commitments in the cultural sector, reference to the 2005 UNESCO Convention, etc.

<sup>13</sup> As is the case for example between the EU and other countries or regions like CARIFORUM, Central American States, etc

<sup>14</sup> <https://en.unesco.org/creativity/monitoring-and-reporting/thematic-monitoring/article-16-preferential-treatment>

<sup>15</sup> <http://www.europarl.europa.eu/legislative-train/theme-towards-a-new-policy-on-migration/file-visa-policy-package-%E2%80%93-visa-code-recast-and-touring-visa>



All these commitments require active implementation if they are going to contribute to the pursuit of the 2030 SDGs, especially:

- SDG 08, which calls for increased 'Aid for Trade' support, in particular for Least developed Countries
- SDG 10, which addresses sustainable economic growth and the reduction of inequalities in trade through special or differential treatment for developing countries.

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<sup>16</sup> <http://www.europarl.europa.eu/news/en/press-room/20190321IPR32110/european-parliament-approves-new-copyright-rules-for-the-internet>



### 3. Challenges

Both the 2015 and 2018 Global Reports monitoring the implementation of the Convention underlined a gap between the commitments made on paper and the reality on the ground. **The mobility of artists and cultural practitioners from developing countries** is one of the areas that illustrate this paradox. Whereas mobility is a critical condition for access to markets, the unprecedented increase in travel restrictions for citizens of developing countries points not only to a failure in the implementation of the Convention but also to a lack of coordination between the authorities promoting culture and those creating and implementing visa procedures. The visa refusal cases mentioned above are some of the many examples that highlight this gap. Even as the Convention is urging parties to grant preferential treatments to artists and cultural practitioners, visa policies and authorities are acting otherwise. One could speculate as to whether these authorities are even aware of the Convention?

A best practice illustrating positive coordination between stakeholders was reported in Switzerland's 2016 quadrennial periodic report. The Swiss Coalition for Cultural Diversity collaborated with the State Secretary for Migrants to create a handbook on visa and work permits granted in the framework of cultural projects. However, as the report states: "The Swiss Coalition stresses [...] that the authorities need to continue to actively support this process, in order to ensure that this information is widely distributed to the consulates issuing visas as well as to the employees of cantonal offices."<sup>17</sup>

The absence of coordination between visa authorities and those protecting cultural expressions is symptomatic of a larger problem: the **absence of strong cultural policies and the non-integration of culture in national policies**. For example, most agreements do not include clauses related to cultural goods and services, nor do they include specific preferential treatment measures related to such clauses. This is one of the reasons why developing countries are still struggling to access developed countries' markets. Another factor is **developing countries' lack of capacities (technical and financial)** to: produce goods and then export them; diversify their offer of exported goods and their target markets; and fight against piracy and the informal economy, the latter being harmful to the flow of goods. For example, most of Nollywood films are sold in DVD format on informal markets. In this regard, and given the importance of the informal economy in the global South, one might wonder if it is not worth tapping into that economy's potential, learning from it and exploring ways of integrating it within the economy at large? How do we develop collaborative strategies that will formalise activities that are currently taking place largely in informal economies?

The deficiency in capacities is present not only in public administrations, but also in civil society. In developing countries, civil society is playing a critical role in the development of the cultural sector, with artists and activists taking the lead in building the infrastructure for production and distribution, and filling in the gaps between institutional frameworks and realities on the ground. Across the Global South, civil society can be

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<sup>17</sup> <http://uis.unesco.org/sites/default/files/documents/reshaping-cultural-policies-2018-en.pdf>



credited with the establishment of local and regional initiatives, ranging from cultural venues and residency spaces, to training programs, to presentation and information platforms (festivals, biennials, fairs and web sites), to networks, touring circuits, funding programs and export bureaus, etc. This dynamic is however jeopardized by the **weakness of the financial and human resources** available in most contexts.

It is urgent that these challenges be addressed, especially considering that **the new digital environment is revolutionising the entire value chain**, putting intellectual property rights and the tax collection system in a more vulnerable situation, and creating opportunities for streaming platforms and multinational companies to circumvent national boundaries. Meanwhile, only a few countries are equipped with adequate policies and capacities to face this paradigm shift. To make matters worse, most big platforms are also data companies, which means that they can control the data on their products for the purpose of turning a profit. This situation has aggravated the scarcity in the statistics on cultural trade, statistics which are vital to decision-making on public policies and to the negotiation of trade agreements. Developing countries thus find themselves under increased pressure, as they suffer from a lack of data and adequate skills in the field.



## 4. Opportunities and recommendations

New kinds of policies and measures are urgently needed if we are to guarantee a fair and culturally diverse future. The responsibility for these policies and measures must be shared between the public sector, the private sector and civil society. All three must seize the opportunity to review policy frameworks together, with an eye to the following recommendations: **culture must be considered as an integral component of other policies**, including education, technology and trade; a specific approach must be developed for cultural goods and services, given their dual (cultural and economic) nature; and all parties must join forces at the national, bilateral and multilateral levels.

**National cultural policies are needed to support and strengthen cultural industries and expressions.** It is essential to work first at the national level: namely, to create adequate institutional frameworks for the development and protection of cultural goods and services, as well as access to those goods and services at the local level. Such frameworks can create a strong base for developing countries to fully participate in regional and international markets through their export strategies. The crucial pillar in this equation is the status of the artist in developing countries. Indeed, countries must urgently adopt “measures concerning the social status of artists; employment, working and living conditions; and professional and trade union organisations; as well as [...] relevant policies in this area”<sup>18</sup>. The consolidation of artists’ status is a condition for the protection of their intellectual property rights. Legal frameworks need to be reviewed so that creators may be properly remunerated. Moreover, it is vital that the sector enable the emergence of talents, nurture ideas, encourage learning and innovation, and empower its actors by reinforcing education and vocational training. Access to information, communication technologies and cultural statistics, and adaptation to digital environments are important components of the capacity-building process. Moreover, with cultural goods and services increasingly distributed in digital networks, there is a need for tailor-made, sector-based policy approaches (for example, new laws to tax digital distribution platforms).

Many of these missions have already been undertaken by the independent cultural sector, which still depends on international funding. In order to complement this financing, the sector must also **adopt adequate business mechanisms, models for creative SMEs, as well as the innovative means of financing already existing in other sectors** (financial investment, fiscal tax measures, micro-financing, etc.). Incubators and creative hubs are some of the mechanisms that should be implemented in developing countries. Finally, collaboration with the private sector in this field is crucial to support domestic markets.

**Strong policies, capacities and domestic markets are essential requirements for developing countries** to be able to access international markets, benefit from preferential treatments, and increase and diversify exports. They are also needed for

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<sup>18</sup> [http://portal.unesco.org/en/ev.phpURL\\_ID=13138&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.phpURL_ID=13138&URL_DO=DO_TOPIC&URL_SECTION=201.html)



developing countries to be in a position to refuse any treaty commitments that could be damaging to their cultural goods and services.

Regional markets hold great potential by virtue of their countries' proximity and shared histories and languages. Measures promoting the free movement of people within regions have proven to be efficient in creating dynamic cultural networks (e.g., Iber programs within the Ibero-Latin American countries, etc.). Hence the need to accelerate the regional integration processes underway and to support South/South cooperation.

As one of the strongest regional bodies and markets, **the EU can act as a role model and position itself as a privileged partner in the field by:**

- Reinforcing the existing cooperation measures (preferential treatments, trade facilitation, technical assistance, financial aid, policy support, fiscal measures etc.) to facilitate market access for cultural goods and services from the Global South, including through mobility schemes and other programmes;
- Encouraging South/South integration processes towards the development of regional markets;
- Supporting the ongoing work by civil society and independent actors in developing countries, especially those servicing and structuring the sector through funding programs, touring circuits and other platforms that stimulate the flow of cultural goods and services regionally and internationally;
- Exploring new ways of collaboration with public and private stakeholders as well as independent actors.

To maximize on these efforts, the EU and member states must **accelerate the implementation of a visa facility system for artists and cultural professionals from the Global South**. The restrictions on these professionals' mobility are only fueling the entrenchment of North/South and East/West divides, in line with the current global political landscape. Finally, it is worth restating that all cooperation must be based on principles of participation and equality while being inclusive of all parties.



## 5. Questions for the debate

The imbalance in the Global South cultural and creative market could be used as an incentive to stimulate South-South collaboration beyond the euro-centric geopolitical distribution of regions. Would the EU be open to supporting Africa/Asia collaboration, for example, instead of leaving that field to voracious players such as China?

To what extent are civil society organisations aware of the frameworks and mechanisms that regulate cultural goods and services? Is this knowledge studied and discussed only within academia and networks of donor-driven organisations, or is it also used by the actors whose main *raison d'être* is to produce and distribute goods and services? Is there a gap to fill in between two parallel worlds or is it necessary to review granting policies and mechanisms in order to guarantee producers and distributors flexible access to funding?

There is a serious lack of data and analysis regarding the mobility of artists and cultural practitioners. This lack has been highlighted and stressed in various research studies. To address this challenge, parties such as the EU and UNESCO need to work closely with expert organisations in the field (mobility information portals, networks and funds, etc.).

Should the artistic communities be organized in networks or advocacy groups on visa issues? So far, individuals have tried to find solutions by calling high-placed personal contacts to facilitate the delivery of visas on their behalf, but this method has proven to be unconstructive and unsustainable. Isn't it high time to move to another level of negotiations, with cultural representatives of EU member states such as EUNIC (European Union National Institutes for Culture)? Could we imagine a joint collaboration between artistic communities and EUNIC clusters, towards the establishment of a platform or a sort of help desk in the countries they are based in, to facilitate the delivery of visas for artists? This might not be an impossible goal in light of EUNIC's ongoing project of establishing European Houses of Culture.

Many EU funding programs have targeted the strengthening of national cultural policies in developing countries. What can we learn from these programs? What has worked? What has failed? Could we imagine a new pact of cooperation between states, civil society and the private sector, as a way of moving towards a well-structured and democratic cultural policy in the new digital age?

What can we learn from other players, such as international private foundations (The Ford Foundation, etc.) that support local civil society organisations in their delivery of services to the sector through grants programs (the Arab Fund for Arts & Culture, etc.)?

To what extent should support mechanisms target the development of infrastructure and policies rather than the final product? (Nollywood took off with a low budget for infrastructure; Netflix is now producing and buying Nollywood movies by offering infrastructure support)

How do we develop collaborative strategies that will formalise activities that are currently largely taking place in the informal economies?



How can CCI offer platforms for cultural production and exchange in which the values of equity, inclusion and diversity supersede monetary profits?

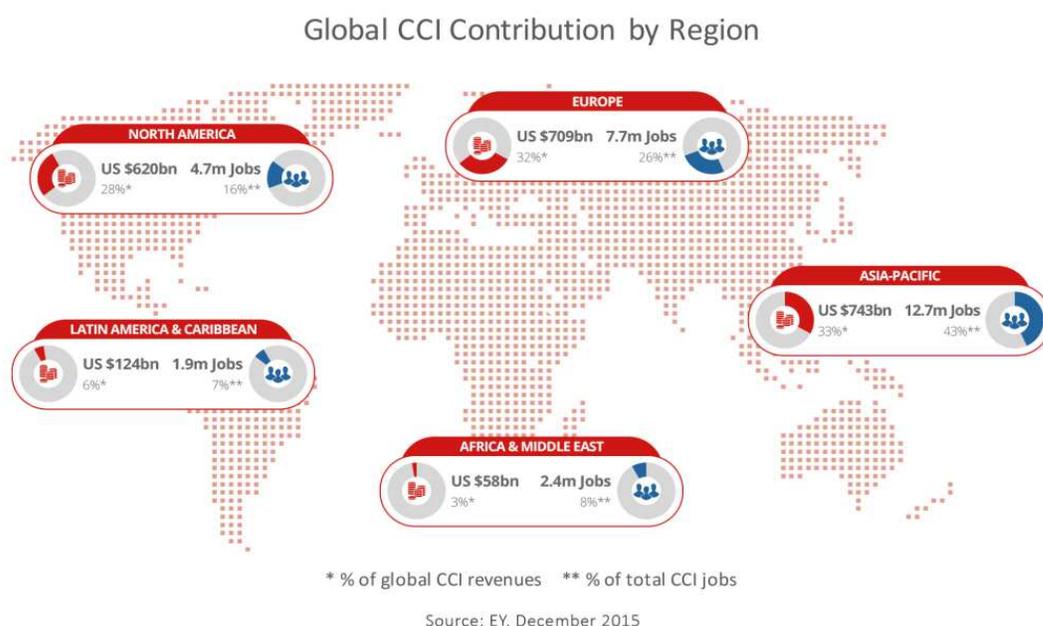


## Appendix 1

**Table 1.** Developing countries' share in exports of cultural goods and services

	Cultural goods (2014)	Cultural services (2012)
Total global exports	US\$ 253.2 billion	US\$ 128.8 billion
Developing countries' share (Including China & India)	53%	1.6%
Developing countries' share (Excluding China & India)	26.5%	

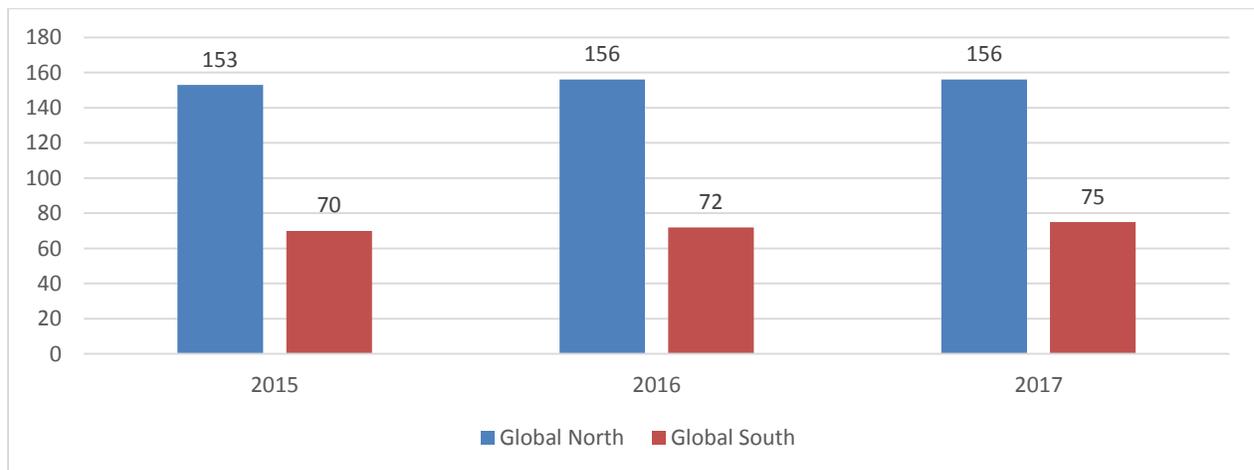
**Map 1:** Global CCI Contribution by Region



**Source:** *Confédération Internationale des Sociétés d'Auteurs et Compositeurs*



**Figure 1.** Average number of countries accessible without visas for passport-holders from Global North and Global South countries



**Source:** “Re-shaping Cultural Policies,” 2018 Global Report on the 2005 UNESCO Convention.



## 6. Glossary

**CCI:** Creative & Cultural industries

**WTO:** World Trade Organisation

**GATT:** the General Agreement on Tariffs and Trade

**GATS:** Agreement on Trade in Services

**TTIP:** Transatlantic Trade and Investment partnership

**TPP:** Trans Pacific Partnership

**RCEP:** Regional Comprehensive Economic partnership

**TiSA:** Trade in Services Agreement

**CARIFORUM:** the Caribbean Forum

**SDGs:** Sustainable Development Goals

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