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# Agents of Policy Learning and Change: U.S. and EU Perspectives on Cultural Trade Policy

J. P. SINGH

**ABSTRACT.** Cultural identity is an important facet of globalization, and cultural policy involves an international network of policymakers at the sub-national, national, and supranational levels. It is often unclear what cultural identity means and who effects policy change, especially in a fast-changing world. The author examines one of the most important cultural policy conflicts of the last two decades to suggest that the intersections among multiple policymakers led to considerable learning through interaction and clear articulation of policy preferences. The author examines the culture war between the European Union (EU) and the United States over trade in cultural products.<sup>1</sup> The conflict played out in international organizations and allowed the EU to come together to articulate a somewhat coherent cultural identity policy, while the United States realized the difficulty of sustaining cultural exports in the context of provocative cultural identity frames.

**T**he effects of globalization on cultural identities are now at the forefront of international policy debates on the meaning of such identities and the types of resources that should be used to promote their cause. The debates and

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resource deployments range from celebrations of multiculturalism to public protests or violent denunciations bemoaning the loss of a particular cultural identity. Policies addressing multiculturalism include intercultural exchanges and protections granted to various types of cultural representations. The obverse of these policies includes attempts to limit particular cultural representations to outright destruction, in rare circumstances, of cultural heritage and artifacts. It is not hard to argue that cultural identity issues reflect the challenges of globalization in the ordinary lives of people everywhere. Everything from Huntington's famous clash of civilizations thesis to the plethora of books dealing with globalized cultural hybridities are testimonies of such processes (for overviews, see Kraidy 2005; Pieterse 2004; Huntington and Berger 2002; Garcia Canclini 1995). The effects of globalization make salient policies designed to protect or promote culture while featuring institutional spaces—governmental, intergovernmental, and societal—wherein cultural policy debates are taking place.

The culture war between the United States and the European Union (EU) has played out in international organizations, which allowed the EU to come together to articulate a somewhat coherent cultural policy and identity while the United States began to realize that exporting its cultural products would be difficult. The process underlying contestation and formation of international identities, such as the hopes regarding the formation of a European identity, is important to understanding the politics of regional and global integration inherent in current cultural policies.

I show that such learning occurs through international interactions and that learning can alter policy preferences. This goes against the unchanging preferences tenet of social science thinking, which posits that buyers are aware of their preferences before purchasing an item. I have argued that holding preferences constant negates much of liberal political thought in assigning hardly any value to choices shaped through human interactions (Singh 2006). In policy terms, actors may not have well-defined preferences, but political interactions can explain preference formation and its evolution. For example, we often attend an official meeting to learn the details of an issue that might help us define our position clearly. Similarly, globalization is creating opportunities for public policy institutions to redefine and articulate preferences. In this article I examine the evolution of the EU's interactions with the United States in relation to cultural identity. The cultural conflict between the EU and the United States resulted in the EU furthering a notion of European identity. Meanwhile, the United States became more obdurate in asserting that trade in cultural products was its competitive advantage and that such trade did not threaten cultural identities in Europe.

Policy articulation involves public institutions and associated networks, formation of goals, and a commitment of resources (Wyszomirski 2000,

2004, 2008). I subdivide the actors, goals, and resources. Policy actors in the U.S.–EU cultural conflict include policy entrepreneurs or experts (prominent officials, public figures); policy communities linking industry, societal groups, and social movements; and governmental and supranational organizations. The formation of policy goals includes the articulation and framing of cultural identities and an explicit set of measures to abet (in the case of the United States) or stem (in the case of the EU) cultural product flows. Resource deployment includes the deployment of governmental resources in international negotiations to advance goals, build coalitions, and, most importantly, national or EU legislative measures to increase or decrease flows of cultural products.

Two definitional clarifications are also necessary. *Cultural industries* include films, television programs, radio broadcasting, books, periodicals, music, and the authorial and transfer rights involving these works. These industries obviously represent cultures and highlight identity issues. *Public policies* include specific policy instruments, such as fiscal and taxation measures, to boost cultural industries and also measures to help the formation of cultural identity. In the EU context, the policy measures also highlight the vast social and elite mobilizations to promote cultural identity.

A brief note on the meta-power politics of cultural identity and hybridity is appropriate. Global politics are inherently interactive. How do these interactions alter identities and preferences? Equations of power can be simplified to who does what to whom. This may entail who is empowered versus disempowered (instrumental power); who is constrained in a given situation versus who gets to write the rules (structural power); and how basic identities, interests, and issues are reconstituted or transformed in particular historical contexts, in turn redefining other relations of power (called meta-power here). International relations research has concentrated on instrumental and structural power. Social constructivists implicitly employ a different understanding of power in noting the construction of actors' identities and interests that is termed "meta-power" here.<sup>2</sup>

Nye (1990, 2002, 2004) argues that soft power, rather than armed conflict, is a salient feature of globalization. Cultural resources are integral to soft power. Context is important for soft power to be effective—it works best among culturally similar units, for example. This is a subtle and nuanced understanding of power, but it is still instrumental. America can deploy its cultural resources to enhance its foreign policy aims. However, Nye goes beyond an instrumental understanding in explaining soft power. Cultural exchanges, he notes, can change people's preferences (Nye 2004). Nye is not just discussing choices within a given preferences ordering, as assumed in most rational choice analyses; he is also outlining a change in preferences. Conceptually, the leap Nye has made to co-opt social constructivist concepts is clear. What

is unclear is how soft power can accommodate changing preferences or the identities underlying preferences. If X incorporates Y's cultural values through the workings of soft power, X moves toward cultural hybridity—a new identity that changes X's preferences and the choices X makes with them. Such cultural hybridity does not necessarily preclude conflict or lead to good outcomes—eating Chinese food does not necessarily endear us to China. However, it is a step in that direction, although some may think I am being overly optimistic. Conversely, while China emerges as a global power, global cultural markers in China might produce cultural conflicts. In 2007, public authorities shut down a Starbucks outlet in the Forbidden City because it insulted Chinese culture (the Starbucks was located near the [mostly English] Clocks Museum and surrounded by culturally hybrid trinkets and souvenirs). The presence of foreign cultural objects can allow societies or nations to articulate, depending on circumstances, anything from multicultural identities to a pure identity that ostensibly reflects cultural heritage.

Cultural interaction constitutes the identities of actors and issues in global politics. If we only focus on actors' capabilities and take their identities and interests as a given—as most instrumental and structural power versions do—the transformation being effected by such interactions is negated. Meta-power thus refers to how international interactions—especially those fostered by cultural exchanges and information networks—reconfigure, constitute, or reconstitute identities, interests, and institutions (Singh, forthcoming). A considerable fragment of cultural policy realms underlies these cultural interactions (Wyszomirski 2000). This is especially significant at the global level. In this article I analyze the implications of the U.S.–EU cultural trade in the context of cultural policy and identity formation. First, I provide a brief history of the conflict.

## HISTORICAL CONTEXT

The cultural trade policy conflicts I analyze mostly involve those between the United States and Western Europe (particularly France) during the Uruguay Round (1986–94) of multilateral trade negotiations and the framing of the Universal Convention on Protection and Promotion of Cultural Expressions at the United Nations Educational, Scientific and Cultural Organization (UNESCO) from 2001 to 2007. In the UNESCO case, Canada was also a prominent actor. Since the late 1940s, Western Europe has successfully argued that cultural industries, especially films, needed special protections such as quotas. During the Uruguay Round, the need for a cultural exception supplemented quotas. This resulted in the EU taking the most favored nation exemption—a policy that exempts trade in the World Trade Organization (WTO) category of “audiovisual” products from liberalization—which allowed the EU to preserve its cultural industry and trade policies. The UNESCO debates

*U.S. and EU Perspectives on Cultural Trade Policy*

initially occurred under the guise of “cultural diversity” and subsequently as “protection and promotion of cultural expressions.”

The main issue during the Uruguay Round was the 51 percent programming quota for domestic television content that had come out of a European Commission’s Television without Frontiers Directive in 1992, just as the Uruguay Round was ending. Few states implemented this quota, however. The EU was trying to implement this quota through the evolving General Agreement on Trade in Services. The EU also wanted to apply content restrictions to all the 300-plus channels that were coming about as a result of satellite and cable technologies. The United States wanted this restricted to 50 to 70 percent of the channels. Television programs in France, and in many other European nations, are subsidized by film box office receipts and levies on blank videotapes used to record these programs. Although U.S. films and television programs dominate in Europe, the Motion Picture Association of America (MPAA) also argued that it was subsidizing European television and objected to the agreement.

Audiovisual exports accounted for the second biggest export item, after commercial aircraft, from the United States. In 1993, when the cultural trade dispute was heating up, U.S. films, television shows, and videocassettes netted \$3.7 billion in Europe, whereas the EU’s exports to the United States were \$300 million (Associated Press 1993). The EU trade deficit with the United States in film and television shows reached \$6 billion in 1998 (*CNN.com* 1999). Table 1

**TABLE 1. Shares of U.S. Films in Europe (%)**

Country	1989	1991	1993	1994
Belgium	69.5	79.6	71.8	74.7
Denmark	63.7	83.3	74.0	66.7
Finland	70.0	80.0	63.0	66.0
France	55.5	58.0	57.1	60.0
Germany	65.7	80.2	87.8	81.6
Greece	86.0	88.0	—	82.0
Ireland	75.0	91.5	—	—
Italy	63.1	58.6	68.1	65.0
Luxembourg	87.0	85.0	80.0	84.0
Netherlands	75.6	92.5	89.3	90.0
Portugal	81.0	85.0	61.2	—
Spain	73.0	69.0	75.5	72.3
Sweden	69.3	70.5	72.7	70.0
United Kingdom	84.0	84.0	94.2	—

*Source.* World Trade Organization (1998).

shows the U.S. share of the films market in Europe during the Uruguay Round. The low shares are in France and Italy, countries with a sizable film industry, but still were 58.2 percent and 59.4 percent, respectively, in 1992—meaning that the share of the domestic product was far smaller. French films, for instance, captured 34.5 percent of the market in 1997. In Germany and the UK, the U.S. share of the total film market was 82.8 percent and 90.6 percent, respectively, in 1992. American films also pulled in 69 percent of the audiences in 1991, up from 46 percent in 1980. Among television shows, 40 percent of the telefilms being shown on European channels were American (Goff 2000, 557).

The European governments support their cultural industries through taxes and subsidies. Table 2 gives the total percentage of support for films and videos in Europe for 1994. On one hand, almost two-thirds of the film and video industry production was financed through state support. It was 100 percent in the UK and Ireland. On the other hand, there was very little support for distribution (EU total was 10.59 percent). Most distribution channels were local and national. This is important because American producers' transnational distribution networks were considerably larger.

Free trade benefited both sides. The American film industry was already entrenched in the European market. Thus, they wanted to eliminate quotas to increase their market share and were encouraged that most national governments in Europe were not implementing the Television without Frontiers

**TABLE 2. European Public Support for Film and Video, 1994 (%)**

Country	Support Production	Support Distribution
Germany	77.54	10.20
Austria	94.22	5.78
Belgium	96.28	3.72
Denmark	94.17	2.28
Spain	92.14	2.93
Finland	85.25	11.72
France	40.47	6.59
Greece	91.53	8.47
Ireland	100.00	—
Italy	42.10	26.32
Netherlands	98.60	1.40
Portugal	86.12	6.16
Sweden	94.72	3.73
United Kingdom	100.00	—
EU TOTAL	62.51	10.59

Source. World Trade Organization (1998).

*U.S. and EU Perspectives on Cultural Trade Policy*

(TWF) quotas (Levy 1999). The state supports most of the film and television industry in Europe. However, on September 23, 1993, for example, 4,000 European film personnel (actors, directors, producers, writers) took out full-page advertisements in the major European papers in support of the EU position backing the TWF directive.

After taking the MFN<sup>3</sup> exemption, the EU feared the issue would reappear as it did at the Organization for Economic Cooperation and Development (OECD) negotiations over the Multilateral Agreement on Investment (MAI) from 1995 to 1998. These negotiations ended in 1998 because of French opposition to liberalizing cultural trade. In 1997, Canada lost a trade dispute to the United States at the WTO after (in the name of cultural protection) imposing a tax on foreign periodicals in 1995. American periodicals, which dominated the Canadian market, considered the tax discriminatory. Sheila Copps, the former Canadian culture minister, and French officials countered by beginning to create an alternative norm on international cultural trade that would protect particular cultural expressions through restricting imports and by promoting domestic cultural production.

Since the Uruguay Round ended, there has been a progressive ossification of the European position on cultural industries. Europeans framed the issue in cultural identity terms and shifted the focus from cultural exception to cultural diversity to promotion of cultural expressions. Canada and France led an international coalition to move the cultural industry issue from the WTO to UNESCO. This resulted in a Universal Declaration on Cultural Diversity in 2001 and a Universal Convention on the Protection and Promotion of Cultural Expressions in October 2005 at UNESCO's 33rd General Assembly. Only two countries voted against the convention—the United States and Israel. The convention's preamble starts by "affirming that cultural diversity is a defining characteristic of humanity." Its thirty-five articles affirm the rights of nations to formulate cultural policies that promote cultural diversity and protect indigenous cultures. These articles outline a legal rationale against liberalization. Article 20 defines the convention's relationship to other international treaties. "Mutual supportiveness" is mentioned as the convention's underlying principle, but it cannot be subordinated to other treaties. In other words, if there was a future trade versus cultural protection dispute, it would have to be resolved in the spirit of mutual supportiveness without subordinating the UNESCO Convention to other treaties. The convention came into effect in March 2007 when the requisite thirty countries ratified it.

The Uruguay Round and the UNESCO negotiations are examples of cultural policy learning and formation at the international level. They show how countries may use globalization to not only protect and promote their national interests, but also to articulate them precisely in the first place. In terms of policy learning, as the following analysis shows, framing and policy



spillovers from other issues are important. Although cultural identity conflicts will continue, the EU's goal of excluding cultural industries from any kind of liberalization may now be a de facto reality. The Doha Round of trade negotiations has moved cultural industry issues to the back burner.

#### POLICY FRAMING AND AGENDA SETTING

A key element of the aforementioned cultural trade policy disputes was the use of cultural policy frames, which helped set the agenda on the cultural trade policy disputes. The language of quotas to protect film industries in the 1940s became efforts to protect and promote cultural diversity. The EU also used cultural trade disputes in pan-European identity programs, around which there was no consensus in the 1980s.

The early issues in cultural industries were economic. Hollywood's moves to dominate the European market and the latter's history of protection can be traced to the 1920s.<sup>4</sup> At that time, studios began to build distribution networks in Europe, which still give them advantages that domestic producers in Europe lack. The UK instituted film quotas with the Cinematograph Films Act of 1927 (renewed in 1938). World War II destroyed the capacity of film producers in Italy and France. Thus, when the General Agreement on Tariffs and Trade (GATT) was being framed, European countries used an infant-industry argument to keep films out of the GATT agenda. While the U.S. Department of Commerce and the American armed forces in Europe were fierce defenders of Hollywood's interests, the film industries in Europe were allowed to institute import quotas (as in France) or screen-time quotas (as in Britain). Nevertheless, "audiovisuals" were the only service sector "good" mentioned (and excepted) in the original 1947 GATT framework (Article IV: Special Provisions Related to Cinematograph Films).<sup>5</sup> Summing up successive GATT negotiations, Jarvie notes: "In the fifty years since the GATT was negotiated, film and television issues have not made it beyond the agenda of the various 'rounds' of renegotiations (e.g., the Torquay round, the Dillon round, the Tokyo round)" (1998, 40).

The Washington Agreement, which former U.S. secretary of state James F. Byrnes and the former head of the French Popular Front government Leon Blum signed on May 26, 1946, is also important.<sup>6</sup> Two pages of this agreement pertained to the film industry and are now known as the Blum-Byrnes Agreement. The agreement established quotas for foreign films coming into France. In 1946, four weeks per quarter were restricted for French films. The Paris Agreement of 1948 raised this to five films.

During the Uruguay Round, France and others sought to build a case for "cultural exception" by pointing to the early history of GATT and the film quotas. The French officials often invoked the Blum-Byrnes Agreement, in

which Jean Monnet, the founder of the European Community, was personally involved, to frame their case in terms of historical precedence.<sup>7</sup>

Meanwhile, the U.S. agenda-setting moves remained economic. The United States avoided touching on the cultural identity issue, framing it as a trade issue, and used careful language during the negotiations, even being respectful of the cultural identity issue.<sup>8</sup> Instead, U.S. officials focused on other issues. However, U.S. domestic interests, especially the MPAA, lambasted the European position (even during the Television without Frontiers framing exercise) on culture. The following two comments from Jack Valenti, the former president of the MPAA, are illustrative: “Has culture botulism yet appeared anywhere in Europe? Is the culture in any of these European countries so flimsily anchored that European consumers must be caged and blinded else their links with their past, like an exploding star, vanish? Or is the real game not culture, but commerce?” (1989, qtd. in Harrison 1998); and, “The American movie is dominant in the world, not because of patent or formula or subsidy or artificial enticements. We are dominant because what we create here beguiles and entertains viewers on every continent, with an enchantment no other country in the world has been able to duplicate” (qtd. in *Washington Times* 1993).

The Europeans countered with careful and highly visible framing moves that strengthened the coalition in support of a “cultural exception.” The critique from U.S. cultural industry could be further characterized as Hollywood’s will to dominate. The faces people saw in the media speaking for this issue were well-known throughout Europe. Goff (2000) presents a comprehensive analysis of the way elites in Europe used the dispute to create identity. From the negotiation side, this framing exercise, which pointed out threats to European culture, began to serve as binding glue for the cultural industry lobbies in the EU. The framing exercise helped build a sense of European identity around culture. The European Commission and French officials regularly espoused the historical links between states and culture in Europe. One of them noted: “The culture is the state. The culture is the soul of the nation.”<sup>9</sup>

By any measure, the framing of the issue as a threat to European identity paid off. By 1992–93, cultural industry interests, detailed later, were well-known in Europe. The issue put well-known faces (film stars, directors, music stars) in front of the public. On September 23, 1993, 4,000 European film directors, producers, and writers took out full-page advertisements in the major European newspapers urging officials to protect their industry. In the closing days of the talks, French television and film producers published a paper on what Europe would lose from the agreement. French and Italian producers also held a joint press conference on the issue. It was at this time that Japan began to support the cultural exemption.

There was no preexisting European consensus around film or broadcasting issues or their connection to cultural identities. The TWF directive came

after an almost decade-long debate in Europe regarding the liberalization of television while seeking to protect its domestic markets from non-European (primarily U.S.) programming. It is at this time that a European cultural identity began to form. In 1982, the Hahn Report advocated the liberalization of European television broadcasting to help the formation of a European identity. Subsequently, a 1984 green paper sought to remove national barriers to broadcasting. The green paper was opposed by the European Broadcasting Union (EBU), which eventually convinced the European Parliament (always sympathetic to anti-European Economic Commission [EEC] proposals) to also oppose it. Even EU member states objected that broadcasting was a cultural issue beyond the scope of the EEC. For these and other reasons, Belgium, Denmark, Italy, Spain, West Germany, and the United Kingdom also opposed the green TWF directive. Local authorities in countries such as West Germany also opposed it. The commission eventually drafted the TWF directive in 1986 and passed it in 1989. This had a lot to do with the leadership of Jacques Delors. He was closely aligned with the French position on quotas, which predated the directive, and used the quotas issue to build European support.

The debates over the TWF directive played a significant role in Europe trying to find a common identity. Television flows in the EU, however, are almost negligible. However, in 1992, the French government encouraged the establishment and launching of ARTÉ, the television channel jointly launched by France and Germany and dubbed as tele-Maastricht, after the Treaty of Maastricht.

When the issue of protecting domestic cultural productions moved to UNESCO in the late-1990s, the Europeans and Canadians shifted the frame from cultural exception to cultural diversity. On October 26, 1999, the Council of the European Union, in preparation for the Seattle WTO Ministerial, declared that “the Community and the Member States maintain the possibility to preserve and develop their capacity to define and implement their cultural and audiovisual policies for the purpose of preserving cultural diversity” (European Commission). This was followed on December 7, 2000, by the Declaration on Cultural Diversity by the Council of Europe. The culture ministers of the International Organization of the Francophone adopted a similar declaration on June 15, 2001. The International Network on Cultural Policy (INCP), convened by the Canadian government and composed of more than forty cultural ministers, met through its Working Group on Cultural Diversity and Globalization in Lucerne, Switzerland, September 24–6, 2001, to finalize the plans for framing an international declaration on cultural diversity through UNESCO.<sup>10</sup>

The cultural diversity frame began to be linked to the biodiversity frame in an effort to provide a legal rationale for cultural diversity. INCP meetings were crucial in this regard. INCP made an explicit connection to the 1992 Convention on Biological Diversity, which was framed in Rio de Janeiro.

## *U.S. and EU Perspectives on Cultural Trade Policy*

After the UNESCO Declaration was passed in 2001, EU policymakers began to use the declaration as the basis to hold an international convention on cultural diversity. At the World Summit on Sustainable Development in Johannesburg, South Africa, former French President Jacques Chirac noted: "One response which France proposes is for the international community to adopt a world convention on cultural diversity. This would be the counterpart to the Convention on Biological Diversity. It would lend the weight of international law to the principles couched in the declaration just adopted by UNESCO." He also noted that, "There is nothing more foreign to the human spirit than evolution towards a uniform civilization, just as there is nothing more hostile to the movement of life than a reduction in biodiversity" (Delegation Permanente de la France 2002, Annex 1). At a UNESCO meeting in Istanbul, Turkey, in November 2002, a declaration was adopted to support an international convention on cultural diversity and begin work on a draft that was presented to UNESCO in June 2005 and passed by its General Assembly in October 2007.

### **The Policy Landscape**

The aforementioned framing exercises gave the issues salience by linking cultural identity to cultural industries. The framing moves since the late 1980s were also quite important in setting a cultural policy agenda that did not liberalize cultural industries. The framing and agenda-setting were part of an exercise to mobilize support for taking cultural industries out of global liberalization programs. This meant enlisting global and regional institutions and social movements. The following analysis describes this policy feat in terms of policy actors and entrepreneurs, goals articulation, and resource deployment.

#### *Policy Actors and Their Goals*

The WTO and the UNESCO deliberations not only featured multiple policy actors, but also allowed the European Commission to start articulating a coherent regional cultural policy. The first instance of this was the TWF directive, which pulled the commission into the GATT negotiations. In trade policy terms, the EU negotiates as one entity for its member states. Jacques Delors headed the commission from 1985 to 1995 and played a major role in promoting the TWF directive. According to Levy (1999, 23), "this point represented a high-water mark of French influence within EU audio-visual policy, and was aided by the conjunction of the Delors Presidency of the commission and the presence of his mentor, Francois Mitterand, in the Elysee Palace."<sup>11</sup> This reflected and shaped the member states' views (Richardson

1999; Sandholtz 1992). The commission's DG-X on Culture, which was closely allied with the French position, argued that without quotas, U.S. content would flood Europe.

Enter the EU's agenda-setting tactic centered on cultural identity frames. It relied on two interrelated points. First, it emphasized the importance of the audiovisual industry to European identity and unity. Second, it highlighted the harmful effects of the American audiovisual industry on European and national cultures. France's former culture minister Jack Lang, an important force behind the TWF directive and EU's GATT position, declared: "The soul of France cannot be sold for a few pieces of silver" (*Washington Times* 1993). European officials warned of such phenomena as a "wall to wall Dallas" in Europe. France was reportedly fighting a war of images (Goff 2000).

Negotiations on the audiovisual issue between United States trade representative Mickey Kantor and EU trade representative Leon Brittan went into the final hours of the Uruguay Round. Kantor ultimately rejected the close to status quo deal that Brittan offered. Just before the deadline for the U.S. president's fast-track authority was about to expire, Brittan offered to bind the television quota at 49 percent—meaning it would not be increased in the future—and also offered to continue the negotiations on box office receipt taxes in France and those on blank video and audio tapes (Preeg 1995). Kantor called former president Clinton and the president called the head of a major studio in Hollywood to let him know the deal Europeans had offered (based on author's interviews). The president then called Kantor, who told Brittan that the United States was rejecting the proposal.

In working toward a UNESCO convention, EU and Canadian lobbying groups lobbied a number of international organizations, academics, and think tanks. Groups such as the EBU, the European Federation of Audiovisual Workers (FERA), Eurocinema, and the British Screen Advisory Council (BSAC) organized conferences in Europe to court public and intellectual support. INCP created a nongovernmental network of international cultural industry workers and artists that, in September 2000, coalesced into the International Network for Cultural Diversity (INCD). International NGO representatives from cultural sectors, who later formed the INCD, attended the WTO Seattle Ministerial in December 1999 to raise cultural issues and organize protests. INCD is currently located in the Canadian Conference for the Arts, the leading arts advocacy group in Canada. INCD and INCP annual meetings and agendas run parallel to each other. INCD drafted an international convention on cultural diversity, which is similar to the INCP's, except it is more emphatic in keeping audiovisual negotiations out of the WTO. These conventions informed the text that emerged from the UNESCO Convention.

The program for drafting a convention was presented at the 32nd General Assembly of UNESCO in September–October 2004. UNESCO appointed

## *U.S. and EU Perspectives on Cultural Trade Policy*

a fifteen-member committee to further explore the issue. After several UNESCO meetings and a drafting session, a preliminary draft was presented at UNESCO's Third Session of the Intergovernmental Meeting of the Experts (UNESCO 2005) and presented at the 33rd General Assembly in October 2005.

### *Resource Deployment*

Once the agendas are set and the policy actors are mobilized, governments and institutions must commit resources—material and human—to implement the agendas. Three of these actions are mentioned below. The first two—coalition building and lack of moves at the WTO—signal resource deployment at the global level to keep cultural industries from being liberalized. The third—strengthening the TWF—indicates European moves at the regional level.

### **Coalition Building**

Coalition building inside and outside Europe is important to governmental actors. However, the cultural industries were involved. The main lobbies on the U.S. side included the major film, television, and music firms. Of these, the MPAA, headed by Jack Valenti, and the Recording Industry Association of America were important. The MPAA includes all the major studios, the American Film Marketing Association, and the Motion Pictures Exporters Association.

On the European side, the pro- and anti-TWF coalitions mattered in the 1980s. While the anti-TWF coalition was strong before 1989, the GATT negotiations in 1993 featured an increasingly strong pro-quota (and, by definition, pro-TWF) lobby. Influential national actors included the Bertelsmann Group in Germany, the BBC in the UK, and many other national and local broadcasters. Initially, apart from French government and EU Commission support, FERA and the International Federation of Audiovisual Workers Union only supported the case for quotas.

Lobbies within Europe continued to coalesce around keeping cultural industries out of trade negotiations. The EBU joined the lobbies because it opposed moves toward broadcasting liberalization in Europe in the mid-1980s. It is now the most important voice in Europe in trying to preserve national programming and, therefore, it is zealously opposed to liberalizing cultural industries. The spillover of national programming in European countries' markets does not threaten the EBU. The flows of broadcasting content from one national market to another in Europe are limited. The EBU is more concerned with keeping other international, mostly U.S., programming out of

the European market. Meanwhile, the French cinema lobbies, whose officials continue to insist they were surprised by the audiovisual issue at the Uruguay Round, have strengthened their coalitional ranks. In France, the powerful organization *Auteurs, Réalisateurs, Producteurs (ARP)* represents the collective voice of French actors, directors, and producers. *Eurocinema*, a lobbying organization in Brussels, represents European cinema.

Although nearly half the total requests in services received by the commission were audiovisual, the EU now states it will not discuss audiovisual matters in the Doha Round of trade talks. Cultural industry moves by the EU are now about keeping this issue out of the Doha Round. Lobbies in the EU are advocating for the continuation of the MFN exemption and not negotiating audiovisual services.

Before any requests or offers, the United States, Switzerland, and Brazil submitted proposals that tried to deemphasize the trade versus culture issue.<sup>12</sup> Switzerland's proposal in particular, which proposed drafting a sectoral annex on audiovisual matters (effectively admitting the special nature of culture while promoting trade liberalization), was criticized by French politicians for being insensitive to European concerns. The U.S. proposal discussed overall subsidies issues, while the Brazilian one discussed ways "to promote the progressive liberalization of the sector in a way that creates opportunities of effective market access for exports of developing countries in this sector without affecting the margin of flexibility of governments to achieve their cultural policies objectives as they find appropriate" (WTO 2001). Interestingly, Brazil supported the EU moves during the Uruguay Round.

### *Strengthening the TWF*

The European Commission has implemented several mechanisms to monitor and strengthen the TWF directive. These mechanisms have helped strengthen its opposition to the issue of completely liberalized audiovisual markets. It was amended in 1997 to include language to allow for at least 10 percent of the programming time to be filled by works created by independent producers who are not broadcasters. There is pressure in Europe to delete the qualifier "where practicable and feasible" around the 51 percent quotas and make the rule binding. A report from the commission on the state of TWF showed that most member states were meeting the quota requirements, especially among publicly owned broadcasters (Commission of the European Communities 2002). In a move to strengthen control over new and independent broadcasters, the report notes: "Only some of the minority channels in certain Member States are presenting difficulties. In this regard, the commission would remind the member states concerned of the need for increased control and monitoring of these channels and the importance of ensuring, where practicable and appropriate means, that these

television broadcasters meet the proportions laid down by Articles 4 and 5 of the Directive, in line with the principle of progressive improvement” (2002, 41).

## CONCLUSION

Globalization continues to produce challenges for cultural policy formulation. I have outlined two global cultural policy trends: the ascendance of cultural identity issues in global politics and their close connection with cultural policy deliberations at the international level.

Considerable learning took place during the EU–U.S. cultural trade disputes. First, European Commission officials used past practices to build their case at the GATT/WTO and UNESCO. They took existing language about film quotas and used it to create a case for cultural exception and then cultural diversity while maintaining the underlying policy goal of film and television restrictions from the United States. Second, they adopted the language and policies used in films for new media. Third, cultural policy officials explicitly used provocative framing and language to bring attention to their cause. Fourth, cultural policy officials, especially cultural ministries, became more popular as cultural identity issues became important worldwide, partly because of their efforts. Cultural policy officials became just as important as trade officials. I have suggested elsewhere that the WTO/UNESCO tangle was as much a national bureaucratic turf war between trade and cultural officials as it was a trade versus culture issue (Singh 2007).

Policy changes in the international context can be tracked through two major trends. First, supranational and even national authorities redefined and articulated their spheres of authority. This was especially important in the EU context, where they emerged from being a somewhat marginal voice in European cultural policy to a place where they can provide a coherent platform. As Patricia Dewey pointed out, the EU does not quite have the constitutional authority for wide-ranging cultural policies beyond a few European-wide initiatives (2007). However, the commission’s involvement in the GATT/WTO and UNESCO processes created *de facto* competencies for commission officials. Jacques Delors and Pascal Lamy, as EU presidents, were particularly salient in this regard. Pascal Lamy is now the director general of the WTO and his earlier opposition to negotiating audiovisual issues is well-known. During the UNESCO negotiations, the commission was effective in bringing the various member states together to speak with a common voice (Gordon 2007). Interestingly, the commission’s stance parallels Wyszomirski’s (2004, 2008) analysis of U.S. cultural policy where it merges similarly through fragmented spheres of authority, although the big difference is that the term *cultural policy* is still somewhat of an anathema as opposed to the EU context.



The biggest policy change was the development of a new norm on cultural policy at the global level to contest the one that emerged from the global liberal order as embodied in the WTO processes. The UNESCO norm is a textbook study on international norm development replete with references to (1) “norm development” through entrepreneurs, change agents, framing and agenda-setting, coalition-building, and institutionalization and diffusion; (2) “norm cascades” through international socialization; and (3) “norm internalization” through a “taken for granted” effect among global actors (Finnemore and Sikkink 1998). However, some caution is necessary. The UNESCO norm on cultural policy is not only new, but at the international level it is still contested by the global liberalization norm. The latter norm does not need WTO processes to make its case. It is, to use Finnemore and Sikkink’s term, internalized through the prevalent liberalization regime. The international flows of cultural products continue to increase. With new technologies such as the Internet, efforts to curtail content flows may be futile.

I make a case for meta-power as the power to change the identity of actors and the issue that they negotiate. The emerging frames of cultural identity and European identity brought new group identity frames to international deliberations and also changed the way the issues were negotiated. A related point is about preferences. The U.S. and EU preferences in liberalizing or protecting cultural industries stayed the same. At such a macro level, holding preferences constant is not very instructive. The relevant question is whose preferences and what kind of a case for liberalization and protection? The European Commission’s preferences for cultural policy are the most important case for the creation and institutionalization of preferences. The variable use of the cultural identity issue also highlights the variable intensity and scope of preference evolution. The EU and U.S. perspectives on cultural trade policy involve agents in policy change and learning. Preferences and the coherence of policy outcomes depend greatly on interactions and learning among policymakers.

#### KEYWORDS

*cultural trade, European Union, UNESCO, United States, World Trade Organization*

#### NOTES

1. I use the term *European Union* to refer to the institutionalization of the European integration process in general over time, but specific appellations are used when referring to particular time periods in EU evolution since 1969. The EU was formed in 1992 after the Treaty of Maastricht. Between 1985 and 1992, it was known as the European Community and between 1969 and 1985 as the European Economic Community.

## *U.S. and EU Perspectives on Cultural Trade Policy*

2. For important works on understanding the social constructivism employed in this article, see Berger and Luckmann (1966) and Wendt (1999).
3. MFN is the most favored nation principle of international trade law, which in actuality means that no nation is discriminated against by trade laws. An MFN exemption would mean that the EU was free to discriminate in favor of its own television programs.
4. For an excellent history of Hollywood's export drive from 1920 to 1950, see Jarvie 1992.
5. Magder (2004, 388) notes: "Article IV's placement just after Article I on Most Favored Nation (MFN) treatment, Article II on the Schedule of Concessions, and Article III on National Treatment, is an indication that it was no afterthought in the drafting of GATT."
6. This paragraph builds on Jeancolas 1998.
7. Interestingly, the agreement was to be enforced by Centre National de la Cinematographie (CNC). CNC is responsible for the state aid given to film industry by a tax on box-office receipts and, beginning in 1984, via a tax on TV network profits. These taxes on receipts and profits became an issue during the Uruguay Round.
8. From an interview with a former U.S. trade representative official, June 2001. Mickey Kantor was the United States trade representative during the audiovisual negotiation. Leon Brittan, the EU commissioner for external relations, and Jonathan Scheele, the EU official responsible for negotiating services, represented the EU.
9. From an interview with an official at the CSA, the French television regulatory authority, November 2001.
10. Other declarations regularly cited by INCP include the Communique of the Summit of the G-8 in Okinawa, Japan, July 2000; the Declaration of the Summit of the Americas at Quebec City, April 2001; the Declaration and Plan of Action of Cartagena de Indias adopted by the Organization of American States, July 2002; and the Dakar Declaration on the Promotion of African Caribbean Pacific Cultures and Cultural Industries. See INCP (2003).
11. See Ross (1995) for the way Delors centralized the commission and exercised influence over its matters. The Delors presidency was thus quite different when compared with Jacques Santer's, who was not pro-centralization.
12. The proposals mentioned here can be found on the WTO Web site at [http://www.wto.org/english/tratop\\_e/serv\\_e/s\\_propnewnegs\\_e.htm](http://www.wto.org/english/tratop_e/serv_e/s_propnewnegs_e.htm), (accessed October 8, 2003).


### REFERENCES

- Associated Press. 1993. France claims trade victory, but Hollywood wins at box office. December 14.
- Berger, P., and T. Luckmann. 1966. *The social construction of reality*. New York: Anchor Books.
- CNN.com. 1999. France to defend film trade from Hollywood at WTO. November 29. <http://www.cnn.com/>
- Commission of the European Communities. 2002. *Fifth communication from the commission to the council and the European parliament. On the application of articles 4 and 5 of directive 89/552/EEC "Television without frontiers," as amended by directive 97/36/EC, for the period 1999-2000*. Brussels: Commission of the European Communities.
- Delegation Permanente de la France aupres de l'Organisation Mondiale du Commerce. 2002. France, EU and cultural diversity. Geneva: Delegation Permanente de la France.
- Department of Trade and Industry, United Kingdom. 2002. *Liberalizing trade in services: A new consultation on the World Trade Organization GATS negotiations*. <http://www2.dti.gov.uk/ewt/service.htm> (accessed October 10, 2003).
- Dewey, P. 2007. Introduction. *Journal of Arts Management, Law, and Society* 37:3-9.
- European Commission. *Audiovisual and media policies*. [http://ec.europa.eu/avpolicy/ext/multilateral/gats/index\\_en.htm](http://ec.europa.eu/avpolicy/ext/multilateral/gats/index_en.htm) (accessed February 10, 2008).
- Finnemore, M., and K. Sikkink. 1998. International norm dynamics and political change. *International Organization* 53:887-917.
- Garcia Canclini, N. 1995. *Hybrid cultures: Strategies for entering and leaving modernity*. Minneapolis: Univ. of Minnesota Press.

- Goff, P. M. 2000. Invisible borders: Economic liberalization and national identity. *International Studies Quarterly* 44:533–62.
- Gordon, C. 2007. Culture and the European Union in a global context. *Journal of Arts Management, Law, and Society* 37:11–30.
- Harrison, J. March. 1998. Globalization and tempering trade conflict: Two illustrative cases from the U.S.–EU experience. Paper presented at the International Studies Association, Minneapolis.
- Huntington, S. P., and P. L. Berger, eds. 2002. *Many globalizations: Cultural diversity in the global era*. Oxford: Oxford Univ. Press.
- International Network on Cultural Policy. 2003. *Draft international convention on cultural diversity by the working group on cultural diversity and globalization*. <http://www.incd.net/docs/CCDJan2003Final.pdf> (accessed October 10, 2003).
- Jarvie, I. 1992. *Hollywood's overseas campaign: The North Atlantic movie trade, 1920–1950*. Cambridge: Cambridge Univ. Press.
- . 1998. Free trade as cultural threat: American film and TV exports in the post-war period. In *Hollywood and Europe: Economics, culture, national identity: 1945–95*, ed. G. Nowell-Smith and S. Ricci, 34–46. London: British Film Institute.
- Jeancolas, J-P. 1998. From the Blum-Byrnes agreement to the GATT affair. In *Hollywood and Europe: Economics, culture, national identity: 1945–95*, ed. G. Nowell-Smith and S. Ricci, 47–60. London: British Film Institute.
- Kraidy, M. M. 2005. *Hybridity, or the cultural logic of globalization*. Philadelphia: Temple Univ. Press.
- Levy, D. A. 1999. *Europe's digital revolution: Broadcasting regulation, the EU and the nation-state*. London: Routledge.
- Magder, T. 2004. Transnational media, international trade and the idea of cultural diversity. *Continuum: Journal of Media and Cultural Studies* 18 (3): 388.
- Nye, J. 1990. *Bound to lead: The changing nature of American power*. New York: Basic Books.
- . 2002. *The paradox of American power: Why the world's one superpower can't go it alone*. Oxford: Oxford Univ. Press.
- . 2004. *Soft Power: The means to succeed in world politics*. New York: Public Affairs.
- Pieterse, J. N. 2004. *Globalization and culture: Global melange*. Lanham, MD: Rowman and Littlefield.
- Preeg, E. H. 1995. *Traders in a brave new world: The Uruguay round and the future of the international system*. Chicago: Univ. of Chicago Press.
- Richardson, J. 1999. Introduction by the series editor. In Levy 1999, xi–xiii.
- Ross, G. 1995. *Jacques Delors and European integration*. Oxford: Polity Press.
- Sandholtz, W. 1992. *High-tech Europe: The politics of international cooperation*. Berkeley: Univ. of California Press.
- Singh, J. P. 2002. Introduction: Information technologies and the changing scope of global power and governance. In *Information technologies and global politics: The changing scope of power and governance*, ed. J. N. Rosenau and J. P. Singh, 1–38. Albany: State Univ. of New York Press.
- . 2006. The evolution of national interests: New interests and north south negotiations during the Uruguay round. In *Negotiating trade: Developing countries in the WTO and NAFTA*, ed. J. Odell, 41–84. Cambridge: Cambridge Univ. Press.
- . 2007. Culture or commerce? A comparative assessment of international interactions and developing countries at UNESCO, WTO, and beyond. *International Studies Perspectives* 8:36–53.
- . Forthcoming. *Negotiation and the global information economy*. Cambridge: Cambridge Univ. Press.
- UNESCO. 2005. *UNESCO declaration on cultural diversity*. <http://www.unesco.org/culture/pluralism/diversity> (accessed February 10, 2008).
- Washington Times*. 1993. Clash of cultures creates latest block to world trade pact. November 24.
- Wendt, A. 1999. *Social theory of international politics*. Cambridge: Cambridge Univ. Press.
- World Trade Organization. 1998. *Audiovisual services: Background note by secretariat*. Council for Trade in Services.

## U.S. and EU Perspectives on Cultural Trade Policy

- . 2001. *Communication from Switzerland: GATS 2000: Audio-visual services*. Council for Trade in Services Special Session.
- Wyszomirski, M. J. 2000. Policy communities and policy influence: Securing a government role in cultural policy for the twenty-first century. In *The Politics of Culture: Policy Perspectives for Individuals, Institutions, and Communities*, ed. G. Bradford et al., 94–112. Washington, DC: Center for Arts and Culture.
- . 2004. From public support for the arts to cultural policy. *Review of Policy Research* 21:469–84.
- . 2008. Field building: The road to cultural policy studies in the United States. In *Understanding the arts and creative sector in the United States*, ed. J. M. Cherbo, R. A. Stewart, and M. J. Wyszomirski, 39–60. Piscataway, NJ: Rutgers Univ. Press.

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