

**« Cinéma et commerce, Etat des lieux des discussions internationales »  
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CANADA

When the EU-CARIFORUM cultural cooperation protocol first came to light, although we had reservations about attaching the protocol to an EPA, we viewed it as a potentially positive approach to acting on the preferential treatment commitments to facilitate the circulation of artists and other cultural professionals, and cultural goods and services from developing countries as per Article 16 of the UNESCO Convention.

However, we became concerned that the EU intended to apply this approach much more broadly--including in negotiations with countries such as India and South Korea, which in the audiovisual sector are clearly developed countries.

We find it ironic to be exhorted to conceive of international cooperation in new, innovative ways, and to discover that in practice this translates into grafting cultural cooperation agreements onto trade agreements. After the great effort expended to put in place an international convention that recognizes in international law the distinctive nature of cultural goods and services we find ourselves with a sense of 'dèja vu all over again', or of 'old wine in new bottles.'

Fundamentally, we think the matter of cultural cooperation should be kept clearly distinct from trade agreements. That is, such agreements:

- 1) should be legally separate from trade agreements.
- 2) should be negotiated by officials with expertise and authority in cultural matters, with the cultural milieu consulted systematically.
- 3) should have their own procedures/mechanisms for resolving any differences that might arise in their application/interpretation.
- 4) should have set terms to provide for their review and refinement--i.e. unlike commitments in trade pacts, which are in effect all but permanent, there should be significantly more flexibility.

Otherwise, we are convinced that culture will once again become a bargaining chip in trade negotiations

With respect to cultural cooperation, Canada has a long history of cultural cooperation with European countries, notably through co-production treaties in the audiovisual sector. Year after year, EU countries such as France and the United Kingdom are our major co-production partners in audiovisual.

In pursuing such cultural cooperation agreements between developed countries, we remain of the view that the principle of reciprocity should continue to be the starting point.

From a Canadian perspective, Canada has a long-standing policy of exempting culture from trade negotiations. And since 2001, it has also been including a preambular paragraph affirming the importance of cultural policies to ensuring cultural diversity. Given the strong support of both Canada and the EU for the 2005 UNESCO Convention, we think the Canada-EU negotiation is an opportunity to give it greater currency by explicitly referencing the Convention.

Consistent with the Convention, we think the exemption should be broad in scope--covering culture as well as audiovisual services--and should be 'future-proof', i.e. clearly covering digital technologies.

To return to the Convention, we note that the fundamental question of articulating the relationship of the Convention to other international agreements by making operational Article 21 has yet to be addressed.

We consider it of fundamental importance that the June Conference of Parties make development of operational guidelines for Article 21 a priority for the work of the Intergovernmental Committee for the two-year implementation phase that will take us to the third Conference of Parties in 2011. With 98 countries having already ratified the Convention in just three-and-a-half years, a critical mass of countries now exists to take on this work.

We would all have hoped that the trade-and-culture debate would have been resolved once and for all with the overwhelming vote in October 2005 to adopt the UNESCO Convention on the Diversity of Cultural Expressions, and its record entry into force in March of 2007. But this really marked the beginning, not the end of a process.

Realizing the Convention's legal potential as an international instrument for upholding the right of States to apply cultural policies will depend on political will. It requires coherence--that States not give up in other forums, notably trade negotiations, what they have so clearly affirmed in the Convention.

On this matter, the importance of being vigilant has been emphasized several times in the course of this discussion. In this regard, I note that before there were coalitions for cultural diversity, there was a Comité de Vigilance whose model in fact inspired the creation of the Coalitions. As we move forward, we all need to be vigilant, and work together, to make sure that the objectives of the Convention are upheld in other forums, including trade negotiations.