



## **Consultation on the future EU-US trade and economic relations**

### ***Contribution of the European Coalitions for Cultural Diversity***

*September 2012*

The movement of European Coalitions for Cultural Diversity (ECCD) was created in 2005 by several national coalitions of cultural professional organisations in Belgium, Germany, France, Slovakia and Spain in order to foster the signature and ratification of the 2005 UNESCO *Convention on the Protection and the Promotion of the Diversity of Cultural Expressions*.

Today, it includes thirteen European Coalitions: Austria; Belgium; France; Germany; Hungary; Italy; Ireland; Portugal; Slovakia; Spain; Sweden; the UK and Switzerland.

Its main objective is to keep the European institutions informed of the expectations and needs of creators and European cultural professional organisations. This is not only with regard to the UNESCO Convention but also to all subjects related to culture under European competency.

Indeed, despite the internal and international commitment of the European Union in favor of culture and the promotion and protection of the diversity of cultural expressions (adoption of a treaty provision on the integration of culture into other European policies and adoption and ratification of the 2005 UNESCO Convention by the Member States but also by the EU as an organization), nothing has changed. The ECCD deplores that the EU integration of the cultural dimension into its policies does not go beyond the simple reference to the UNESCO Convention.

The European Coalitions have, in particular, great concerns **on the consequences of the European trade policy on the European cultural and audiovisual sectors**. This motivates our contribution to this consultation on the future EU-US trade and economic relations.

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In the first instance and from a political perspective, it must be recalled that the protection and promotion of the audiovisual sector is **in line with the traditional stance of the EU on audiovisual services**.

Indeed, the EU has hitherto refused any trade commitment in this field since the GATS.

Moreover, by adopting the 2005 UNESCO *Convention on the Protection and the Promotion of the Diversity*

of *Cultural Expressions*, **the EU recognized the specific and double nature, both economic and cultural**, of cultural goods and services as well as the right of States to implement cultural policies.

This should not be just a reference quoted in European Commissioners' cultural speeches. It should bring effective consequences in the way the EU acts in trade negotiations.

We therefore ask the EU Commission to take the following into account:

The European Coalitions are well aware that the question of the opening of trade negotiation with the United States has been under in-depth scrutiny since November 2011 and that the launch of such a process will be linked to the green light of the High Level Working Group (HLWG) on Jobs and Growth.

**However, we deem that this does not bring sufficient guarantee on the exclusion of audiovisual and all cultural services from the negotiation.**

First, the United States stance in various fora reveals that the opening of trade negotiations on the non-linear audiovisual services is one of their trade priorities.

On the one hand, they support the OECD exercise named *STRI*<sup>1</sup> in the audiovisual services sector whose objective is to list the trade barriers. The inclusion of the European measures and policies aimed to foster cultural diversity into this list, by considering them only from the trade perspective, inflects a negative judgment on them and could contribute to question their existence.

On the other hand, United States **suggested the integration of the non-linear services into the category of Information and Communication Technologies (ICT)**. If Video on Demand (VoD) is not considered as an audiovisual service, its trade liberalization will become much easier given that similar barriers do not exist in the ICT sector and that a few European Member States do have trade interests in this field.

Such an attempt has been noted in the OECD, at the occasion of the *STRI* exercise, as well as when negotiating *EU-US common principles for Information and Communication Technology Services*. In the drafts prepared for the discussion in those two fora, the United States presented the audiovisual services as "new ICT services" instead of a constitutive part of the audiovisual services.

This US position can be considered as a first step towards a formal demand of liberalization of the non-linear audiovisual services.

Second, the economic importance of the audiovisual sector of the US is such that they have an objective interest in improving their already overwhelming presence on the European market with obvious negative consequences on the latter. Statistics demonstrate this easily: 60% of US exportations of audiovisual services are European; the US share of the European audiovisual market is between 70 and 90% with the exception of France (50%) thanks to the cultural policies established in this country for 65 years.

Third, it seems that the European Union and Member States have interests of great importance in major service sectors at stake in this negotiation. **This makes us concerned that the audiovisual or other**

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<sup>1</sup> STRI : Services Trade Restrictiveness Index

**cultural services could be included in the trade negotiation and be used as a trade bargaining chip** as has been the case for instance in the EU-South Korea FTA when a provision on audiovisual market access was introduced in the annexed Cultural Cooperation Protocol (CCP).

It should be added that the stance of the European Commission on the issue of culture and trade in the last years has not been satisfactory for those who defend the diversity of cultural expressions. For instance, whereas the Members States' mandate to the European Commission on the EU-Canada CETA globally excluded the audiovisual and other cultural sectors from the scope of the negotiation, the European Commission did not consider that it automatically triggers the horizontal exclusion of audiovisual and cultural sectors. Moreover, despite its commitment to do so, the European Commission has not published any strategy on the crucial issue of culture and trade.

Finally, **we have been informed that the negotiation will be based on the negative lists model**, traditionally used by the United States. Such a methodology is highly risky since a too strict definition of a sector in the negative list could mean the integration of the non-listed elements into the trade negotiation.

For all those reasons, we invite the European Commission to express itself in favor of the horizontal exclusion of the audiovisual and cultural services from the trade negotiations with the US.

**Such a position would ensure that the European measures and policies aimed at fostering the diversity of cultural expressions be maintained**, for instance, the audiovisual regulation implemented for nearly thirty years through:

- the MEDIA program which is unanimously considered as a success and;
- the AMS (Audiovisual Media Services) directive whose broadcasting quota of European works provision has been of the utmost importance for the European audiovisual sector.

If we are to develop a strong European audiovisual industry and a rich offer of European works, **the development and improvement of EU regulation is necessary** particularly in order to improve the circulation of European works. Some professionals suggest for instance the adoption of a quota provision on the promotion of European works on the non-linear services as well as a European non-national works quota on TV and VoD services.

This could not be achieved if the audiovisual linear and non-linear sector is opened up.

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We thank DG TRADE for the attention it will give to this contribution. We will also inform the competent DG EAC services of our position on this issue.