

WORLDWIDE TRADE POLICIES FOR THE CULTURAL SECTOR

Abstract

The international cultural trade is a topic that causes hot disputes between countries and even integrationist organizations. The main cause is the different approach toward the value and the role of the cultural goods and services. On the one hand, there is the protectionism, supported by Canada and France, which demand movie industries, broadcasting and magazines to be treated separately from the other services, because an uncontrolled external flow could damage the national identity. On the other hand, the American liberalism promotes the idea that these products and services have to submit to the general trade agreements because an additional intervention would infringe the free competition, that is one of the main principles of a capitalist economy. The two main international organizations that regulate the cultural trade, from different points of view are the WTO and UNESCO.

Key words: *international trade, culture, barrier, liberalism, protectionism*

1. Foreword

The international trade is a complex system of value exchange between countries, transnational corporations, international organizations. In order to regulate and supervise this system, there are a series of conventions and agreements that lead the trade flows in goods and services. One of the most important is the GATT, elaborated during the WTO negotiations. But with the development of the third sector, the necessity of some new regulation emerged, so the GATS was elaborated and signed.

The cultural sector can be divided by many criteria, but from the point of view of the nature of the international flows, is often used the simple separation into cultural goods and services. But such kind of classification overlook one important segment from both, financial and object of trade policies, and namely the copyright and related (the intellectual property). For these trade aspects of such kind of property, there is a special agreement, called TRIPS, also a Uruguay negotiations round product. The most important form of the intellectual property rights, from the cultural industries perspective, is the copyright protection, and its main goal is to encourage the creativity, ensuring the creators with a pay for their work. WTO members are free to determine their method of TRIPS implementation, but they should give to the other members, the national treatment asked by the Paris, Berna and Rome conventions. The interest towards this economics branch appeared in the middle of 80's, when the European Council begun the elaboration of a National cultural policies evaluation program [2].

As the economists see the cultural goods as merchandise, and from the commercial point of view, the cultural exchanges are economic transactions, the level of state implication through protectionist policies have to be reduced. In that sense, only the intellectual property should be protected. However, the antiquities are a common accepted exception, that necessity protection against theft or alienation, because they are considered a compound of the national heritage of the country they belong to.

The main divergences in the international trade with cultural goods and services occur because of their nature and the interpretation of their value. There is no international agreement that would refer just to the cultural trade, but there are a lot of international trade agreements managed by the WTO that regulate it and also there a series of UNESCO agreements, that beside others, regulate some trade aspects.

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After more negotiation rounds, the last one being in Uruguay, USA and Japan attempt of including the cultural goods in the general trade agreements failed, and they remained to be the subject of additional bilateral agreements.

One thing can be said for certain, culture is not a priority for the state. That is because it is a complex sector and it is very hard to quantify its effects and results. If in the case of a machine production sector we can evaluate the financial result at the end of an year, for the cultural industry, the financial result is not an objective indicator, at least because the cultural sector in the most cases is subsidized by the state. The effects determined by culture are long term, and the interpretation of its results must take in account the social and educational effects sometimes more that the financial one. However we can't say that the cultural sector is a wasteful one for the national economies. Some branches like the cinematography, music industry, broadcasting have a significant contribution to the GDP in countries like USA.

Namely these three branches are the ones that cause disputes at the highest level at the international trade negotiations rounds. The first thing to be done is the belonging of the cultural outputs, because they can be treated as products or as services. For example, buying a movie on a DVD is buying a product, but watching the same movie at the cinema you will pay for a service. The same thing is valid for the music industry.

The technological development, especially of the recording equipment and the Internet have a great impact on the cultural trade, because both, the physical limitations and the control possibilities decrease. The decreasing sales of magazines in EU in the last years [3] tend to confirm this fact, because they are substitute by the online media. Craig van Grastek (2006, p.94) marks 48 events from 1877 to 2004 that influenced the cultural trade from both, technological and legislative point of view. Of course, the most technological changes needed a legislative settlement for both, internal and external trade.

2. Methodology and data sources

There are two main worldwide trends about the trade policies for the cultural sector. They are usually the result of the national cultural policies and are targeted to the free exchange or to protectionism.

For this study, there will be used mostly WTO and UNESCO data regarding international trade, cultural sector or other information that can influence the elaboration and implementation of trade policies for the cultural sector. The information is collected from statistical data and from publications elaborated by these organizations.

Studying the international cultural trade evolution together with the market trends can show the directions that are taken by the cultural trade policies. The comparative analysis of the export/ import volumes between countries an regions so as the export/import balance reflects the real vector of the trade policies for the cultural sector used by a definite country or economical entity

3. Results

The trade with cultural goods and services. One thing is certain - the most WTO members refuse to take commitments for the cultural sector in the general international trade agreements.

It can be observed the trend that the states that are investing more in art and culture, like France or Canada, that sped 57 respectively 46\$ [6] per capita for arts, practice and promote protectionist trade policies, and the states with low investments for such activities, like USA, with only 6\$ [6] per capita for arts, are the loudest voices to promote the liberalization of the cultural trade.

At the end of GATS Uruguay negotiations round (1986-1994), it was the last time when it was proposed a wide cultural exception for the trade system. The European

community published a report about the “culture specificity” where were stipulated that each member has its own specific needs which should be fully acknowledged. The proposal was rejected. Since then the provisions do not aim the exclusion of culture from trade agreements, but tend to be a negotiation tool for cultural diversity beyond these agreements.

The UNESCO conventions are a foundation on which the cultural policies are built, from which emerge the national trade policies for the cultural sector. Although the expression “Unity through diversity” is general accepted, there are no clear mechanisms for its practical application. Here we face the issues of preserving the own culture, being in the same time flexible regarding other cultures. The opened markets from one side will reduce the production costs, which could determine the export increase, but in the same time, the imports may overwhelm the domestic artists or cultural producers. In this sense, the main condition would be that the opening for new cultural principles and values to be harmless for the domestic ones.

So the cultural sector has already some exceptions stipulated in GATT (XX art) in which it is mentioned the necessity public morality and national artistic heritage protection. These specification are often called down by the protectionists. What about GATS, it doesn't contain additional regulations for the cultural sector.

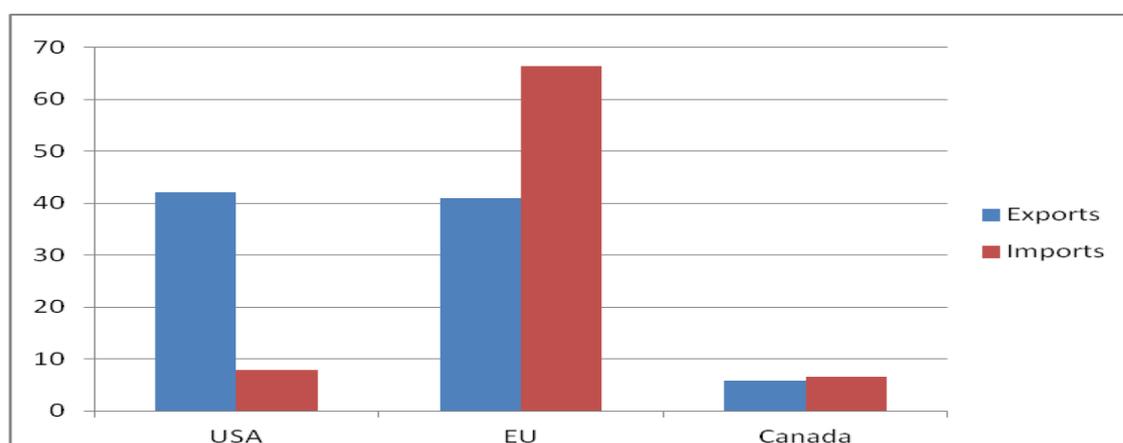


Fig. 1 – Main exporters and importers of personal recreational and cultural services (percent from top 10)

Source: Elaborated by author using WTO data on services trade for 2011.

http://www.wto.org/english/res_e/statis_e/its2011_e/its11_trade_category_e.htm

Based on the carried investigations, the most representative trade policies for the cultural sector are in USA, Canada and France. But so as France is a EU member, and the most statistical data are not divided for each member, we will use EU as study object instead of France.

In the 1-st figure we can easily observe the trade trends, which are the base for the external trade policies. In order to avoid the ambiguities, the cultural service international trade will be analyzed separately of the highly disputed audiovisual. And at this point it should be mentioned that there is no specific statistical frame for the cultural sector, even if there are more and more attempts in this sense. So the statistical data used here, also contains the personal and recreational services beside the cultural ones, but for convenience the “cultural services” term will be used.

From the top 10 world cultural services exporters, USA holds the first position with 42% of exports, just a little above the EU. As we already know the US position towards

liberalization, this figure do not surprise, but what should be noted is the low level of imports on the same segment. One could assume that there are some trade barriers, but it does not correspond with the trade policed practiced by the US. So we tend to believe that this low level is determined by the over saturated internal market, which doesn't require any additional (external) source of cultural services.

From the other side we have an interesting opinion from Dwight Macdonald (writer and politician) who has a different view towards the US "cultural boom, which he calls "masscult" or culture for the masses, low class culture. He pretends that culture mass production determined the penetration of the middle and low layers of the society, but in the same time it has lost or at least diluted its ethical and aesthetical values. This might be one of the reasons why EU and Canada maintain their protectionist or even adverse policies towards American culture.

What about EU, the difference between imports and export, from one side is not so great, from the other, the balance is leaning toward imports, with more than 65% from the top 10 importers. Such a situation doesn't appear to reflect protectionist policies, but it should be taken in account that EU is a multinational and respectively multicultural entity, and as it was mentioned before, each state can maintain its trade policy towards cultural trade

Despite its declared protectionism, Canada imports more cultural services that it exports, but the different between the flows is small as for cultural services so for the audiovisual.

International cultural trade is not regulated just by WTO. Some aspects are under UNESCO's, WIPO's or other international organization's jurisdiction. There a couple of agreements and conventions beside WTO with both, protectionist and liberal trend that influence the cultural trade on bilateral, regional or even international level. For example, culture related UNESCO convention are protectionist when about heritage preservation, and liberal when about the free distribution of scientific, cultural or educational publications.

Another kind of international agreement are ITA (Informational Technology Agreement) which regulate the trade in advanced cultural hardware (TV-sets, typing machines) through reduction or elimination of some charges.

Free trade agreements (FTA) are allowed by WTO only if the parts meet definite criteria, and a very popular between WTO members. During the last years, North-South agreements take place instead of North-North or South-South (North means an industrialized country and South a developing one).

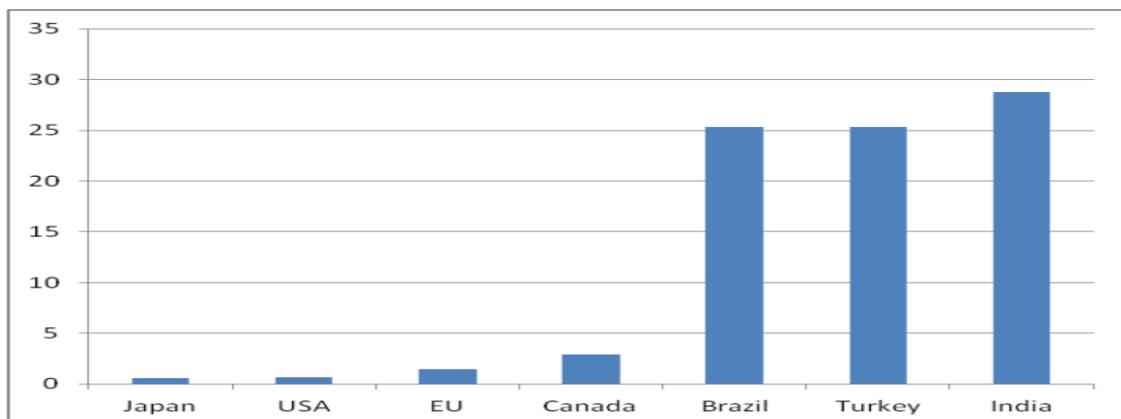


Fig. 2 - The average of border taxes for cultural hardware and software

Source: Made by authon based on data from [6]

What about the cultural trade, in the most cases, the agreement reflect the industrialized country's position. Also the cultural exceptions negotiated by EU and Canada are not regulated in the USA agreements.

For the elaboration of such agreement, can be used two approaches: positive – when are covered only the mentioned aspects (preferred by EU); and negative – when are covered all the sectors but the specified ones (preferred by USA).

When analyzing the tariff average for 11 categories of cultural goods (hardware and software) between different countries (fig.2), we can also draw some conclusions about their trade policies. Again we can observe the low taxes that presume liberal politics practiced by USA and Japan for a narrow segment of goods. EU and Canada have moderate taxes for a medium segment. And the most protectionist seem to be the developing countries like Turkey, Brazil, India, which have very high import taxes (up to 40%)[6] for TV sets, binding machines, paint brushes, movies and even musical sheets.

The audiovisual sector. For this kind of services we have the same three economical entities (fig.3), with almost the same situation. The difference is the higher rate of exports (about 10%) for USA together with a higher rate for imports in EU.

During the 2000 UNESCO consultations, when the coverage of cultural services, with deepening in audiovisual services was proposed, only 27 of 153 WTO members were ready to include them into GATS commitments [5]. Because of this situation EU is convinced that countries must have some kind of autonomy when speaking about audiovisual politics, especially in order to preserve the cultural diversity.

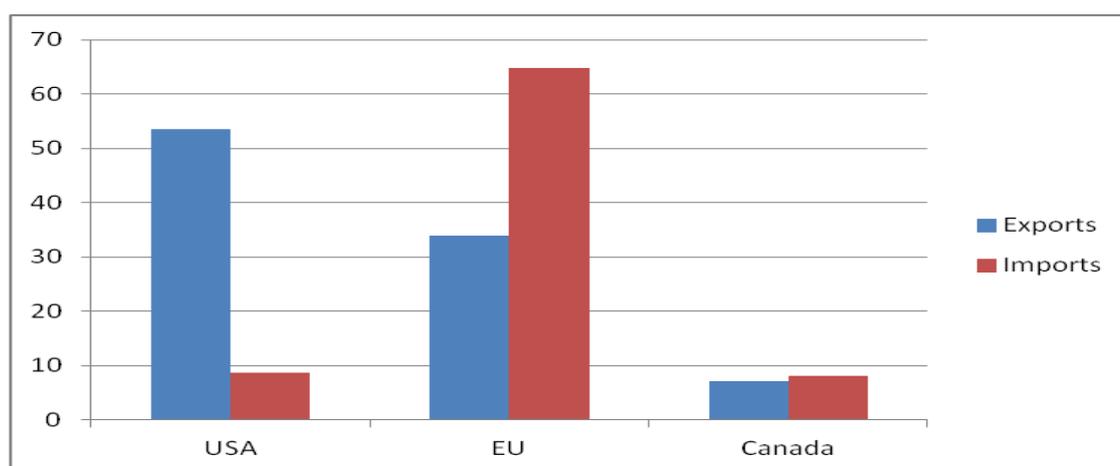


Fig. 3 – Main exporters and importers of audiovisual and related services (percent from top 10)

Source: Elaborated by author using WTO data on services trade for 2011.

http://www.wto.org/english/res_e/statis_e/its2011_e/its11_trade_category_e.htm

One of the main reasons why audiovisual is so popular is because of the low reproduction costs. Also, being one of the most politicized sectors, the interest in it is more than cultural, but it is a good tool for directing the public opinion and the management of information that should or shouldn't get to the masses. It mustn't be neglected and the fact that in many cases, using the audiovisual doesn't require a special intellectual involvement.

Movie industry. The special treatment for cinema was included in GATT since 1986, by mentioning that country have the right to maintain a screen quota for the domestic movie

production. Anyway, the last point in this article suggests that these quotas have to be the subject of negotiations in order to limit or even exclude.

Hollywood productions have caused many disputes, because many countries, especially China, India and of course France and Canada do not allow their massive entrance on the internal market. They argue that movies are a cultural act, so they must have a special treatment in the international trade agreements.

It is interesting to mention that in 1995, Canada spent 2,5 bil. CAD [1] for subventions for domestic movie industry, recovering just a part of them. The same thing happens in EU, which has the biggest movie subventions, but never showed any evidence that it would be interested in money recovering. So the protection of domestic movie production is not just a slogan, but it has a real coverage.

Subventions and piracy. In the GATT approach, the subventions are seen as a distortions, same as border taxes or other restrictions, which have to be disposed. GATT provides the implementation of some countervailing taxes for some subventions, that at the end should lead to their reduction or elimination. There are no special provisions in GATT or other WTO agreement that would refer to the cultural goods. If a country wants to subsidize the production and export of cultural goods, these become the subject of countervailing taxes like any other merchandise. Anyway, there is no precedent, in which a cultural good have been the subject of such kind of taxes. Only a couple of cases referring anti-dumping actions against several TV companies and additional equipment.

Subvention is like a two edge sword. Liberalizing the cultural industries, by dropping the subventions, the state could save some money and the entrance of foreign product would offer a larger choice for the customers. But from the other side, from the social point of view, it would mean less work places, a bigger unemployment and less collected taxes.

A curious fact is that USA doesn't oppose the subventions for the cultural industries, even if it is well known for the liberalization trend. Instead, we have the developing countries like Brazil, which are a firm opponent of the subsidies enabling, because they would be disadvantaged in a "subventions war" with the developed countries.

Piracy is a phenomenon often seen in the cultural trade. The audiovisual exporters, and not only, lose huge amounts of money because of the illegal copies. China is an interesting example, which even if is a WIPO member since 1980, because of the lack of knowledge about intellectual property rights (the first specialized trainings were made in 1996) is on the top of piracy list. It is a kind of "deliberate negligence" because it is known that the counterfeiters maintain relationships with the local governments which offer them some kind of protection [4]. Anyway piracy is not the cause of all bad things in cultural trade. For example the decrease of worldwide CD sales is determined at first by the technological changes that take place in the society, because they were replaced with DVDs, and other types of cultural goods distribution. Beside China, Russia is also in the top 10 of world counterfeiters (published by US), followed by Argentina, Chile, Egypt, Libya, Thailand, Turkey, Ukraine and Venezuela. Brazil went out that top and Canada is monitored because of the illegal video shooting in the cinemas.

4. Conclusions

The cultural trade is the subject of continuous disputes between protectionists and liberals because it is placed under the jurisdiction of a couple of organizations and also because there is no special international trade agreement for cultural goods and services.

The tentative of complete including or excluding the cultural goods and service in/from the international general trade agreements have failed repeatedly, that is why negotiations take place at a bilateral level

The protectionism and liberalism in the cultural trade can be used sometimes as pretext for some political actions. The Canadian and French hostility towards US cinema and audiovisual, together with the high input taxes practiced by developing countries for cultural goods and services, seem to be safety measure that go beyond the cultural connotation.

The piracy and subventions are two phenomena which, even if they are on the different side of legal provisions, they distort the market and cause money loss for the producers in the first case, and for the governments in the second.

Along with the technological development it is harder and harder to maintain the control on culture distribution. The legal framework is usually a step behind the changes which take place in the society, and the taken measures are inefficient because of that.

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