Culture as Trade Concern*

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The accelerating pace of globalization pushes local culture and foreign culture to compete for more recognition from the consumers in the home market and the foreign market. The proper mix of market discipline and protectionist measures is a key question in this competition. This paper takes the case of film industry to analyze the current state of debate. A case study is undertaken for the film industry of Canada, Mexico, and Korea in their response to the U.S. request to pry open their film industry. The paper illustrates that there is no common solution to the liberalization of the culture industry; the interaction between internal level and domestic level determines the specific outcome.

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I. INTRODUCTION

From an anthropological viewpoint, culture represents 'a set of attitudes, practices and beliefs that are fundamental to the functioning of different societies.' Seen in this light, everything can be justified in the name of culture. A glaring example is to explain the dramatic Asian economic growth through the prism of culture. Another example is the cultural account of the rise of the modern industrial society in the Western world and the notable absence in other parts of the world. Hence, culture is a fascinating subject and, at the same time, a dismal subject.

The conventional wisdom of culture highlights the intrinsic attributes of local culture which are not subject to mutation. The ever-increasing flow of ideas, people, products and money across the national borders provides both opportunity and challenge to the indigenous culture. Using the analogy of "local in the global village" in the parlance of the center-periphery literature, local culture is pushed back to fight for survival against the dominant invading foreign culture. From a trade perspective, local consumers are given more choice and producers may look to foreign markets for its export.

Both local culture and foreign culture compete for more recognition from the consumers in the home market and the foreign market. In this competition, the strong party tries to enforce market discipline and the weak party relies on the protectionist measures. How they develop their argument and options with a view to tilting the ground to their advantage drives this paper. After half a century of pursuing trade liberalization in the field of goods through the General Agreement on Tariffs and Trade (GATT) as a major vehicle, now the stage for the next round of trade liberalization is set in the area of the cultural industry. According to some, even the setting of the stage may be in dispute.

This paper discusses the background of trade dispute in the cultural industry. To be operational, the whole cultural industry will not be analyzed. The paper deals with the audio-visual services, mainly consisting of film, TV broadcasting and music, with a specific emphasis on the film industry. The paper is organized as follows. In section 2, the global market situation of the audio-visual industry is discussed. Section 3 traces trade dispute in the audio-visual sector. Section 4 discusses the current internal trading regime on the cultural industry, discussing trade perspective versus cultural perspective. In section 5, case study of the film industry in Canada, Mexico and Korea is presented. Since all three countries have negotiated with the United States over the issue of film, their different policy responses are worthy of analysis. Section 6 concludes the paper.

II. THE GLOBAL AUDIO-VISUAL MARKET

A rough sketch of the global audio-visual services (film, TV broadcasting and music)

goes as follows. The market of the three major economies of the the United States, the European Union (EU) (15 member states) and Japan is assessed as 202 billion Euro as of 1999. The United States has 49% of the overall market, followed by the EU with 34%, and Japan with 16%. In terms of per capita consumption, a U.S. consumer spends 364 Euro, Japan 266 Euro and the EU 185 Euro. Among the EU, a U.K. is the top consumer spending 302 Euro per capita.

Among the sub-sectors of film, TV broadcasting and music, the largest market is TV broadcasting with a share of more than 60% of the audio-visual sector. In the EU, the share of TV broadcasting is almost 70%. On the other hand, film takes 25.2% of the share in the United States, far exceeding the corresponding share of film in the EU and Japan.

FIGURE 1. COMPOSITION OF THE AUDIO-VISUAL MARKET (1999)

Data: European Commission, *Statistics on Audiovisual Services Data 1980-1999*, 2001.

TABLE 1. TRADE IN AUDIO-VISUAL SERVICE SECTOR

(Unit: million dollars)

	Export		Import		Trade Balance	
	1990	1999	1990	1999	1990	1999
U.S.	1,459	5,186	65	232	1,394	4,954
U.K.	868	1,023	840	689	28	333
Canada	298	1,055	608	1,158	-309	-104
Australia	-	99	323	410	-323	-311
France	632(1)	819	900(1)	1,332	-268(1)	-513
Italy	234(1)	196	716(1)	690	-482(1)	-494
Germany	126	128	864	3,314	-738	-3,187
EU	2,744(1)	3,299	4,852(1)	8,520	-2,108(1)	-5,221
Korea	0	8	12	80	-12	-72

Note: (1) date for year 1992.

(2) EU total of year 1992 does not include Netherlands, Denmark, Ireland, Greece, Portugal and Austria.

Source: OECD, 2000: *OECD Statistics on International Trade in Services 1990-1999*.

According to the Organization for Economic Cooperation and Development (OECD)

statistics, the United States is the largest trading country in the audio-visual service sector, as illustrated in Table 1. Most EU countries record trade deficit with the notable exception of the U.K. During the 1990s, the trade deficit of the EU more than doubled, whereas the U.S. trade surplus soared more than three times.

Film Industry

Due to a spree in multiplex cinema construction and successful Hollywood blockbuster movies, the global film industry has been expanding ever since the mid 1990s. The United States continues to dominate as the largest film exporter in the world, followed by Hong Kong. In terms of production, India is the biggest film producer (producing mainly for its domestic market), followed by the United States and Hong Kong. Europe is the principal export market for the U.S. entertainment industry. In 1995 about 70 percent of all the U.S. exports of audiovisual services went to Europe. The U.S. share of the European market rose from 56 to 78 percent over the 1990s. During this period the market share of European films decreased from 19 to 10 percent. As of 2000, the U.S. film industry enjoyed a 73.7% share in the EU. A notable exception is France where local films claimed 36% of its market and the EU film marked 33% in the year 1999.

FIGURE 2. FILM PRODUCTION TREND IN MAJOR REGIONS (1980-1999)

Source: European Commission, *Statistics on audiovisual services: Data 1980-1999*, 2001.

Small scale films are in competition with Hollywood's big budget mainstream movies. Whereas the average production cost of a Hollywood film in 1997 was 12.9 million Euro, for countries with small film industries the average budget was below one million Euro, as shown in Table 2.

Hollywood films benefit from a huge home market. Having recouped high fixed costs in the home market, it is very easy for a U.S. film to successfully enter foreign markets at low marginal costs. This benefit of 'economies of scope' gives a significant

competitive edge to the U.S. film, compared with films in other countries. Moreover, the U.S. film has an enormous advantage in global marketing and distribution channels, critics argue.

While the audiovisual sector in EU countries is struggling to deal with fragmented distribution structures, the U.S. entertainment industry is investing vast amounts in the promotion and distribution of its products throughout Europe. The highly effective and coordinated joint marketing and distribution of films by Motion Picture Association (MPA) members, using techniques such as deciding which cinema has the right to show a film first and the imposition of block bookings on exhibitors, is even anti-competitive. All these factors led to the situation where a dozen U.S. distributors take the majority of box-office receipts in Europe whilst over 1,000 European distributors compete for the rest of the market.

TABLE 2. PRODUCTION SCALE OF FILM IN SELECTED COUNTRIES (1997)

(Unit: Million Euro)

	The Number of Production	Total Production Costs	Production Costs per Film
Germany	61	305	5.0
France	163	795	4.9
U.K.	115	969	8.4
U.S.	673	8,662	12.9
Mexico	9	11	1.2
Argentina	32	48	1.5
Brazil	30	64	2.1
Egypt	55	35	0.6
Japan	278	914	3.3
India	697	300	0.4
China	88	47	0.5
Hong Kong	94	54	0.6
Philippines	210	30	0.1
Singapore	7	2	0.3
Korea	162	44	0.3
Taiwan	27	17	0.6
Australia	34	86	2.5

Source: European Audiovisual Observatory, UNESCO.

III. TRADE DISPUTES IN THE CULTURAL INDUSTRY¹

Trade friction between the United States and the European countries traces back to the early 20th century. During the inter-war year, the U.S. motion picture industry

¹ Garnham used the term 'cultural industries' to describe 'those institutions in our society which employ the characteristic modes of production and organization of industrial corporations to produce and disseminate symbols in the forms of cultural goods and services, generally, although not exclusively, as commodities.' For details, see Garnham (1990), 155-56.

pressed the U.S. Department of State to deal with the European screen quotas. This trans-Atlantic dispute eventually was resolved by establishing Article 2 - exception to the national treatment in the case of film in the GATT, which was negotiated in 1947.² This Article specifically authorizes screen quotas, thereby removing them from normal GATT disciplines. In practice their application in the immediate post-war era was of limited duration due to a decline in the U.S. film exports matched by a strong European film industry.

Conflict over the cultural sector was manifest in several international fora, including the United Nations Committee on the Uses of Outer Space in the 1960s, the UNESCO debate on the New International Information Order in the 1970s, and GATT. During the Tokyo Round Negotiations (1973-1979), the United States complained about the subsidization of cinema and television by no fewer than 21 countries. The United States also sought unsuccessfully to challenge European Community restrictions on the televised showing of non-European films in 1991, by invoking Article IV of the GATT, but the European Community viewed television broadcasting as a service and considered that it could *not* be covered by the goods regime of the GATT.

The trade and culture debate gave way to outright conflict between the United States and the European Communities (and Canada) during the Uruguay Round (1986-1993). The developing conflict centered on 'cultural identity' and the trade in film and television programs, to the extent that the term 'culture' became synonymous with the word 'audiovisual.' While the United States claimed that cultural identity could not be defined and that film and television products were marketable commodities, subject to the same trade rules as any other goods, opponents interpreted the U.S. stance as a challenge to national cultural expression and linguistic diversity in the name of trade liberalization.

The European Communities, Canada, Australia, India, Egypt, Brazil, and some other countries where strong film industries exist, wished to preserve 'cultural identity' and to recognize fundamental cultural differences, based on separate language, values, and beliefs. The United States countered this as an excuse for the continued protectionism of national film, television, and media industries in those countries.

The underlying tension between these two opposing views led to the introduction of a 'cultural exception' to multilateral trade rules at the Montreal, mid-term Ministerial meeting in December 1988. Concerned about the cultural impact of trade disciplines for audiovisual services, the Canadian delegation sought to secure specific language in the draft negotiating text on services so that the audiovisual sector would not be covered by the negotiations. However, this line of approach, which attempted to carve the audio-visual sector out of the General Agreement on Trade in Services (GATS), which was then being negotiated, proved unsuccessful. The coverage of the GATS was agreed to be universal, meaning that, as a matter of principle, no other service sector would be excluded from multilateral trade discipline.

² Next section offers in-depth analysis of GATT Article IV.

This outcome should not be understood as an implication that the door was wide open for the liberalization of the global audio-visual sector.³ Two caveats: Most Favored Nation (MFN) exemption and specific commitments. Counting the European Communities as a single entity, more than forty World Trade Organization (WTO) members have taken MFN exemptions in audio-visual services. These countries secured an international legal right to preserve their ability to discriminate against foreign audio-visual service suppliers on the basis of origin of supply. Under this exemption, a specific foreign country can be targeted in order to restrain trade. Even if no MFN exemption is being undertaken, there is still a room for discriminating against foreign service suppliers by local suppliers. Mainly two options are possible. The first option is not to make any specific commitments. The second option is to negotiate limitation on national treatment even if a country decides to make specific commitments.

Right after the conclusion of the Uruguay Round, trade in the cultural industry proved to be a deal breaker in the negotiations for the Multilateral Agreement on Investment (MAI). The negotiations under the aegis of the OECD found two strong opponents France and Canada-blocking trade liberalization in the cultural industry. The MAI negotiations eventually collapsed. Quite recently, the screen quota in Korea proved to be an obstacle to the settlement of the bilateral investment treaty (BIT) between the United States and Korea.

IV. INTERNATIONAL RULES ON TRADE IN CULTURE

There is no single international rule that governs every aspect of trade in cultural goods and services. Various multilateral, plurilateral, regional and bilateral trade agreements cover some aspects of trade in culture. The existing international rules on the circulation of cultural goods and services can be put into one of the two categories: (1) those that establish or leave room for exceptional treatment of cultural goods and services in trade agreements; and (2) those designed to facilitate the circulation of the goods and services in question by eliminating trade barriers. The second group of legal texts makes it clear that the right to protect a threatened national cultural production is not something taken for granted. This approach takes a trade perspective. On the other hand, the legal texts in the first category support a vision of cultural diversity that protects and promotes national culture as well as encourages openness to the cultural production of others and cultural diversity in general. This approach may be dubbed the cultural perspective.

A. Trade disciplines

GATT

In the multilateral trading regime of the WTO, both the GATT and the GATS

³ Further details are discussed in the following section.

cover trade in cultural goods and services. The GATT provides grounds for discriminatory treatment of foreign movies in favor of domestic ones regarding their access to the screens. From its inception the GATT has provided an exception to cinematograph films. In 1947, in recognition of the difficulty that domestic film producers faced in finding adequate screen time to exhibit their films in the immediate post-World War II period, GATT founders authorized continuation of existing screen-time quotas.

Under Article III, the GATT provides one of its central principles, "non-discriminatory national treatment to all imported goods." Yet, Article III also provides an explicit exemption to national treatment of motion pictures. Moreover, Article IV Special Provisions relating to Cinematograph Films of the GATT allows signatory nations to establish screen quotas and give preference to locally produced films from preferred countries. Even though Article IV does not elaborate further about by what standards the national origin of films should be determined or how screen quotas could apply, this provision functions as an exception to Article I's most-favored national treatment and Article III's national treatment provision.

The Article IV of the GATT ("Special provisions relating to cinematograph films") stipulates as follows:

"If any contracting party establishes or maintains internal quantitative regulations relating to exposed cinematograph films, such regulations shall take the form of screen quotas which shall conform to the following requirements:

- (a) Screen quotas may require the exhibition of cinematograph films of national origin during a specified minimum proportion of the total screen time actually utilized, over a specified period of not less than one year, in the commercial exhibition of all films of whatever origin, and shall be composed on the basis of screen time per theatre per year or the equivalent thereof;
- (b) With the exception of screen time reserved for films of national origin under a screen quota, screen time including that released by administrative action from screen time reserved of national origin, shall not be allocated formally or in effect among sources of supply;
- (c) Notwithstanding the provisions of sub-paragraph (b) of this Article, any contracting party may maintain screen quotas conforming to the requirements of sub-paragraph (a) of this Article which reserve a minimum proportion of screen quota for films of a specified origin other than that of the contracting party imposing such screen quotas; *provided* that no such minimum proportion of screen time shall be increased above the level in effect on April 10, 1947;
- (d) Screen quotas shall be subject to negotiation for their limitation, liberalization or elimination."

The corresponding provisions in the Havana Charter appear in Article 19, in the New York Draft in Article 15(4) and in the Geneva Draft in Article 19. Article

9 of the U.S. Draft Charter on national treatment, proposed to treat internal quantitative restrictions on exhibition as a prohibited mixing requirement. While the London Draft Charter included no agreed national treatment provisions (as resolution of these issues was deferred), the New York Draft of the Charter and the GATT dealt with internal quantitative regulations on distribution or exhibition of cinematograph films in a separate paragraph of the article on national treatment.

After discussion at the Geneva session of the Preparatory Committee, provisions substantially identical to those in the present GATT Article IV were drafted by a special subcommittee on Films. "The Sub-Committee agreed that the New Zealand renter's quota is in the purpose and effect the equivalent of a screen quota. This particular quota is in fact a preferential quota of the type referred to in (the Charter provision corresponding to GATT Article XIV: 5(b))." A note was therefore added Annex A treating this film quota as a screen quota under Article IV. The date of 10 April 1947 referred to in sub-paragraph (c) was the opening date of the Geneva session.

At the Review Session, participants agreed to incorporate Article IV into Article III: 10, as an amendment contingent on the entry in force of the Protocol Amending Part I and Article XXIX and XXX of the GATT. However, this Protocol never entered into effect and was formally abandoned at the end of 1967.

Since its establishment, members have tried to clarify the meaning of the Article IV. The following is a brief summary of such discussion.

(1) Meaning of "Cinematograph Films"

In discussions in the early 1960s, the United States stated that restrictions against showing foreign television programmes were technically a violation of Article III: 4, but that some of the principles of Article IV might apply to them. A working party was unable to come to any agreements on the subject. Several Draft Resolutions proposed in 1962/63 were not adopted.

In 1991, the United States requested consultations under Article XXII: 1 of the GATT concerning certain measures restricting the showing of non-European films on television. The EC stated the question of broadcasting, whether by television or by any other means, belonged essentially to the area of services.

(2) Discrimination between Films

At Havana an amendment to the Charter provision corresponding to Article IV was withdrawn in view of the interpretation that "The date fixed in sub-paragraph (c) clearly relates only to discriminatory measures as between foreign films, not as between domestic and foreign films."

(3) Concessions on Screen Quotas

Additional note 2 *ad* item 3708 of the Torquay Schedule XXXIII of the Federal

Republic of Germany provided: "Should the Federal Republic of Germany establish a screen quota for the exhibition of films of foreign origin, the Federal Republic would then not maintain or establish any prohibitions or restrictions (other than non-discriminatory rates or changes), whether made effective through quotas, import or export licenses or other measures, on the importation of films which are the product of any other contracting party. Furthermore, should the Federal Republic of Germany establish such screen quota to be instituted as indicated above, and in case the German foreign exchange position demands prohibitions or restrictions, these can only be effected through the non-transfer of proceeds." In 1956 this concession was withdrawn pursuant to negotiations under Article XXVIII.

The Audio-Visual Sector in the GATS

The GATS was established as a result of the Uruguay Round. The GATS is another pillar of the multilateral trade rule covering trade in culture. The coverage of the GATS is universal; every service trade is in principle subject to the trade disciplines of the GATS. During the Uruguay Round, where the negotiations on services were conducted for the first time in the history of the multilateral trading regime and eventually created the GATS, the EC argued that culture in general, and the audio-visual sector in particular, should be outside scope of the multilateral trade disciplines, reflecting the discriminatory policy on non-EC contents for the audio-visual services. In the service negotiations, the issue of the audio-visual sector was a deal breaker. After years of the negotiations, the compromise was made at the conclusion of the Uruguay Round: market access and national treatment of every service sector should be negotiated; and the EC obtained the exemption of the MFN treatment on its audio-visual sector.

That is, any country which allows foreign supplier's access to its domestic audio visual market would make commitment through negotiations with other WTO members. The negotiations on terms and conditions of market access (Article XVI of the GATS) and national treatment (Article XVIII of the GATS) would determine the nature, scope and speed of a country's liberalization of its service sector. The audio-visual sector is not exception to this modality of liberalization. This means that a country may not have to liberalize its audio-visual sector at all, and it could discriminate against foreign audio-visual services in favor of domestic ones, as long as all other WTO members agree with such conditions.

The Article II of the GATS ensures the MFN treatment of all the WTO members. Only one exception to this most-favored-nation principle of the GATS was allowed at the conclusion of the Uruguay Round. The EC invoked this exception clause of the MFN for its audio-visual sector.

The relationship between the GATT and the GATS is not clear. While the GATT allows the screen quota system as a matter of principle, the GATS requires that any limitation to market access and national treatment of the audio-visual service

should be negotiated. In the parlance of the GATS, the screen quota system is the limitation on the national treatment of motion picture projection service. Hence, if a country permits the establishment of a local movie theater owned and controlled by foreigners, but the government wants to impose the screen quota system on this foreigner-owned theater, it would not be a violation of the GATS, as long as such arrangement can be negotiated.

During the Uruguay Round, some countries committed to the liberalization of the audio-visual sector. Salient aspects of these commitments are easily noticeable. First, most commitments were not about further liberalization but commitment to bind the existing level of market access and national treatment. Some negotiators would claim that this sort of 'standstill' commitment would be meaningful because the pace of liberalization was set in and at least reneging on the existing level of liberalization would not take place or very costly to occur. Second, EU, Canada and Australia, which are the major importing countries of audio-visual services did not make any commitment. The EU took the MFN exception for its audio-visual service sector. Only two countries, the United States and Central African Republic, made some form of commitments, though not complete liberalization, in all of the audio-visual service sectors.

TABLE 3. COMMITMENT AT WTO/GATS AUDIO-VISUAL SERVICE

Service Sub-Sector	Countries which Made Specific Commitment
Films and Video Production/ Distribution	Central African Rep, Gambia, Hong Kong, India, Israel, Japan, Kenya, Korea RP, Lesotho, Malaysia, Mexico, New Zealand, Nicaragua, Panama, Singapore, Thailand, U.S. (17 countries)
Films Projection Service	Central African Rep, Gambia, Japan, Kenya, Lesotho, Mexico, New Zealand, Nicaragua, Panama, U.S. (10 countries)
Radio and TV Production Service	Central African Rep, Gambia, Lesotho, New Zealand, Thailand, U.S. (7 countries)
Radio and TV Transmission Service	Central African Rep, Dominican Rep, El Salvador, Gambia, Lesotho, Malaysia, New Zealand, U.S. (8 countries)
Sound Recording	Central African Rep, Hong Kong, Japan, Korea RP, Panama, Singapore, U.S. (7 countries)
Other Sub-Sector	Central African Rep, Dominican Rep, El Salvador, Hong Kong, New Zealand, U.S. (6 countries)

Source: WTO/S/C/W40.

The OECD

The OECD Code of Liberalization of Current Invisible Operations, of which obligations all members are subject to, states in principle no barriers in any international

investments. Nonetheless, members may negotiate specific reservation for their sensitive sectors, to which the Code would not be applied. Countries such as Italy, Spain and Korea in particular have specific reservations concerning the screen quota. At the time of its accession negotiations, Korea has stated specifically the presence of the screen quota system and recommendation system on imported motion pictures and other documentaries under the OECD and that Korea has been granted explicit understanding about these matters.

Regional Trade Agreement

Among the regional trade agreements, the Canada-U.S. Free Trade Agreement (FTA) and the North American Free Trade Agreement (NAFTA) provide specific exception on the culture-related trade.

Canada-U.S. FTA

In the Canada-US FTA, the both countries agreed on the cultural exception with the following text:

- The tariffs are removed for goods used as 'input' in production by the cultural industries.
- The requirement that magazines be typeset and printed in Canada in order for companies to deduct advertising expenses for corporate tax calculations is removed.
- Copyright payments for cable redistribution of distant signals is imposed, regardless of nationality.
- The Canadian government must ensure that 'fair market value' is given to American firms which are forced to divest their interests in Canadian cultural industries.

The above so-called "cultural exception" became a part of the Canada-U.S. FTA mainly due to the strong request by Canada, which has been concerned about the cultural dominance of the United States. In return for accepting such a cultural exception, the Canada-U.S. FTA gives the US government a right to retaliate.

NAFTA

The Chapter 21 of the NAFTA deals with the exception of cultural industry: Article 2106: Cultural Industries

Annex 2106 applies to the Parties specified in that Annex with respect to cultural industries.

Annex 2106. Cultural Industries

Notwithstanding any other provisions of this Agreement, as between Canada and

the United States, any measure adopted or maintained with respect to cultural industries, except as specifically provided in Article 302 (Market Access-Tariff Elimination), and any measure of equivalent commercial effect taken in response, shall be governed under this Agreement exclusively in accordance with the provisions of the Canada U.S. FTA. The rights and obligations between Canada and any other Party with respect to such measures shall be identical to those applying between Canada and the United States

Article 2107: Definitions

For purposes of this Chapter:

“cultural industries” means persons engaged in any of the following activities:

- (a) the publication, distribution, or sale of books, magazines, periodicals or newspapers in print or machine readable form but not including the sole activity of printing or typesetting any of the foregoing;
- (b) the production, distribution, sale or exhibition of film or video recordings;
- (c) the production, distribution, sale or exhibition of audio or video music recordings;
- (d) the publication, distribution or sale of music in print or machine readable form; or
- (e) radio communications in which the transmissions are intended for direct reception by the general public, and all radio, television and cable broadcasting undertakings and all satellite programming and broadcast network services;

B. Cultural Diversity: Cultural Perspective

Different nations or groups have different perspectives on culture. There is an increasing awareness of the influence of culture on foreign policy as “soft power.” Fearful of the negative consequence of cultural hegemony, nations are searching for ways and means for coping with such hegemony in the cultural industry.

There are several challenges, opportunities, and issues related to cultural diversity. The main global concern is the impact of globalization on culture, which came from trade liberation, technological developments, and industry consolidation. Globalization offers great opportunities for spreading culture, while at the same time posing a threat to the preservation of a nation's cultural identity.

For the people who share cultural perspective on the issue of trade in culture, the interaction between language and culture isn't always balanced, and this is a threat to smaller, indigenous cultures, particularly to their linguistic traditions. This imbalance is most evident in the differences between developed and developing countries. The key concern for developing countries is the lack of basic technological infrastructure, let alone cultural and media infrastructure. As a result, their technological literacy rate is much lower than that of developed countries. Developing countries must invest

in the cultural sector as a catalyst of development. Hence, protection from trade liberalization, the argument goes, is imperative. The "cultural diversity" is the catchall that captures the spirit and the outcome of these efforts. Recent initiatives on cultural diversity emphasize the growing importance of cultural diversity in the international policy agenda and show efforts to stimulate discussion and build a consensus on the importance of it.

Multilateral Level

Many multilateral initiatives have been taken by the international organizations such as UNESCO and the World Bank. Following the "Our Creative Diversity" (1995) project and the Stockholm Action Plan (1998), UNESCO held even more events such as a symposium on pluralism (January 1999), a conference on cultural diversity and trade (June 1999), and a Round Table of Ministers of Culture "Culture and Creativity in a Globalized World" (November 1999) to explore major cultural diversity issues. The World Bank along with international and regional financial institutions sees culture as imperative to sustainable development. Both UNESCO and the World Bank define culture in the same way. In October 1999 in Italy, the World Bank and UNESCO hosted a conference "Culture Counts: Financing, Resources, and the Economics of Culture in Sustainable Development," to highlight the growing importance of culture for advancing sustainable development. Besides these two organizations, there were other multilateral initiatives by groups such as the G-7, the Inter-American Development Bank, the OSCE, and the Organization for African Unity (OAU). In November 2001, UNESCO adopted "Universal Declaration on Cultural Diversity," which declared that cultural diversity is the common heritage of humanity and should be recognized and affirmed for the benefit of present and future generations.

Regional level

Regional initiatives were also taken. Groups such as the Council of Europe, the EU, the Meeting of Ministers of Culture and Audiovisual, and the Organization of American States, and La Francophonie took action. Following is a brief highlight of each group. The Council of Europe was mainly concerned with preserving "European Culture." Intensive programs such as the Council of Cultural Cooperation (CDCC) and Steering Committee on Mass Media (CDMM) were formed. The EU was largely interested in the audiovisual policy, especially the French, and cultural diversity through the EU Charter on Fundamental Rights. In the meeting of culture ministers and Audiovisual, the EU continues to argue for audiovisual exemption to MFN status. The Organization of American States continually struggles to strengthen democracy, promote human rights, provide peace and security, expand trade, and tackle complex problems relating to poverty, drugs, and corruption. Lastly, La Francophonie promotes cultural diversity, and thus agreed to establish a permanent working group to follow

negotiations that have an impact on culture.

International Coalition: INCP (International Network on Cultural Policy)

The International Network on Cultural Policy (INCP) is an international forum where culture ministers exchange views on emerging cultural policy issues. Presently, there are approximately 50 member countries including China, Russia, Barbados, Mexico, the United Kingdom, Brazil, Canada, etc. The INCP members strive to ensure that cultural and linguistic diversity is embraced as fundamental to global thinking on development, access, governance and identity issues; to support local and national cultures in an increasingly globalized world where access to information is essential; to strike a balance that allows for full participation in the global society, while at the same time ensuring that unique identities are not lost; and to exchange views on the central role that culture plays on the international agenda.

Table 4: International Rules on the Circulation of Cultural Goods and Services

1. Article IV of GATT 1994 (*Screen quotas*)
2. Articles II, XVI and XVII of GATS
(*provides granting of MFN treatment to all services and services suppliers of all members, whether commitments have been given or not, market access*)
3. NAFTA: Article 2106 and Annex 2106 (Canada-United States and Canada- Mexico: exemptions Related to Measures concerning Cultural Industries; Annexes I and II for Mexico (specifically concerning audiovisual)
(*Cultural industries exempt from provisions of this Agreement, except as specifically provided*)
4. OECD Code of Liberalisation of Current Invisible Operations:
(*For cultural reasons, systems of aid to the production of printed films for cinema may be maintained provided that they do not significantly distort international competition in export markets*)
5. Agence de la Francophonie: Final Declaration of the Moncton Summit (1999), Article 10
(*Cultural diversity: economic dimension, affirm the right of States and governments to freely define their cultural policy*)
6. Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific and Cultural Character (UNESCO, Beirut, 1948)
(*customs agreement regarding imports, the Agreement covers the following categories of materials: films, filmstrip, microfilms, sound recordings, glass slides, models static and moving, wall charts, maps and posters*)

7. Agreement on the Importation of Educational, Scientific and Cultural Materials (UNESCO Florence 1950)
(designed to remove customs tariffs and other obstacles that impede exchanges not only of visual and auditory material, but of several other categories of material, provides for duty-free entry of very diverse items)
8. Protocol to the Florence Agreement, adopted in Nairobi in 1976
(Protocol extends exemption from customs duties to various groups of material not covered by the Agreement)
9. Recommendation concerning the International Exchange of Cultural Property, UNESCO, Nairobi, 1976
(develop the legal circulation of collector's objects among museums and other cultural institutions by exchanges, loans, etc.)
10. European Convention On Transfrontier Television, (ETS No.: 132, 1989, in force 1993) and Protocol amending the Convention on Transfrontier Television (ETS no. 171)
(legal framework for the free circulation of transfrontier television programs in Europe, through minimum common rules)
11. Resolution of the Council and of the Representatives of the Governments of the Member States, Meeting within the Council of 25 January 1999 concerning public service broadcasting Official Journal no. C 030 of 05/02/1999, 0001-0001
(stresses the role of public service broadcasting; provide for the funding of public service broadcasting, broad public access, benefits of the new audiovisual and information services and the new technologies; quality programming and services to the public)
12. Council Resolution of 8 February 1999 on Fixed Book Prices in Homogeneous Cross-border Linguistic Areas (1999/C. 42/02)
(emphasizing the importance of a balanced assessment of the cultural and economic aspects of books; promote cultural development and diversity in Europe, as well as provide cultural benefits to the consumer)
13. Bilateral Cultural Cooperation Agreements
(cultural and technical cooperation exempt from customs duties)

V. FILM INDUSTRY AGAINST THE UNITED STATES: CANADA, MEXICO AND KOREA

In this section, the film industry of three countries Canada, Mexico and Korea - is analyzed. The film industry of these three countries presents a vivid and interesting case of pitting the argument of cultural exception against trade liberalization. In

each of the three economies, its strong trade and investment relation with the United States was the driving force that led the counterpart to a free trade agreement (in case of Canada and Mexico) or to negotiations with a view to promoting and facilitating investment (in case of Korea). And each counterpart found the cultural industry in general and the film industry in particular a major controversial sector in the negotiations.

Interestingly, Canada negotiated a much-acclaimed "cultural exception" in the Canada-U.S. FTA, while Mexico did not ask for such a special and differential treatment in its film industry in the course of the NAFTA negotiations. Why did Canada and Mexico respond differently to the U.S. film industry at the NAFTA negotiations? In the NAFTA negotiations, the United States, as the world's leading audio-visual producer and exporter, pushed Canada and Mexico to cooperate in eliminating all barriers to the flow of trade and investment in cultural industries. Canada and Mexico took quite a different stance regarding the inclusion of cultural industry in the NAFTA agreement. As a result, a double standard was applied within the NAFTA. Cultural industries are exempted from the agreement between the United States and Canada by the establishment of Annex 2106, whereas Mexico allowed cultural industries to be regulated by the NAFTA provisions except minor exemptions.

There exists a salient disparity in the production capacity and market strength of the United States, Canadian and Mexican film producers. The U.S. producers could take advantage of economies of scale, first-mover advantages, a competitive environment that favors production for audience maximization, and the world's wealthiest English-speaking audiences. Having the United States as their neighborhood, Canada's film industry was in a weak position in their own domestic market. Traditionally, the Canadian government has maintained a defensive cultural policy, which is proactive and in some cases includes content quotas, and has subsidized domestic cultural industry heavily. Nevertheless, with 80 percent of the population living within 100 miles of the American border, no language barriers (excepting Quebec), and minimal cultural distances (similarities in language, genre preferences and viewing habits), local productions have only a small share in most Canadian content market due to the powerful encroachment of the U.S. products traveling the border easily. Therefore, Canada had to adhere to a protectionist agenda in trade negotiations.

Mexico shows interesting contrasts with Canada in many ways. Less inundated by foreign cultural products particularly in the broadcasting sector, Mexican audiovisual sector are comparatively competitive with well-positioned domestic producers that are content exporters as well. In terms of cultural distance, Mexico has a better position than Canadian producers because they have intrinsic barriers of language, content and genre. Also 30 million Hispanics in the United States, who maintain cultural ties to their countries of origin and are far wealthier than Mexican audiences, can be a crucial target for Mexican investors and content providers. In addition, the ruling Mexican party turned to neo-liberal communication policies, which are based on three pillars: privatization of national networks, deregulation of audiovisual

markets, and diminished public intervention in the production and distribution of audiovisual products. A combination of these factors made Mexican negotiators consider cultural exemption as unnecessary and they could even benefit from trade and investment liberalization. Different attitude to liberalization of cultural industry between the two countries stemmed from three factors among other things: industry profile, domestic cultural policies and cultural distance. These factors can explain the different policy responses of Canada and Mexico in their FTA negotiations.⁴

The case of Korea adds another twist to the story. In the process of the bilateral investment treaty (BIT) negotiations, the screen quota proved a moot subject. The United States strongly requested the elimination of the screen quota. While many Korean consumers appear to show a diverse view ranging from the status quo to the pro-choice, a group of people involved in the local film industry (excluding the theater owners) formed a civic organization to fight against the U.S. request. They argued the maintenance of the screen quota in the name of preserving cultural identity. They mobilized their resources to wage a public relations campaign to force the debate to their preferred situation. The domestic politics was greatly influenced by the film industry; the Korean National Assembly adopted a resolution, stating that the screen quota system was to be maintained as long as the market share of the Korean movies remains below 40%. The Korean negotiators found themselves in the troubled waters. They failed to develop an effective political strategy to overcome the cohesive stubborn resistance. Worse, they had no political leadership on their side. Options such as gradual phase-out were suggested to the U.S. side, but it was not helpful to strike a deal. Korea could have taken the advantage of the financial crisis in order to strike a BIT agreement. The strong opposition led by a civic group could have been overcome, if a proper political leadership was exercised.

A. Canada

Given its geographic proximity, historical ties and common language with the United States, Canada have been particularly concerned about the "Hollywood Juggernaut." This apprehension may be justified when recognizing that in 1997, 96% of all films were of foreign origin and mostly from the United States. Three quarters of the music on the radio are not Canadian, and neither are 80% of its newsstand magazines or 60% of its books. Common language, common cultural and institutional origin and geographic proximity of Canada to the United States, which has a huge domestic market in terms of both the absolute purchasing power and the relative size vis-à-vis Canada, pressed the Canadian government to develop its cultural policy, which is effective enough to meet the challenge.

Because of the economies of scale, Canadian firms have intense difficulty in competing with the large, well-capitalized foreign cultural producers for a place within the Canadian

⁴ Galperin (1999) applies these factors in the case of the E.U.

market. Due to a small market magnitude, Canadian companies have few opportunities to achieve cost efficiencies, and production costs can be a significant barrier. Therefore, Canadian cultural policy is focused on developing Canadian cultural content and on ensuring that Canadian cultural content become available to all Canadians without limiting their access to foreign cultural products.

In the past, the Canadian government tended to rely on subsidies to support the cultural industries and to achieve the country's cultural objectives. Over time, government support has evolved to take the form of tax and investment measures, coupled with regulatory measures in the television, film, music and book publishing industries. Border measures such as tariffs were used in the past, but these measures are gradually being phased out.

Canada makes direct grants and investment through an organization called Telefilm Canada, whose mission is to foster and promote the development of a feature film industry in Canada. Telefilm Canada's support covers a wide range of areas, including investments, loans and loan guarantees, advances, lines of credit, credits, national and international marketing and distribution, exportation, accelerated tax depreciation for qualified productions. From the period between 1997-1998, Telefilm's commitments to feature films amounted to \$ 32.8 million alone. Financial support is offered through such vehicles as a Feature Film Fund, Feature Film Distribution Fund, and Canadian Film and Video Festivals Grants Fund. Every year Telefilm supports some 30 new feature films, and for the past 30 years it has contributed to the production of over 600 feature pictures.

Canada regulates investments in the cultural sector. Investment Canada reviews all ownership applications for cultural investment of as little as five million dollars and will reject them if they do not offer a "net benefit to Canada." Furthermore, the Canadian policies established in 1988 prohibit foreign takeovers of Canadian-owned film distribution firms unless they are for proprietary products or unless the investor undertakes to reinvest a portion of its Canadian earnings. Canada also has special regulations to protect its French heritage. More specifically, the province of Quebec has established a special quota to protect its \$ 15 million domestic dubbing industry. Under legislation passed in 1987, feature motion pictures must be released in French versions within 45 days of the release of the English version. These various types of support offered to the domestic industry provide a telling example of the efforts that some countries devote on behalf of their culture.

While the movie industry is growing, the share of the Canadian film in the world is on the decline. Here are some facts:

- Canadians produce between approximately 30 to 35 Canadian feature films per year. Canadian films earned only 2.1% of box office receipts in 1999, the lowest performance among comparable film making countries. Homegrown films in comparable countries earned 37% in Japan, 30% in France, and 14% each in Italy and Spain;

- Canadians have become avid movie watchers--ticket sales increased from 69.2 million paid admissions in 1991-1992 to 98 million in 1997-1998. Canada's per capita attendance of 3.3 at the movies is among the highest of comparable countries. Attendance is 4.2 in Australia, 2.6 in France, 2.3 in the U.K., 1.8 in Italy, and 1.2 in Japan.

The poor performance of the Canadian film industry is attributed to the low budget for production and marketing compared to the foreign films. Average production budgets of Canadian feature films have decreased over the past two decades from \$ 3 million to \$ 2.7 million for English language films and from \$ 3.1 million to \$ 2.2 million for French language films. Films produced in other comparable countries have increased production budgets over that same period--by 13% in the U.K., 21% in Australia, and 42% in France. Nearly two-thirds of the Canadian feature films supported by Telefilm in recent years had average marketing budgets of less than \$ 150,000. By comparison, the Hollywood-based studios productions had the average print and ad expenditures of \$ 37 million in 1999 (MPAA).

Local Contents Rule

To ensure that the policy designed to promote Canadian culture achieves its intended goal, the Canadian government defines that which constitutes the Canadian content. The Canadian content is defined differently for different types of cultural products. For television programs and feature films, Canadian content is based on a point system. For example, programs can earn two points for using a Canadian director and a point for each leading Canadian actor. Programs must be produced by a Canadian and have at least six points to be considered Canadian. To qualify for financial assistance from the Canadian Television Fund, a production must attain a maximum of 10 points.

The Canadian content rules can be flexible. To encourage the production of Canadian programming and help the cultural industries have access to capital and export markets, the Canadian government has signed co-production agreements with more than 30 countries. Under these agreements, productions with as little as 20% Canadian participation can meet the requirements for the Canadian content.

Distribution

Film distributors play a key role in building audiences by partnering with producers. Policy efforts are made to place Canadian distributors in a much stronger position to market films with greater market potential. This is not an easy task mainly due to the fact that film distributors based in the United States have traditionally been able to purchase the rights to distribute films for both the United States and Canada. This practice deprives Canadian distribution firms of the opportunity to distribute

major films in the Canadian market, and of the revenue that those distribution rights would generate, which could then be invested in developing new Canadian films. In 1987, Canada considered establishing an import licensing system that would limit foreign firms to distributing their own films or films for which they had the world rights. Foreign firms operating in Canada objected and the legislation did not proceed.

When Canada approved PolyGram N.V.'s (a U.K.-based entertainment multinational owned 75% by Philips Electronics of the Netherlands) application to establish a new film production and distribution company in Canada, PolyGram was required to limit its distribution activity to only proprietary films. The company also agreed to spend a certain portion of its Canadian revenues on cultural production in Canada. Concerning that these terms were not consistent with international trade obligations, the EU initiated consultations through the dispute settlement process. The EU has not pursued the matter since PolyGram was taken over by Seagram, a Canadian-owned company.

B. Mexico

Mexico has undergone a dramatic change of its film industry. Annually around 100 Mexican films were produced during 1988-1990. Since 1991 local films production has taken a deep plunge to the level of 30 to 40. As a measure to prevent a further decline of Mexico's film industry, the Mexico government introduced the screen quota as a Mexican federal law of cinematography on January 1, 1993. The law earmarked 30% of the screen days for the Mexican film in 1993. The quota decreased 5% annually to reach 10% in 1997 and eventually the quota would be gone. The phase-out of the screen quota was mainly due to the NAFTA.

After the NAFTA went into effect on January 1, 1994, the screen quota regulation lost its effectiveness of promoting local film. With 46 films produced in 1994, since 1995 the number of Mexican film produced yearly has consistently remained below 20. In 1998, it hit the lowest point of 10. The market share of the U.S. film in Mexican theaters has soared to 90%.

Having sensed the risk of collapse of its domestic film industry, the Mexican government submitted a proposal of revision of federal laws of cinematography to the National Assembly with a view to reintroducing the screen quota regulation on April 23, 1998. This amendment proposal suggests that the screen quota regulation kick in at 10% from the day of effect in 1998 with the increase of 5% every year. The goal of the revision is to ensure 30% of the screen days for the Mexican film in 2001 and thereafter.

Whether or not such reintroduction of the screen quota would lead to the revitalization of the Mexican film industry is something to be seen. Mexico provides an interesting case to study the effect of protective policy measures on the film industry. There is a view which puts all the blame for the downfall of the Mexican film industry on the elimination of screen quota. The truth is more subtle than such a simplistic

view. Other views claim that it was not the lift of the screen quota but the misplacement of protectionist policy which caused the downfall of the Mexican film industry.

In the late 1960s, various measures were introduced to protect domestic film industry from the imported foreign films. The government dropped ticket prices to an artificially low rate, which made the production of movie unprofitable. As a result, most local movies were made out of low budget and the quality of the Mexican movies was far from the demands of consumers. Some talented movie makers and actors started to reduce their investment into the Mexican movies, propelling further deterioration of the quality.

Although many Mexican movies were made prior to 1990, the number as such is misleading because it is not related to the preference of local people and commercial success. In 1992, the President Salinas lifted price caps on the entrance fee, privatized the government-owned theaters and opened the movie market to the foreign investors and films. Deregulation, privatization and liberalization brought about the construction of movie theaters with modern facilities catering to demands of movie goers and increased import of foreign movies, in particular the U.S. movies.

From 1992-1994, annually about 40-50 local films were produced. Since 1995 the number of local films plummeted to around 10. What has caused such a serious disaster in the local film industry has little connection to the absence of protectionist policy. The maintenance of the screen quota, which set a high share of the screen time for local film, may have the effect of inducing local film makers to produce more Mexican movies. However, as long as the consumers do not choose Mexican film, such a protectionist policy would result in the increase in the number of local films but the deterioration of profitability of those films, which in turn diminishes the financial resources to invest in subsequent projects.

Although the level of local film production has not shown a remarkable increase, recently some commercially successful domestic films have appeared, capturing the attention of young talented people and investors. Even though the absolute number of local films is still at a low level, the market share of local film is on the rise. An increase in theater entrance fees and the government subsidy which is funded by special tax over TV broadcasting and the box-office sale revenues (1% of entrance fee is to be allocated to the film promotion fund) are important reasons behind this change.

C. Korea⁵

Korea-U.S. BIT Negotiations and Screen Quota

At present, the only trade policy measure on the film industry is the screen quota. In the past, the Korean government had restrictions on the Japanese film and the

⁵ The following discussion draws on Byung-il Choi "Screen Quota in Korea: Case Note" (2001).

distribution of film, but those restrictive measures were lifted. In the process of the Korea-U.S. negotiations on BIT, screen quota emerged to the forefront of moot issues.

The nations that either concluded or are about to conclude BIT with the United States break down to two groups, the first of which includes the former Soviet bloc nations such as Albania, Armenia, Croatia, Czech, Kazakhstan, Mongolia, Romania, Poland and Russia. The second group includes developing nations and less-developed countries from Asia, Africa and Latin America including Congo, Morocco, Senegal, Bangladesh, Sri Lanka, Argentina, Bolivia and Jamaica. It is notable that among the OECD member countries the United States has BITs with only the Czech Republic, Slovakia and Poland. Apparently, the United States aims to secure superior position among advanced nations through the MAI, and to gain a prioritized access in investing the former Soviet bloc countries and other developing countries through BIT.

As with all BITs that the United States negotiates, the United States seeks to provide that U.S. foreign investment shall be accorded "treatment no less favorable" than that accorded to domestic investments. More significantly, Article VI of many BITs provides that foreign investments should not be mandated "to achieve a particular level or percentage of local content." Under these provisions, the U.S. investment projects would not have to comply with certain domestic regulations. Therefore, if the United States were to establish its own theaters in Korea, these theaters would not have to comply with the screen quota mandate.

The screen quota issue has received the limelight ever since April 20, 1998, when William Baker, President of the Motion Pictures Association, proposed to invest 500 million dollars if Korea reduces the mandatory screening period of the screen quota. Soon after, on Jul. 21 during the first round of negotiations for the Korea-US BIT in Washington, the US pointed out that the screen quota faces theater owners to screen Korean films and is not in line with the standard model of the BIT. And on November 27 during the third round of negotiations for the Korea-U.S. BIT, Korea proposed the reduction of the mandatory screening period to 92 days. However, the United States, demanding complete elimination, rejected the proposal.

The matter got worse on March 27, 1999, when the President Kim Dae Jung met with the U.S. Commerce secretary Daly. During the meeting they recognized the fact that the OECD and the Uruguay Round acknowledged screen quotas. However, Daly proposed the abolition of the screen quota for the development of the Korean film industry.

The screen quota system in Korea is currently the deal breaker in the Korea-U.S. BIT negotiation. The negotiations, started in 1998 when the President Kim took power, have gone astray and show no sign of settlement at present where the days of Kim is numbered. The Korean film has achieved a tremendous success, surpassing the market share of 40%, which is a threshold set by Kim's campaign pledge to revoke the screen quota. Despite this success, the Korean film industry, excluding theater owners, appears to be consolidated on the strong position of maintaining the current screen quota. They allege that the current success is mainly due to the

screen quota, and the minute the screen quota is removed the Korean film industry would be devastated by the foreign films, especially by the U.S. film.

Screen Quota in Korea

The screen quota system in Korea was first adopted with the second revision of the Motion Picture Law in 1966 to protect the Korean film industry from the invasion of foreign films and also to pursue cultural diversity in the audio-visual segment.

The screen quota system is prescribed by the Film Promotion Law legislated by the National Assembly. The Film Promotion Law stipulates that the managers of movie theaters shall screen Korean films for a minimum number of days per year as determined by the Presidential Decree. The details are provided in the Enforcement Ordinance of the Film Promotion Law. The enforcement ordinance of the film promotion law ordains that the managers of movie theaters shall screen Korean films for at minimum of 2/5 of the screening days (146 days per year) from January 1 to December 31 every year.

However, the Enforcement Ordinance of the Film Promotion Law has a separate provision for remission benefits, which went into effect since 1985. Under this provision, the Minister of Culture and Tourism may reduce the number of mandatory screening days by no more than 20 days in consideration of the supply and demand of Korean films. Also, if a Korean film is screened during the high-demand season, the number of mandatory screening days may be reduced by no more than 20 days. Therefore, the actual mandatory screening days varies from a maximum of 146 days to a minimum of 106 days.

If the number of days Korean films have been screened does not reach the mandatory 146 days, under the Enforcement Ordinance of the Film Promotion Law, the theater will get maximum penalty of 1 day suspension of business per day not screened if days not screened are within 20 days. However, if the days not screened are over 20 days, they get a maximum penalty of 2-day suspension of business per day not screened. Also, under the Public Performance Law, if theaters are caught screening a foreign film after having declared to be screening a Korean film, they will be penalized to maximum fine of five million won.

In spite of its long history over 30 years, the system became actually most effective since 1993 when the Screen Quota Watch Group was organized and activated. The Screen Quota Watch group is a NGO formed to revive the screen quota system that has been neglected since its introduction due to the lack of interest from theater owners and the regulatory body. Screen Quota Watchers changed its name to the Coalition for Cultural Diversity in Moving Images in March of 2000. Along with the role of monitoring the screen quota and informing the public about the importance of the quota, the Coalition is working to launch an international coalition to protect cultural diversity in moving images.

Since the lifting of Korea's restrictions on the direct distribution by foreign majors

in 1987, domestic films made up only 15.9% of overall attendance figures in 1993. But since 1994, domestic films have gradually regained the box-office, due to the conglomerates' engagement in film production, an infusion of the elite to the film industry, and an active movement by the Screen Quota Watch Group. As of 1997, the ratio of domestic to foreign films screened in Korea stood at 25.5% to 74.5%. During his election campaign, the President Kim Dae Jung promised to maintain the screen quota until the market share of the Korean film reaches 40%.

Starting with 'Ginkgo tree bed' in 1996 and as the success of blockbuster films such as 'Swiri' and 'JSA' followed, the Korean film industry enjoyed their golden years since the late 1990s. However, even though the Korean film industry grew steadily since the mid 1990's, achieving 40% of the total market seemed out of the question until the beginning of 2001. However, the growth peaked with the release and great success of the movie 'Friend,' which attracted over 8 million movie goers, and also pulled the market share beyond 40% and close to 50%.

TABLE 5. NUMBER OF SCREEN & AUDIENCE FOR KOREAN FILM

	1998	1999	2000	2001
Number of Movie Screen (number)	517	588	720	800
Number of Audience (ten million)	5.017	5.472	6.169	8.230
Number of Movie Watch per Person	1.1	1.2	1.3	1.7
Number of Korean Films Produced	43	49	61	57
Market Share of Korean Film	25.1	39.7	35.2	49.5

Source: Korean Film Commission.

Many facts are associated with the recent upsurge of the Korean film industry. On the supply side, the Korean film industry has witnessed an increasing entry of young talented people into the business. What drove them to the movie industry? First of all, the script the local movie could go beyond the limitation on cold-war and the authoritarian regime themes. The movie like "Swiri" and "JSA," which dealt with the confrontation between South and North Korea from the post-cold war perspective, were not even in the mindset of the movie makers in the 1980s. At the same time, some local investors found began to see local movies as lucrative business activity, encouraged by the success story of some films. On the distribution side, many multiplex were built and existing old theatres were renovated to attract more moviegoers. The purchase of the movie tickets became easier due to the reservation services using telephone and internet. And the massive and innovative marketing strategy of promoting local film played a role as well.

All or many of these factors are not directly related to the screen quota. It is likely that the presence of the screen quota gave some assurance to the local film makers that their movie has a chance to reach the screen and meet moviegoers. One should be reminded that the screen quota regulation has been in place more than 35 years.

Hence, that sort of assurance was equally provided to the film makers throughout the time, including the 1980s and 1990s.

The success of the Korean film industry brought about some important side effects. The production of film has increased. According to some survey, among the 28 movies in production by three major production companies in Korea, average total production costs amount to almost 3.3 billion Korean won. In 1995, average pure production costs were 9 hundred million and marketing costs were hundred million Korean won. However, in 2000, average production costs went up to 1.5 billion won and marketing costs to 6 hundred and fifty million Korean won. In other words, total average production costs have more than doubled during the 5-year period. Among many factors increasing average production costs, the rise in marketing costs are viewed as the most notable cause.

Some blockbuster local films gave rise to the emergence of major local film distribution companies. Although some stress the fact that these large distribution companies enabled the Korean film to successfully compete with the foreign direct distribution companies, there are also views that express concerns of hindering diversity. For example, during the summer season of 2001, only 7 movies showed among 216 screens in Seoul.

Success of the current Korean film industry comes with a price. First, an increased need for high marketing expenses as a crucial success factor of a film resulted in the elevation of average production costs, which could limit the number of films that could be produced otherwise. Under these conditions, the current success and the gains from it go to only few limited blockbusters. Secondly, films are beginning to be considered solely as a product to be sold to the moviegoers. From the very beginning stages of production, the production companies are considering customer's demand as the most important criteria in deciding to go on with a certain project. This could mean that only films with commercial value would succeed and films with high artistic value could be prevented from being produced.

VI. CONCLUSION

Mindful of competing perspectives on trade liberalization versus cultural identity, this paper examines the evolution and the current status of debate at various international fora. While there is no disagreement on the significance of maintaining cultural identity and thereby achieving the cultural diversity as an integral part of the humanity, the real question is how to ensure such diversity. To effectively address this question, first of all, policymakers should be aware of the rapidly changing environment surrounding the cultural industry. Some important changes are as follows: digitization and the convergence of broadcasting, cable, satellite and telecommunications sector; competition with existing distribution systems; emerging technologies not only as new communications tools but also as both a new facilitator and challenge to the government's

ability to enforce regulations designed to ensure that the public in general has an access to their local cultural products; growth of multinational corporations and vertical integration of entertainment: change in distribution and delivery systems and products, national policies; and blurring boundary between the local cultural product and the foreign cultural product. As demonstrated in the comparative case study of Canada, Mexico, and Korea in their response to the U.S. request to pry open their film industry, negotiations among domestic stakeholders including negotiators, policymakers, industry, and consumers would define the range of acceptable outcome in international negotiations. In this process, ideology, interests, power and influences of stakeholders will shape the domestic equilibrium. Further study along this dimension is a promising avenue for continued research.

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