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A Clash of Cultures? The UNESCO *Diversity Convention* and International Trade Law

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Abstract

The adoption, on 20 October 2005, of the *Convention on the Protection and Promotion of the Diversity of Cultural Expressions* (*Diversity Convention*) has returned the limelight to the suitability of World Trade Organization (WTO) rules for cultural products. This article shows that the *Diversity Convention*,

while an important step towards the recognition of cultural diversity as an internationally recognized public choice of states, does not affect the rights and obligations of WTO Members as such. The original purpose of the Convention was to create a safe haven for cultural policies and protect them from WTO disciplines. However, the central operative provision for bringing about the desired shielding effect for domestic policies safeguarding national cultural industries against foreign competition, its now-article 20, while making a general claim to non-subordination in paragraph 1, modifies this broad statement in paragraph 2 so as to only apply to treaties concluded at the same time or later. The article explores how to avoid or minimize an undesirable incongruence between liberal trade rules and the right of states to protect shelf-space for domestically produced cultural products.

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