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Cultural Products and the World Trade Organization

TANIA VOON



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Cultural Products and the World Trade Organization

Debate about trade and culture has a long history, but the application of WTO rules to cultural products such as films, radio, and books remains one of the most divisive issues in the organisation. After assessing the economic and social arguments for treating cultural products differently from things like steel or wheat, this book explains how the vastly different views of WTO Members in earlier negotiations led to an outcome that is disappointing for all. It goes on to provide a comprehensive evaluation of possible solutions, including evolution of the law through WTO dispute settlement, a new agreement outside the WTO, and reforms to improve the balance between trade liberalisation and cultural policy objectives. As UNESCO's new convention affecting trade and cultural diversity is due to enter into force in 2007 and the WTO's Doha Round of negotiations is stumbling, the need for such an evaluation is all the more pressing.

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For Chester

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Short title	Full citation
Agreement on Agriculture	<i>Agreement on Agriculture</i> , LT/UR/A-1A/2 (signed 15 April 1994)
Agreement on Government Procurement	<i>Agreement on Government Procurement</i> , LT/UR/A-4/PLURI/2 (signed 15 April 1994)
Agreement on Trade in Civil Aircraft	<i>Agreement on Trade in Civil Aircraft</i> , LT/UR/A-4/PLURI/1 (signed 15 April 1994)
Anti-Dumping Agreement	<i>Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994</i> , LT/UR/A-1A/3 (signed 15 April 1994)
DSU	<i>Understanding on Rules and Procedures Governing the Settlement of Disputes</i> , LT/UR/A-2/DS/U/1 (signed 15 April 1994)
Enabling Clause	<i>Decision on Differential and More Favourable Treatment, Reciprocity, and Fuller Participation of Developing Countries</i> , L/4903, BISD 26S/203 (28 November 1979)
GATS	<i>General Agreement on Trade in Services</i> , LT/UR/A-1B/S/1 (signed 15 April 1994)
GATT 1947	<i>General Agreement on Tariffs and Trade</i> , LT/UR/A-1A/1/GATT/2 (signed 30 October 1947)
GATT 1994	<i>General Agreement on Tariffs and Trade</i> , LT/UR/A-1A/1/GATT/1 (signed 15 April 1994)
Marrakesh Agreement	<i>Marrakesh Agreement Establishing the World Trade Organization</i> , LT/UR/A/2 (signed 15 April 1994)
Safeguards Agreement	<i>Agreement on Safeguards</i> , LT/UR/A-1A/8 (signed 15 April 1994)
SCM Agreement	<i>Agreement on Subsidies and Countervailing Measures</i> , LT/UR/A-1A/9 (signed 15 April 1994)
SPS Agreement	<i>Agreement on the Application of Sanitary and Phytosanitary Measures</i> , LT/UR/A-1A/12 (signed 15 April 1994)

Short title	Full citation
Textiles Agreement	<i>Agreement on Textiles and Clothing</i> , LT/UR/A-1A/11 (signed 15 April 1994) (now expired)
TRIPS Agreement	<i>Agreement on Trade-Related Aspects of Intellectual Property Rights</i> , LT/UR/A-1C/IP/1 (signed 15 April 1994)
WTO agreements	The Marrakesh Agreement and the documents contained in its four annexes

GATT/WTO cases

Short title	Full citation
<i>Argentina – Footwear (EC)</i>	Appellate Body Report, <i>Argentina – Safeguard Measures on Imports of Footwear</i> , WT/DS121/AB/R (circulated 14 December 1999)
<i>Argentina – Hides and Leather</i>	Panel Report, <i>Argentina – Measures Affecting the Export of Bovine Hides and the Import of Finished Leather</i> , WT/DS155/R (circulated 19 December 2000)
<i>Argentina – Poultry Anti-Dumping Duties</i>	Panel Report, <i>Argentina – Definitive Anti-Dumping Duties on Poultry from Brazil</i> , WT/DS241/R (circulated 22 April 2003)
<i>Argentina – Preserved Peaches</i>	Panel Report, <i>Argentina – Definitive Safeguard Measure on Imports of Preserved Peaches</i> , WT/DS238/R (circulated 14 February 2003)
<i>Argentina – Textiles and Apparel</i>	Appellate Body Report, <i>Argentina – Measures Affecting Imports of Footwear, Textiles, Apparel and Other Items</i> , WT/DS56/AB/R and Corr.1 (circulated 27 March 1998)
<i>Australia – Salmon</i>	Appellate Body Report, <i>Australia – Measures Affecting Importation of Salmon</i> , WT/DS18/AB/R (circulated 20 October 1998)
<i>Brazil – Aircraft</i>	Appellate Body Report, <i>Brazil – Export Financing Programme for Aircraft</i> , WT/DS46/AB/R (circulated 2 August 1999)
<i>Brazil – Aircraft (Article 21.5 – Canada II)</i>	Panel Report, <i>Brazil – Export Financing Programme for Aircraft, Second Recourse by Canada to Article 21.5 of the DSU</i> , WT/DS46/RW/2 (circulated 26 July 2001)
<i>Brazil – Desiccated Coconut</i>	Appellate Body Report, <i>Brazil – Measures Affecting Desiccated Coconut</i> , WT/DS22/AB/R (circulated 21 February 1997)

Short title	Full citation
<i>Border Tax Adjustments</i>	GATT Working Party Report, <i>Border Tax Adjustments</i> , L/3464, BISD 18S/97 (adopted 2 December 1970)
<i>Canada – Autos</i>	Appellate Body Report, <i>Canada – Certain Measures Affecting the Automotive Industry</i> , WT/DS139/AB/R, WT/DS142/AB/R (circulated 31 May 2000) Panel Report, <i>Canada – Certain Measures Affecting the Automotive Industry</i> , WT/DS139/R, WT/DS142/R (circulated 11 February 2000)
<i>Canada – Patent Term</i>	Appellate Body Report, <i>Canada – Term of Patent Protection</i> , WT/DS170/AB/R (18 September 2000)
<i>Canada – Periodicals</i>	Appellate Body Report, <i>Canada – Certain Measures Concerning Periodicals</i> , WT/DS31/AB/R (circulated 30 June 1997) Panel Report, <i>Canada – Certain Measures Concerning Periodicals</i> , WT/DS31/R and Corr.1 (circulated 14 March 1997)
<i>Canada – Wheat Exports and Grain Imports</i>	Appellate Body Report, <i>Canada – Measures Relating to Exports of Wheat and Treatment of Imported Grain</i> , WT/DS276/AB/R (30 August 2004)
<i>Chile – Alcoholic Beverages</i>	Appellate Body Report, <i>Chile – Taxes on Alcoholic Beverages</i> , WT/DS87/AB/R, WT/DS110/AB/R (circulated 13 December 1999) Panel Report, <i>Chile – Taxes on Alcoholic Beverages</i> , WT/DS87/R, WT/DS110/R (circulated 15 June 1999)
<i>Chile – Price Band System</i>	Appellate Body Report, <i>Chile – Price Band System and Safeguard Measures Relating to Certain Agricultural Products</i> , WT/DS207/AB/R (circulated 23 September 2002)
<i>Dominican Republic – Import and Sale of Cigarettes</i>	Appellate Body Report, <i>Dominican Republic – Measures Affecting the Importation and Internal Sale of Cigarettes</i> , WT/DS302/AB/R (circulated 25 April 2005) Panel Report, <i>Dominican Republic – Measures Affecting the Importation and Internal Sale of Cigarettes</i> , WT/DS302/R (circulated 26 November 2004)
<i>EC – Asbestos</i>	Appellate Body Report, <i>European Communities – Measures Affecting Asbestos and Asbestos-Containing Products</i> , WT/DS135/AB/R (circulated 12 March 2001) Panel Report, <i>European Communities – Measures Affecting Asbestos and Asbestos-Containing Products</i> , WT/DS135/R and Add.1 (circulated 18 September 2000)

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EC – Bananas III	Appellate Body Report, <i>European Communities – Regime for the Importation, Sale and Distribution of Bananas</i> , WT/DS27/AB/R (circulated 9 September 1997)
EC – Bananas III (Article 21.5 – EC)	Panel Report, <i>European Communities – Regime for the Importation, Sale and Distribution of Bananas, Recourse to Article 21.5 of the DSU by the European Communities</i> , WT/DS27/RW/EEC and Corr.1 (circulated 12 April 1999)
EC – Bananas III (Ecuador)	Panel Report, <i>European Communities – Regime for the Importation, Sale and Distribution of Bananas, Complaint by Ecuador</i> , WT/DS27/R/ECU (circulated 22 May 1997)
EC – Bed Linen	Appellate Body Report, <i>European Communities – Anti-Dumping Duties on Imports of Cotton-Type Bed Linen from India</i> , WT/DS141/AB/R (circulated 1 March 2001)
EC – Biotech	Panel Report, <i>European Communities – Measures Affecting the Approval and Marketing of Biotech Products</i> , WT/DS291/R, WT/DS292/R, WT/DS293/R (circulated 29 September 2006)
EC – Chicken Cuts	Appellate Body Report, <i>European Communities – Customs Classification of Frozen Boneless Chicken Cuts</i> , WT/DS269/AB/R, WT/DS286/AB/R (circulated 12 September 2005) Panel Report, <i>European Communities – Customs Classification of Frozen Boneless Chicken Cuts, Complaint by Brazil</i> , WT/DS269/R (circulated 30 May 2005) Panel Report, <i>European Communities – Customs Classification of Frozen Boneless Chicken Cuts, Complaint by Thailand</i> , WT/DS286/R (circulated 30 May 2005)
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EC – Export Subsidies on Sugar	Appellate Body Report, <i>European Communities – Export Subsidies on Sugar</i> , WT/DS265/AB/R, WT/DS266/AB/R, WT/DS283/AB/R (circulated 28 April 2005)
EC – Hormones	Appellate Body Report, <i>EC Measures Concerning Meat and Meat Products (Hormones)</i> , WT/DS26/AB/R, WT/DS48/AB/R (circulated 16 January 1998)

Short title	Full citation
EC – Hormones (Canada)	Panel Report, EC Measures Concerning Meat and Meat Products (Hormones), Complaint by Canada, WT/DS48/R/CAN (circulated 18 August 1997)
EC – Hormones (US)	Panel Report, EC Measures Concerning Meat and Meat Products (Hormones), Complaint by the United States, WT/DS26/R/USA (circulated 18 August 1997)
EC – Hormones (US) (Article 22.6 – EC)	Decision by the Arbitrators, European Communities Measures Concerning Meat and Meat Products (Hormones), Original Complaint by the United States – Recourse to Arbitration by the European Communities under Article 22.6 of the DSU, WT/DS26/ARB (circulated 12 July 1999)
EC – Poultry	Appellate Body Report, European Communities – Measures Affecting the Importation of Certain Poultry Products, WT/DS69/AB/R (circulated 13 July 1998) Panel Report, European Communities – Measures Affecting the Importation of Certain Poultry Products, WT/DS69/R (circulated 12 March 1998)
EC – Sardines	Appellate Body Report, European Communities – Trade Description of Sardines, WT/DS231/AB/R (circulated 26 September 2002)
EC – Tariff Preferences	Award of the Arbitrator, European Communities – Conditions for the Granting of Tariff Preferences to Developing Countries, WT/DS246/14 (circulated 20 September 2004) Appellate Body Report, European Communities – Conditions for the Granting of Tariff Preferences to Developing Countries, WT/DS246/AB/R (circulated 7 April 2004) Panel Report, European Communities – Conditions for the Granting of Tariff Preferences to Developing Countries, WT/DS246/R (circulated 1 December 2003)
EC – Trade Marks and Geographical Indications	Panel Reports, European Communities – Protection of Trademarks and Geographical Indications for Agricultural Products and Foodstuffs, WT/DS290/R (Australia), WT/DS174/R (US) (circulated 15 March 2005)
EC – Tube or Pipe Fittings	Appellate Body Report, European Communities – Anti-Dumping Duties on Malleable Cast Iron Tube or Pipe Fittings from Brazil, WT/DS219/AB/R (circulated 22 July 2003)

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EEC – Oilseeds I	GATT Panel Report, <i>European Economic Community – Payments and Subsidies Paid to Processors and Producers of Oilseeds and Related Animal-Feed Proteins</i> , L/6627, BISD 37S/86 (adopted 25 January 1990)
Greece – Import Taxes	GATT Panel Report, <i>Special Import Taxes Instituted by Greece</i> , G/25, BISD 1S/48 (adopted 3 November 1952)
India – Patents (US)	Appellate Body Report, <i>India – Patent Protection for Pharmaceutical and Agricultural Chemical Products</i> , WT/DS50/AB/R (circulated 19 December 1997)
Indonesia – Autos	Panel Report, <i>Indonesia – Certain Measures Affecting the Automobile Industry</i> , WT/DS54/R, WT/DS55/R, WT/DS59/R, WT/DS64/R and Corr.1, 2, 3, 4 (circulated 2 July 1998)
Japan – Alcoholic Beverages I	GATT Panel Report, <i>Japan Customs Duties, Taxes and Labelling Practices on Imported Wines and Alcoholic Beverages</i> , L/6216, BISD 34S/83 (adopted 10 November 1987)
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Korea – Procurement	Panel Report, <i>Korea – Measures Affecting Government Procurement</i> , WT/DS163/R (circulated 1 May 2000)

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<i>Mexico – Taxes on Soft Drinks</i>	Appellate Body Report, <i>Mexico – Tax Measures on Soft Drinks and Other Beverages</i> , WT/DS308/AB/R (circulated 6 March 2006) Panel Report, <i>Mexico – Tax Measures on Soft Drinks and Other Beverages</i> , WT/DS308/R (circulated 7 October 2005)
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<i>US – Carbon Steel</i>	Appellate Body Report, <i>United States – Countervailing Duties on Certain Corrosion-Resistant Carbon Steel Flat Products from Germany</i> , WT/DS213/AB/R and Corr.1 (circulated 28 November 2002)
<i>US – Certain EC Products</i>	Panel Report, <i>United States – Import Measures on Certain Products from the European Communities</i> , WT/DS165/R and Add.1 (circulated 17 July 2000)
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<i>US – Cotton Yarn</i>	Appellate Body Report, <i>United States – Transitional Safeguard Measure on Combed Cotton Yarn from Pakistan</i> , WT/DS192/AB/R (circulated 8 October 2001)
<i>US – FSC</i>	Appellate Body Report, <i>United States – Tax Treatment for ‘Foreign Sales Corporations’</i> , WT/DS108/AB/R (circulated 24 February 2000)
<i>US – Gambling</i>	Appellate Body Report, <i>United States – Measures Affecting the Cross-Border Supply of Gambling and</i>

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	<i>Betting Services</i> , WT/DS285/AB/R (circulated 7 April 2005)
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	Panel Report, <i>United States – Standards for Reformulated and Conventional Gasoline</i> , WT/DS2/R (circulated 29 January 1996)
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US – Lamb	Appellate Body Report, <i>United States – Safeguard Measures on Imports of Fresh, Chilled or Frozen Lamb Meat from New Zealand and Australia</i> , WT/DS177/AB/R, WT/DS178/AB/R (circulated 1 May 2001)
US – Line Pipe	Appellate Body Report, <i>United States – Definitive Safeguard Measures on Imports of Circular Welded Carbon Quality Line Pipe from Korea</i> , WT/DS202/AB/R (circulated 15 February 2002)
	Panel Report, <i>United States – Definitive Safeguard Measures on Imports of Circular Welded Carbon Quality Line Pipe from Korea</i> , WT/DS202/R (circulated 29 October 2001)
US – Malt Beverages	GATT Panel Report, <i>United States – Measures Affecting Alcoholic and Malt Beverages</i> , DS23/R, BISD 39S/206 (adopted 19 June 1992)
US – Offset Act (Byrd Amendment)	Appellate Body Report, <i>United States – Continued Dumping and Subsidy Offset Act of 2000</i> , WT/DS217/AB/R, WT/DS234/AB/R (circulated 16 January 2003)
US – Oil Country Tubular Goods Sunset Reviews	Appellate Body Report, <i>United States – Sunset Reviews of Anti-Dumping Measures on Oil Country Tubular Goods from Argentina</i> , WT/DS268/AB/R (circulated 29 November 2004)
US – Section 211 Appropriations Act	Appellate Body Report, <i>United States – Section 211 Omnibus Appropriations Act of 1998</i> , WT/DS176/AB/R (circulated 2 January 2002)
US – Section 301 Trade Act	Panel Report, <i>United States – Sections 301–310 of the Trade Act of 1974</i> , WT/DS152/R (circulated 22 December 1999)
US – Shrimp	Appellate Body Report, <i>United States – Import Prohibition of Certain Shrimp and Shrimp Products</i> , WT/DS58/AB/R (circulated 12 October 1998)