

### FREE TRADE AND CULTURAL DIVERSITY IN INTERNATIONAL LAW

by Jingxia Shi  
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The international community is now acutely aware that there are very urgent challenges that need to be addressed in the field of international trade law. Among them, an issue of immense importance emerging amidst a clash between promotion of globalization and protection of cultural diversity, poses daunting thorny challenges for both scholars and practitioners in the field. Against this backdrop, Professor Jingxia Shi's brilliant work, *FREE TRADE AND CULTURAL DIVERSITY IN INTERNATIONAL LAW*, is dedicated to proving that these challenges could be met through concerted efforts.

Traditionally, the relationship between free trade and state regulations tends to be a zero sum game, as explicitly stated by the author. In recent, this troubled relationship seems to be all the more relevant for the international community, especially when shockwaves from the 2008 financial crisis can exist and trade protectionism is resurfacing across the worldwide. Cultural measures have always been deemed as one of the most powerful policy instruments fueling it. In light of this background, the author believes that a reconciliation of "the clashes between free trade and other social values," such as cultural diversity, can effectively avoid the trade and regulatory failures, which serves as the theoretical basis of her theory.

The issue is further complicated when economic globalization particularly kicks in. This also constitutes another point of contention of the book. On the one

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hand, economic globalization promotes the international exchange of cultural products and expand consumer choice. Therefore, to some extent, it can arguably be said that globalization is conducive to the fulfilment of human rights. On the other hand, the proliferation and propagation of mass culture products driven by the free trade regime would lead to the suffocation and homogenization of domestic cultural expressions, which finally result in some regions losing their cultural distinctiveness. This could be considered as the main cause of the loss of cultural identity.

The thesis of the book is that the reconciliation between free trade and cultural diversity in the context of economic globalization is achievable. For a better and constructive understanding of the book, this review, instead of critiquing and questioning the structure and other aspects of the book,<sup>1</sup> aims to look at the feasibility and influence of the theory in the future through a positive and general analysis. However, a brief reiteration of the line of arguments, as we go through the chapters might be able to assist our readers in developing some other perspectives of the relationships between conflicting values.

As mentioned above, the central inquiry of this book is to seek out a balance between trade norms and cultural values in the midst of globalization. To achieve this purpose, the book is well organized and divided into nine chapters. After a brief introduction of the research background, the book explores the dynamic concept of 'culture' from multi-dimensional perspectives in Chapter 2. In Chapter 3, the book discusses those tough choices policy-makers were often faced with, when judging justification and appropriation of the cultural policy measures. Accordingly, Chapter 4 extends discussions to the international level. This chapter is trying to find out potential theories and approaches to culture and cultural diversity by tracing the evolution of the UNESCO's cultural missions, accompanied by comments on the UNESCO Convention on Cultural Diversity. As to the linkage between the UNESCO Convention and the WTO rules, further study is conducted in Chapters 5 and 6 to examine the treatment of cultural products under the GATT/WTO system. While Chapter 5 looks into the theories and existing legal framework for treatment of cultural products, Chapter 6 examines

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<sup>1</sup> See, e.g., R. Anirudha, Book Review: Free Trade and Cultural Diversity in International Law by Jingxia Shi, 10 MANCHESTER J. INT'L ECON. L. 443 (2013).

relevant jurisprudence of DSB. In Chapter 7, the research turns to the treatment of cultural products at the regional level by looking at two of the most important and representative regional international organizations. Finally, Chapters 8 and 9 provide reform proposals and concluding remarks, respectively.

The book calls for a shared understanding, i.e., “the very nature of the tension between cultural protection and the integrity of trade systems begs for a compromise,” both in trade liberalization and cultural diversity. In order to transform the “trade-culture relationship” from that of quandary to synergy, the author proposes a two-level solution, taking into account “the duality of cultural products and the dual track of international legislations.” First, in the domestic settings, efforts should be made to reconcile cultural regulation and trade facility. Second, on the international plane, the linking of the WTO rules and the UNESCO Convention could be exploited. It is hoped that the two-tier solution would be able to turn the “trade-culture relationship” into a non-zero-sum game.

All in all, this book is an extremely useful in understanding difficult and thought-provoking questions raised, innovative inquiry conducted, and feasible solutions given. There is little doubt that this Yale graduate leading law professor will provide new ideas not only for academics and scholars, but also for policy-makers and other practitioners.

