

SCREEN QUOTA AND CULTURAL DIVERSITY: DEBATES IN KOREA-US FTA TALKS AND CONVENTION ON CULTURAL DIVERSITY

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ABSTRACT

Debates on Korea's screen quota system that have flourished with the event of Korea-US FTA talks go to the heart of an unsolved relationship issue between trade and culture. Although the FTA negotiation was successfully concluded with Korea's commitment not to raise quotas in the future, debates continue on the issue of whether or not the quota reduction measure taken by Korean government prior to entering into the negotiation and commitments made during the negotiation are compatible with the principles and obligations under the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions. Although theoretically the issue of inconsistency does not arise because Korea and the United States are not party to the Convention, intriguing questions still arise on whether, and to what extent, screen quotas are justified under the Convention, and how to interpret the relationship between provisions

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of the Convention and those of multilateral trade agreements such as the WTO agreements.

In general, screen quotas may be justified as a measure to protect and promote cultural diversity under the Convention. In addition, they may be justified, in an urgent situation, as a so-called “cultural safeguard measure” under the Convention. However, excessive imposition of quotas creating adverse effects on cultural “diversity” itself should not be justified through proper interpretation of key terms of the Convention. In addition, certain conditions for the manner of application of protective measures and procedural disciplines must be added to the Convention through its amendment as well as by enacting its procedural rules. These interpretative and legislative solutions will help lessen the tension arising from jurisdictional overlap between the Convention and WTO agreements and help prevent the on-going clash between trade interest and cultural diversity.

KEYWORDS: *WTO, Korea-US FTA, UNESCO, Culture*