

CONFLICT AND COMPLEMENTARITY IN TRADE, CULTURAL DIVERSITY AND INTELLECTUAL PROPERTY RIGHTS

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ABSTRACT

This article generally addresses the interrelationship between international trade regulation, the international protection of intellectual property rights, and the protection and promotion of cultural diversity. The main themes explored will be the binary notions of conflict and complementarity, suggesting a rough map of the territory in which these fields have the potential to clash with each other; and in contrast, the areas in which they appear to be mutually supportive.

International trade and indeed intellectual property protection are in many senses not only a complement to cultural diversity, but a necessary component in the promotion and protection of interculturality. There are, however, also significant areas of discord. What emerges from the analysis is that the foundational concepts of trade regulation, intellectual property protection and cultural diversity are so far removed from each other, in their perceptions of basic ideas such as culture, diversity, innovation, tradition, markets and rights, that substantive conflict is inevitable, if not upon the surface, then at a deeper level. That in the exceptional circumstances of overt conflict, a lawyerly solution may be found, is no remedy for the potentially disruptive - or at least non-constructive - effects of the parallel existence of such inherently different normative regulatory systems.

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