

# Entertainment and Media Law

---

## Course informations :

Degree level	DU LLM International Law
Semester	2 <sup>nd</sup>
Course duration	15h
ECTS delivered upon completion	7

## Instructor information:

Name	Lilian Hanania
Status	Attorney and Mediator
Institution	<a href="http://www.hananiaconsult.com">www.hananiaconsult.com</a>
Email	<a href="mailto:lilian@hananiaconsult.com">lilian@hananiaconsult.com</a>

## Course description:

The course will provide tools to analyze international trade agreements from the perspective of their impact on cultural diversity and cultural actors, with emphasis on media and entertainment service providers. It will focus on both International Trade Law and International Law on Culture. It will examine and provoke reflections on how international trade agreements (both World Trade Organization Agreements and bilateral and regional trade agreements), as well as UNESCO treaties in the cultural field, impact the international regulation of cultural actors and industries. Emphasis will be placed on the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, which deals with cultural industries and cultural goods and services, including in the digital economy.

## Course learning outcomes:

Upon completion of this course, students will demonstrate their ability to:

- Examine international trade agreements.
- Understand how International Trade Law impacts media and entertainment service providers, including in the digital era.
- Interpret cultural exception clauses in trade agreements.
- Understand UNESCO treaties in the cultural field, and notably the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage and the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions.

## Student evaluation plan:

The evaluation will be based upon oral participation and on a final exam as described hereafter in the course schedule. Grades will be based 50% on the final exam and 50% on participation in class discussions (including a presentation in class).

**Course schedule:**

Date	Session	Topic	Description	Assignment
May 12 <sup>th</sup> (6pm – 8pm, remote)	1	Presentation and Introduction	International Trade Law, cultural policies, and cultural diversity	Discussions in class
May 13 <sup>th</sup> (10am – 1pm)	2	Cultural goods and services in the WTO	WTO Agreements, with focus on the GATT and the GATS ,and case law	Presentation of case law by students and discussions in class
May 17 <sup>th</sup> (6pm – 8pm, remote)	3	Cultural services in bilateral and regional economic and trade agreements	Examples of international trade agreements with the United States, Canada, and the European Union	Presentation by students and discussions in class
May 24 <sup>th</sup> (6pm – 8pm, remote)	4	Cultural rights and the legitimacy of cultural policies	International legal instruments establishing the link between cultural rights and cultural policies	Presentation by students and discussions in class
June 2 <sup>nd</sup> (6pm – 8pm, remote)	5	International Law on Culture and the exchange of cultural goods and services in the digital context (1 <sup>st</sup> part) + Guest speaker (tbc)	Challenges and opportunities for cultural diversity in the digital environment, and Guest speaker presentation	Presentation by students and discussions in class
June 3 <sup>rd</sup> (10am – 1pm)	6	International Law on Culture and the exchange of cultural goods and services in the digital context (2 <sup>nd</sup> part) + Review and Conclusions	Challenges and opportunities for cultural diversity in the digital environment, review of course topics and conclusions	Presentation by students and discussions in class
1 hour, remote  (Date to be confirmed between June 5 <sup>th</sup> and 10 <sup>th</sup> )	7	Final written exam	Practical case to be sent by email to the students. The students are given 1 hour to respond by email.	

**Books and chapters in books:**

1. L. Richieri Hanania (ed.) (2014) *Cultural Diversity in International Law: The Effectiveness of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions*, London/New York, Routledge.
2. L. Richieri Hanania and A.-T. Norodom (2016), "Introduction – Diversity of Cultural Expressions in the Digital Era", in L. Richieri Hanania and A.-T. Norodom (eds.), *Diversity of cultural expressions in the digital era*, Teseo, <https://www.teseopress.com/diversityofculturalexpressionsinthedigitalera/>.
3. M. Burri (2016) "Exposure diversity as a new cultural policy objective in the digital age", in L. Richieri Hanania and A.-T. Norodom (eds.), *Diversity of cultural expressions in the digital era*, Teseo,

4. <https://www.teseopress.com/diversityofculturalexpressionsinthedigitalera/>.  
S. Van Uytsel (2014) “The CDCE and the WTO – in search for a meaningful role after China-Audiovisuals”, in L. Richieri Hanania, *Cultural Diversity in International Law: The Effectiveness of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions*, London/New York, Routledge, pp. 40-53.

#### Journal articles:

5. C. Carmody (1999) “When ‘Cultural Identity was not an issue’: thinking about Canada - certain measures concerning periodicals”, in *Law and Policy in International Business*, Winter 1999, vol. 30, n° 2, 1999, pp. 231-320.
6. [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2087639](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2087639).
7. L. Richieri Hanania (2012) “Cultural Diversity and Regional Trade Agreements: The European Union Experience with Cultural Cooperation Frameworks”, in *Asian Journal of WTO & International Health Law and Policy*, vol. VII, n. 2, Sept. 2012, pp. 423-456, [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2087639](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2087639).
8. L. Richieri Hanania (2015) “The UNESCO Convention on the Diversity of Cultural Expressions as a Coordination Framework to promote Regulatory Coherence in the Creative Economy”, *The International Journal of Cultural Policy*, DOI: 10.1080/10286632.2015.1025068, pp. 1-20.
9. L. Richieri Hanania (2019) “Trade, culture and the European Union cultural exception”, in P. Goff (ed.) *The International Journal of Cultural Policy*, Special Issue, 25:5, pp. 568-581, DOI: 10.1080/10286632.2019.1626844.

#### Other resources:

10. 2001 UNESCO Universal Declaration on Cultural Diversity, [http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/pdf/5\\_Cultural\\_Diversity\\_EN.pdf](http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/pdf/5_Cultural_Diversity_EN.pdf).
11. 2003 UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage, <https://ich.unesco.org/en/convention>.
12. 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, <https://en.unesco.org/creativity/sites/creativity/files/passeport-convention2005-web2.pdf>.
13. Canada-United States-Mexico Agreement (CUSMA) (2020), <https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cusma-aceum/text-texte/toc-tdm.aspx?lang=eng>.
14. Consolidated CPTPP (2018) Comprehensive and Progressive Agreement for Trans-Pacific Partnership, <https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/tpp-tpf/text-texte/toc-tdm.aspx?lang=eng>.
15. Council of Europe Convention on Cinematographic Co-production (revised) (Rotterdam, 2017) <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/147>, <https://www.coe.int/en/web/culture-and-heritage/cinematographic-coproduction>, and <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/220>
16. EU-Canada CETA (2016) Comprehensive Economic and Trade Agreement between Canada, of the one part, and the European Union and its Member States, of the other part, <http://ec.europa.eu/trade/policy/in-focus/ceta/ceta-chapter-by-chapter/>.

17. European Union (2008) “Protocol III on Cultural Cooperation” in the Economic Partnership Agreement between the CARIFORUM States, of the one part, and the European Community and its Member States, on the other part OJ L 289/3-1955, 30 October 2008, [https://eur-lex.europa.eu/eli/agree\\_internation/2008/805/oj](https://eur-lex.europa.eu/eli/agree_internation/2008/805/oj).
18. European Union (2011) “Protocol on Cultural Cooperation” in the Free trade Agreement between the European Union and its Member States, of the one part, and the Republic of Korea, of the other part OJ L 127, 14 May 2011, <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2011:127:FULL&from=EN>.
19. International Covenant on Economic, Social and Cultural Rights, Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>
20. Revised European Audiovisual Media Services Directive (AVMS) – Consolidated text <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02010L0013-20181218>.
21. The General Agreement on Tariffs and Trade (GATT 1947) [https://www.wto.org/english/docs\\_e/legal\\_e/gatt47\\_01\\_e.htm](https://www.wto.org/english/docs_e/legal_e/gatt47_01_e.htm).
22. The General Agreement on Trade in Services (GATS) [https://www.wto.org/english/docs\\_e/legal\\_e/26-gats\\_01\\_e.htm](https://www.wto.org/english/docs_e/legal_e/26-gats_01_e.htm).
23. UN Committee on Economic, Social and Cultural Rights (CESCR) (2009), General Comment n° 21, “Right of everyone to take part in cultural life” (art. 15, para. 1 (a) of the International Covenant on Economic, Social and Cultural Rights) <http://www.refworld.org/docid/4ed35bae2.html>.
24. US-Chile Free Trade Agreement (FTA) (2003) <https://ustr.gov/trade-agreements/free-trade-agreements/chile-fta/final-text>.
25. WTO Appellate Body report - Canada — Certain Measures Concerning Periodicals (DS31), [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds31\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds31_e.htm).
26. WTO Appellate Body report - China — Measures Affecting Trading Rights and Distribution Services for Certain Publications and Audiovisual Entertainment Products (DS363), [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds363\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds363_e.htm).
27. WTO Services Sectoral Classification List, [https://www.wto.org/english/tratop\\_e/serv\\_e/serv\\_sectors\\_e.htm](https://www.wto.org/english/tratop_e/serv_e/serv_sectors_e.htm).