



**Cultural policies, digital technologies and global cultural economy:
European Union in the American imperium (still)?**

Dr. Antonios Vlassis



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**CEFIR Working Paper No 6
June 2018**

CULTURAL POLICIES, DIGITAL TECHNOLOGIES AND GLOBAL CULTURAL ECONOMY: EUROPEAN UNION IN THE AMERICAN IMPERIUM (STILL)?¹

Dr. Antonios Vlassis

Abstract :

The purpose of the article is twofold: to consider whether and how the European Union (EU) play a major role in global cultural politics and economy (taking as case study the film sector) and to analyze whether the United States keep playing a key role in global cultural flows or their dominance is challenged by other countries - such as China - or by main digital players. Thus, the article offers a first investigation in order to understand the influence of the EU in global governance of trade and culture, paying special attention to the nexus between culture and digital technologies and to analyse whether this influence is translated into a change of balance of power in the global cultural economy.

Keywords: European Union, trade agreements, digital technologies, cultural governance, global cultural economy

¹ The title is inspired by P. Katzenstein's book entitled *A world of regions: Asia and Europe in the American Imperium* (2005). Katzenstein uses the concept "imperium" in order to define the conjoining of power that has both territorial and non-territorial dimensions.

In January 2014, the European Union (EU) entered into a first round of negotiations with China for the development of a bilateral investment agreement. In 2013, in its resolution on the EU-China negotiations, the European Parliament explicitly acknowledges that “both parties may not be able to make commitments in certain sectors”, calling, “in this context, for the exclusion of cultural and audiovisual services from the negotiations on market access, in line with the relevant provisions of the EU Treaties” (European Parliament 2013).

Indeed, the issue of cultural content has proved one of the most controversial in bilateral and multilateral trade agreements. The cultural industries, oscillated between symbolic and material spheres, raise important issues for several involved actors: economic issues because cultural industries are a key sector in terms of growth and employment for the national economies; political issues, given that cultural industries – seen as vehicles of values and collective representations – are resources of the power of States and of their capacity to shape their international environment; finally, identity issues because cultural expressions – distributed by cultural industries – are usually components of a national, regional or local identity and many actors are increasingly worried on cultural dominance.

Cultural industries are among the fastest growing sectors in the world. With an estimated global worth of 4.3 trillion USD per year, the culture sector now accounts for 6.1% of the global economy². Collective art, mass art, art of modernity, major industrial art of the contemporary

“screenocracy”³, the cinema is the most significant cultural industry in terms of economic profitability and symbolic influence. According to the UNESCO Institute for Statistics (2016: 11), audiovisual services are increasingly becoming the most important cultural service traded. At the same time, cinema is the sector in which most of the export and import measures are put in place (Deloumeaux 2018: 136).

In this view, the world film politics and world film market are a strategic and relevant site for analyzing the international cultural influence of EU and for understanding how this cultural industry could allow EU to build a status of actor in global governance of trade and culture. The urgency of this topic is also linked to the development of digital technologies and of online platforms, which represent an unprecedented change in production, distribution, broadcasting, consumption of cultural goods and services. This change is expected to have major impact on global governance of trade and culture and cultural economy (Mansell 2015).

An academic research recently offers useful insights on the EU action in the international cultural affairs. It deals with key issues: the regulation of the ‘trade and culture’ interface and the EU’s role (Psychogiopoulou 2014), the EU role in the implementation of the Convention on diversity of cultural expressions (Loisen & Pauwels 2016), the interregional cooperation related to the audiovisual sector with special focus on the links between EU and Mercosur (Saridakis and Ganter 2014), as well as specific recommendations to consolidate the EU cultural diplomacy

² See UNESCO website:
<https://en.unesco.org/creativity/convention>.

³ The ubiquity and the omnipresence of screen in our daily lives (*écranocratie*) (Lipovetsky and Serroy 2007).

(Fisher 2007, Trobbiani 2017). The growing body of research seeks to understand the overall impact of the EU in international cultural affairs. However, based on an exclusively legal-institutionalist approach, it seems to overestimate the evolving EU's influence in global cultural governance. In other terms, given the multidimensionality of the research object, it is necessary to highlight multiple variables beyond the policy results of EU institutions.

The article that follows is more empirical and analytical than theoretical. It does not aim to understand the conceptual implications of the link between EU and cultural diplomacy, or EU and soft power (Ang et al. 2015). By contrast, the purpose is twofold: to consider whether and how EU play a major role in global cultural politics and economy (taking as case study the film sector) and to analyze whether the United States (US) keep playing a key role in global exchanges of cultural content or their dominance is challenged by other countries - such as China - or by major digital players. In fact, in its contested position between national and supranational interests the study of the EU in the global governance of culture can be seen to mirror the central debate related to the future of the European project, “namely to negotiate and reconcile the desires of cultural specificity and national identity with the larger ideal of supranational community” (Bergfelder 2005: 315). In order to understand the role and influence of EU in the global cultural/audiovisual landscape, I highlight three key factors: domestic cultural and communication policies, market and industrial profile, and foreign cultural diplomacy (Galperin 1999). The first concerns the domestic regulatory framework for cultural/audiovisual industries within the EU. The second refers

to the distribution of economic and political resources among the trading partners' audiovisual industries. The third deals with the ability of EU to promote European cultural content in the global marketplace and to disseminate international standards of behavior related to culture.

To address these questions, the article primarily discusses the key norms, which have dominated the link between audiovisual content and international economic integration since the 1990s. It focuses, furthermore, on the evolution of the relationship between the EU institutions and the film industry, as well as on the development of the EU film market. It also aims to draw up an inventory of EU's role within the global governance of trade and culture. In the end, the article examines the competition that EU faces in the global cultural economy, focusing especially on the US and China.

1. Regulation of audiovisual content across borders: *the Good, the Bad, and the Ugly*

Since the early 1990s, the elimination of regulatory and financial measures in the cultural sector has been a major priority of the US trade diplomacy as well as a stumbling block in the process of the international and regional economic integration (Vlassis 2015). National governments policies in support of their film industries rely on two types of measures: those that attempt to restrict entry of foreign competitors, such as tariffs and quotas, and those that provide preferential treatment to the domestic industry in the form of subsidies and tax credits (Crane 2014: 8). The goal of the US administration, followed mainly by several powerful industrial associations such as the Motion Pictures Association of America, was to include cultural goods and services within

the agenda of international trade negotiations, including the last period of negotiations on the General Agreement on Trade in Services (GATS) of the World Trade Organization (WTO) in 1993; the negotiations on the Multilateral Agreement on Investment within the Organization for Economic Cooperation and Development; and the negotiations around free trade agreement (FTA) between the US and Canada in 1989, as well as on the North American Free Trade Agreement among US, Canada, and Mexico in 1994. As Miller and Yúdice (2002: 174) note, “The US motivation was obvious: replacing national societies of culture with a global society of alleged efficiency”.

The US position was largely associated with the Washington consensus in development policies, which has gained ascension since the end of the Cold War and the collapse of the bipolar world order. The consensus asserts that global welfare would be maximized by the liberalization of trade, finance, and investment, and by restructuring national economies to provide an enabling environment for capital. In this regard, the assumption was cultural policies should admit an underlying principle that “human well-being can best be advanced by liberating individual entrepreneurial freedoms and skills within an institutional framework characterized by strong private property rights, free markets, and free trade” (Harvey 2005: 2).

Even though a coalition of actors, driven by France and Canada, defended the term ‘cultural exception’ (*exception culturelle*) in order to exclude cultural goods and services from the agenda of the trade negotiations, the WTO does have a

competence for trade of cultural services, and the latter are not permanently excluded from WTO negotiations (Vlassis 2015). As of February 2016, 36 WTO members have agreed to make some commitments in the audiovisual services sector⁴. Meanwhile, since 2001 (the Doha Round), the WTO has struggled to conclude a round of trade negotiations among its members, illustrating an institutional crisis of its multilateral model. The US administration has opted for the plurilateral and bilateral pathway, negotiating and concluding FTAs with economically developed and developing countries. In this context, several countries, such as Oman, Panama, Guatemala, Nicaragua, Salvador, Honduras, and Bahrein – have only inscribed few reservations concerning culture in their FTA with US, and consequently, a significant liberalization of audiovisual and cultural services has resulted from the FTA (Gagné 2016).

At the same time, rapid financial globalization, international and regional economic integration, and the liberalization of trade exchanges raised major concerns for several actors over the implications for cultural identities, cultural sovereignty, and the survival of national cultural industries. The Convention on the Protection and the Promotion of Diversity of Cultural Expressions (hereafter CDCE) – was adopted by UNESCO in 2005. As of May 2018, it has received the support of 145 Member States and of the European Union (EU). Instead, the US – fierce opponent of the CDCE – Russia, Japan, as well as several Southeast Asian (Thailand, Malaysia, Singapore, Philippines) and Middle Eastern (Iran, Saudi Arabia, Syria,

⁴ According to the WTO, the audiovisual sector includes motion picture and videotape production and distribution services, motion picture projection

services, radio and television services, and sound recording.

Israel) countries have not yet ratified the CDCE. The CDCE recognizes the specificity of cultural goods and services and the importance of cultural policies for the protection and promotion of the diversity of cultural expressions. The CDCE's adoption highlighted UNESCO's renewed role in the global governance of cultural industries (Vlassis 2013) and it was seen as a response to the threat towards cultural policies coming from bilateral and multilateral FTAs. In addition, the CDCE incorporates concrete provisions to the link culture and sustainable development, aiming to strengthen international cultural cooperation through various tools, such as expert and information exchange among the Parties, collaborative arrangements, preferential treatment for developing countries, as well as the setting up of the International Fund for Cultural Diversity.

However, in the context of the information technology revolution, one of the major diplomacy priorities of the Obama administration was to include the digital cultural services in the agenda of megaregional partnerships, such the Trans-pacific partnership (TPP) between 12 countries along the Pacific Rim⁵ signed in 2016, the Transatlantic Trade and Investment Partnership (T-TIP) between EU and US, as well as in the Trade in Services Agreement (TiSA). Indeed, the digital platform has been emerged as a dominant technological tool in global cultural economy since the 2000s. The US aim was to treat the digital cultural services, such as e-books or video-on-demand (VOD) services into a single chapter devoted to e-commerce and to eliminate all

forms of discrimination with regard to digital audiovisual and cultural services, promoting an open market environment and “limiting the right of States to implement cultural policies to support the creation, distribution and consumption for digital local content” (Guèvremont 2015: 142).

Since the arrival of Trump administration, the negotiations on TiSA and T-TIP are in hibernation mode. But, despite the US withdrawal from the TPP, the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) was signed by 11 countries along the Pacific Rim in March 2018, incorporating the provisions from the TPP. It is revealing that taking advantage of the US absence, Canada – through side letter agreements – has inscribed numerous reservations in the CPTPP in order to preserve sufficient leeway in favor of cultural industries. Besides, the CPTPP Chapter 14 on ‘Electronic commerce’ is a real challenge. The chapter does not allow Parties to formulate reservations in order to preserve cultural policies applicable to the digital environment and the definition of “digital products”⁶ causes legal confusion (Vlassis 2018). More concretely, even though the chapter prescribes non-discriminatory treatment for digital products and this provision does not apply to either subsidies or broadcasting, “a movie that is a good, but whose production, distribution and projection can be regarded as a service, can also fall within the category of ‘digital products’, provided that it is digitally encoded” (Guèvremont 2017: 148).

⁵ Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, US, and Vietnam.

⁶ “A digital product means a computer programme, text, video, image, sound recording or other product

that is digitally encoded, produced for commercial sale or distribution, that can be transmitted electronically”.

Lastly, the negotiation of the Regional Comprehensive Economic Partnership - involving the 10 members of the Association of Southeast Asian Nations as well as Australia, China, India, Japan, New Zealand and the Republic of Korea – could be concluded by the end of 2018. There is little public debate on the content of negotiations, but according to some working documents a chapter on e-commerce will be included in the agreement. In this view, it would be also interesting to analyze the definition and the treatment of digital cultural products in the agreement (Guèvremont 2017: 150).

2. EU cultural policies and Janus-faced syndrome: *Un long dimanche des fiançailles*

The EU policy goals in the cultural sector oscillate between the free circulation of audiovisual goods and services and the aim of identity building, between the imperative of technological convergence and the protection and promotion of cultural diversity (Benhamou 2015). In late 1980s, the attempts to build audiovisual policy tools at European level were triggered by several factors: the development of satellite broadcasting; the end of State monopole in the broadcasting sector; the proliferation of TV private broadcasters; the economic crisis in the European film industry; and the increasing trade deficit in relation with the US in terms of audiovisual goods and services. In 1992, Article 128 of the Treaty of Maastricht (which became Article 151 in the 1997 Treaty of Amsterdam and consolidated as Article 151 of the Treaty of the EU) was the first formal legal instrument acknowledging EU-level competency in culture: “the Community shall take cultural aspects into account in its action under other provisions of this Treaty,

in particular in order to respect and to promote the diversity of its cultures”.

Over the last three decades, several EU policy tools have been designed in order to accompany the economic, social and cultural transformations of the audiovisual sector. On the one hand, the Television Without Frontiers Directive (TWFD), based on the logic of the ‘mandatory liberalization, optional interventionism’ (Littoz-Monnet 2007: 84) was issued in 1989, amended in 1997 and replaced by the Audiovisual Media Services Directive (AVMSD) in 2007. The TWFD established the free flow for television programs and it provided the introduction – only ‘where practicable’ - of quotas for encouraging the production and distribution of European audiovisual works (Iosifidis 2011). On the other hand, the MEDIA program – established in 1991 – became the key financial instrument in order to support the EU audiovisual industries. Today, MEDIA is a part of the Creative Europe Program and its annual budget is around 120 million EUR. Comparatively, in 2017, the total budget of French Film Centre (*Centre national du cinéma*) reached 707 million EUR.

Globally, the EU policy tools in the cultural sector have constantly struggled between two key policy logics (Vlassis 2015): an interventionist policy model - defended by France and French organizations of culture professionals and followed by several countries, such as Spain, Italy, Belgium, Greece, and the European Parliament - which highlights the importance of public intervention and policies - with financial aid, market regulation, intellectual property rights regulation, protection and promotion of cultural diversity – in cultural industries, and recognizes the specific nature of cultural goods and services ; an economic

regulation model, – defended by the United Kingdom, the Netherlands, Denmark, Sweden and often the European Commission (hereafter ‘Commission’) – which considers culture both as an economic activity, following the principle of open free market and as a policy area for which the Commission should have reduced competency to intervene.

Today’s EU agenda on audiovisual services is dominated by the 2007 AVMSD’s review. The major issue is related to the regulation of the digital cultural economy in order to involve the new Internet players and platforms in the financing, distribution and visibility of European cultural content. What that means is the institutional transfer from the analogue to the digital era of key norms dominating the EU cultural policies.

The debate highlighted, once again, a political gap between the interventionist position and the economic regulation position – benefiting from the support of the UK, the Netherlands, Finland, Ireland, Sweden, Denmark, Czech Republic, and Luxemburg – which account more than 40% of on-demand audiovisual media services established in the EU28 (Lange 2016). The new text – which will be approved by the European Council in June 2018 – includes flexible obligations for digital cultural operators, such as VOD platforms to respect – “only where practicable” - quota of 30% for European works on their platforms. In addition, it includes a derogation to the country of origin principle in order to tax non-domestic VOD players targeting a given Member State. In this view, where Member States require linear broadcaster & VOD provider, under their jurisdiction, to contribute

financially to the production of European/national film content, they may also require linear broadcaster & VOD provider, targeting audiences in their territories, but established in other Member States, to make such financial contribution⁷. Indeed, the new text is based on a logic *à la carte*, which historically dominates the EU intervention in cultural industries. It is indicative that following the 2007 AVMSD’s article 13, France, Spain or Italy impose quota for European works in the media operators and obligations of investment to the film production. At the same time, several EU members, such as Denmark, the Netherlands, Luxembourg, Ireland, do not adopt such commitments in the cultural field.

Regarding the market and industrial profile, the EU regulatory framework for audiovisual content seek to manage three main trends of the EU film market: (a) the survival of several national audiovisual industries and the growth trend of European film production; (b) the weakness of preventing the Hollywood dominance in the EU market; (c) a strongly fragmented distribution of European films in the internal market.

Table I: EU film production (source: EAO)

| | 2005 | 2008 | 2011 | 2013 | 2015 | 2017 |
|---------------------|------|-------|------|------|------|------|
| Total feature films | 911* | 1140* | 1547 | 1607 | 1643 | 1676 |

⁷ It is worth noting that China already established a quota of 70% for national content on the VOD platforms, while the government of Brazil is

considering an additional tax on audiovisual works released on demand.

| | | | | | | |
|------|--|--|--|--|--|--|
| EU28 | | | | | | |
|------|--|--|--|--|--|--|

*EU27

Table II: Film production in selected countries (source: EAO)

| Feature films produced/Year | 2005 | 2008 | 2011 | 2013 | 2015 | 2017 |
|-----------------------------|------|------|------|------|------|------|
| France | 240 | 240 | 271 | 269 | 300 | 300 |
| Germany | 146 | 185 | 205 | 236 | 236 | 247 |
| Spain | 142 | 173 | 200 | 235 | 254 | 247 |

Table III: Market share in the EU film market (source: EAO)

| Market share (in %)/Year | 2009 | 2011 | 2013 | 2015 | 2017 |
|--------------------------|------|------|------|------|------|
| European films | 26.7 | 28.5 | 26.2 | 26.1 | 27.5 |
| US | 67.1 | 61.4 | 69.1 | 64 | 66.2 |
| EU inc./US | 4.2 | 8.4 | 1.1 | 7.3 | 3.7 |
| Others | 2.0 | 1.6 | 3.6 | 2.6 | 2.6 |

Table IV: National film market share (source: EAO)

| National film market | 2009 | 2011 | 2013 | 2015 | 2017 |
|----------------------|------|------|------|------|------|
|----------------------|------|------|------|------|------|

⁸ Our conclusions are based on the statistical data from the European Audiovisual Observatory. Some data is included in the Tables I-IV. For more

| share (in %)/Year | | | | | |
|-------------------|------|------|------|------|------|
| France | 36.8 | 40.9 | 33.8 | 35.5 | 37.4 |
| Germany | 27.4 | 21.8 | 26.2 | 27.5 | 23.9 |
| Spain | 16 | 15 | 13.9 | 19.2 | 17.0 |
| The Netherlands | 17.3 | 22.4 | 20.5 | 18.7 | 12.0 |
| Sweden | 32.7 | 21.3 | 24.8 | 20.7 | 17.2 |

Despite a difficult economic environment, EU film production constantly continues to grow. In 2017, the film production almost double compared to 2005. And three countries represent around 60% of EU film production: France, Germany and Spain (Table II). At the same time, US films including those produced in Europe with incoming US investment achieved an estimated market share of 70%. More specifically, a closer analysis of the European film market (Table IV)⁸ shows that the market share of Hollywood is overwhelming in the majority of EU members, whereas France is characterized by a dynamic position both of Hollywood productions and national cinema – and an exceedingly small proportion of films from other countries.

In addition, as European Audiovisual Observatory (EAO) stressed (Grece 2016), a film's theatrical release constitutes a key criterion for the film's presence on on-demand services and on its promotion. In a

information:

<https://www.obs.coe.int/en/web/observatoire/>.

digital world of abundance, the theatrical release is a main way of publicizing films. Here, it is worth noting that “in the case of the large platforms, the enormous volume of information they handle is usually beyond the scope of national statistics (...) In fact, while countries do not always have precise information on digital consumption, online platforms have such Mastery of Big Data that they are better placed to know how local cultural trends than the public sector itself” (Kulesz 2015: 85).

Crucially, the restricted access to data relating to the number of users, traffic source, cultural content visited and accessed raises issues in terms of transparency and accountability. At the same time, an analysis based on Big Data would not necessarily open a different understanding of the diversity of cultural content in the EU. In this view, according to available statistical data, in 2016 EU films travel less well on VOD than US films: on average, EU films are available in 2.8 countries, US films in 6.8 countries. To this it should be added half of EU films are only available on VOD in one country (Grece 2016: 4). In a study on 68 VOD catalogues in the EU, EU films make up 23% of the catalogues, whereas US films make up 61% (Fontaine and Grece 2016: 8). In a similar vein, French films make up only 4.4% of the iTunes catalogue and 1.9% of Netflix catalogue in Europe (excluding France) (Unifrance 2018).

3. EU in international cultural relations: *El Secreto De Sus Ojos*

The EU, as party to the CDCE, has the formal right to implement the Convention in the same way as the member states. The ‘European Agenda for culture in a globalizing world’, launched by the Commission in 2006 and adopted in 2007 is the first policy framework for culture at EU

level. It recognizes the EU as a cultural actor in external relations and it claims a leading role for the EU with respect to the CDCE’s norms. In 2017, the EU Council adopted the “Conclusions on an EU strategic approach to international cultural relations” making the promotion of the diversity of cultural expressions a guiding principle for EU external action and encouraging a cross-cutting approach to culture in order to promote cultural industries and new technologies in the EU international relations. According to the Commission’s 2017 reflection paper ‘Harnessing Globalization’, “cultural diplomacy is an integral part of our common foreign and economic policy. European culture is a major source of jobs and growth while cultural exchanges can shape globalization and promote our values and identity” (European Commission 2017: 14).

As a result, since 2006, several EU initiatives showed that the EU seeks to promote cultural norms as part of its international economic and cultural relations. It is worth mentioning three types of action: (a) the inclusion of a *Protocol on cultural cooperation* in the FTAs with South Korea (2010), CARRIFORUM (2008), and with Central America (2012); (b) the incorporation of explicit references to the CDCE in the agreements with Ukraine, Moldova and Georgia and in the Comprehensive Economic and Trade Agreement (CETA) between EU and Canada; (c) the protection - in the T-TIP negotiations between EU and US - of the capacity of the Union and its Member States to implement cultural/media policies to take account of developments in this sector in the digital environment (Vlassis 2016a).

However, in the recent EU trade and investment agreements with Singapore, Japan and Vietnam finalized between 2016

and 2018, the EU strategy has changed. The agreements contain a cultural exemption that the scope is limited to audiovisual services. The exclusion of audiovisual services is always incorporated in the Chapter 8 of the agreements devoted to “Trade in Services, Investment and E-Commerce”. In this sense, no reference to the CDCE appears in those treaties and no Protocol on cultural cooperation is included.

An obvious reason for this change is related to the international commitments of Japan and Singapore. Both countries are not Parties to the CDCE (while Vietnam ratified the CDCE in 2007). In fact, a more nuanced analysis will lead us to two other factors, which weaken the EU action in international economic and cultural relations.

First, the recent EU initiatives lack social support. As demonstrated by several studies (Vlassis 2016a, Garner 2017), these initiatives illustrate a top-down approach without links to the EU culture organizations of professionals. The top-down building of the protocols, based on an Commission’s initiative hinders the effective implementation of their provisions, leaving aside the main actors of the implementation, such as the EU national governments and the EU culture organizations. As regards the protocol between EU and CARIFORUM, the European Centre for Development Policy Management (2011) emphasized, “there is a lack of awareness on the side of the European cultural sector of the potential opportunities to cooperate with the CARIFORUM cultural sector”. In a similar vein, the Domestic Advisory Group established by the Commission for evaluating the results for the implementation of the protocol on cultural

cooperation with South Korea stated, “there is a need to promote the protocol at industry, state and EU level if the entitlement for EU-Korean co-productions is to be properly exploited” (European Commission 2014: 2). Indeed, the EU culture organizations of professionals have little trust in the Commission’s purposes to promote the normative core of EU cultural policies. There is a disconnect between Commission and the EU culture organizations, which is a serious constraint for the EU influence in external cultural affairs.

Second, the balance between intergovernmentalism method and Community action (Smith 2011) leads to another factor: during the negotiations on T-TIP, the Commission sought to include the digital cultural services in the EU mandate of negotiations, questioning explicitly the cultural exception. Even José Manuel Barroso, president of the Commission, characterized cultural exception as a “reactionary and harmful position” (Le Monde 2013). Moreover, the Protocol on cultural cooperation incorporated in the FTA with South Korea was strongly criticized by French government. The latter denounced that the Commission intended to include the cultural industries within the FTA agenda in order to use them as a selling point for proceeding with trade deals and gain concessions in other economic areas (Vlassis 2016a). On the one hand, the relationship between Commission and French authorities is based on a constant suspicion related to the treatment of cultural goods and services in trade agreements. On the other hand, France remains a key and prominent actor throughout the agenda setting process on issues related to cultural policies and cultural and audiovisual services and goods. It is revealing that in 2017, under the instigation of France and Canada (Vlassis 2017), the Parties to the

CDCE adopted Operational Guidelines in order to align the CDCE with the development of digital technologies. The EU is Party to the Convention, but it did not participated in the debates on the operational guidelines as a single entity due to lack of common position on the link between culture and digital technologies.

4. EU in the global film market: *For a few dollars more*

Even though EU action in global governance of trade and culture became more dynamic and several EU member states, such as France, have political influence and capacity to build and diffuse new governance norms for cultural policies, these norms have not changed profoundly the balance of power within the global audiovisual economy. In other terms, EU is not still regarded as a global, or even regional power in global audiovisual market. The European film market is still an integrated feature of the Hollywood economy. At the same time, the trade balance of the US audiovisual industry has long been positive, although the United States has traditionally recorded a trade deficit. Since 1980s, Hollywood has been one of America's largest net exporting industries and in 2015, the surplus in audiovisual sector reached 13.3 billion USD (Table II), more than the trade surplus in telecommunication, advertising, legal services, health sector (Motion Pictures Association of America 2017).

Inspired by the world system theory of the French historian Fernand Braudel, the economist Charles-Albert Michalet pointed out that since 1980s, Hollywood has developed the strategy of cinema-world based on three mechanisms: a world movie, both movie event and global film; a global approach on the market; horizontal cooperation among companies centred on

entertainment activities. "The cinema-world reflects the economic forces that showed up the global capitalism, namely an economic system that can only be operating in a global dimension" (Michalet 1987: 112).

Enjoying main technological developments, the Hollywood film also remains a key product for the main media platforms (DVD, TV, and VOD). The most remarkable point is that while several US industries have to face trade competition from their international counterparts, Hollywood has no real global competitor. Therefore, even though financial and regulatory measures for the film industry are expected to maintain and promote a national cinematography such as in France, in South Korea, or even in China (European Audiovisual Observatory 2008-2018), they fail to challenge the dominance of Hollywood in terms of attraction capacity and worldwide distribution (Crane 2014, Vlassis 2016b).

During the period 2012-2017, the 15 highest film successes, distributed by Hollywood studios, represent about a third of annual worldwide cinema revenues: in 2012, they accumulate about 34% of revenue in the global marketplace, 32% in 2013, 30% in 2014, 37% in 2015, 32% in 2016 and 34% in 2017. An additional important point is that on the one hand in 2013, 2015 and 2017, the 15 highest movie successes, distributed by Hollywood, recorded more than half of their revenues in the cinema markets outside the US and Canada. On the other hand, during the period 2007-2016, 25 Hollywood blockbusters recorded more than 75% of their total box office revenues in the "international" markets (Table V). Laurent Creton has pointed out that in several countries, Hollywood is not currently

regarded as a national cinematography but as the cinema (Creton 1997: 106).

The Tables V, VI and VII illustrate that Hollywood movies are still the only global cultural symbols. It is indicative that the film market in China has been characterized by impressive growth, four or five times higher than the growth of China's GDP. In 2004, total film market revenues represent 435 million USD. By contrast, in 2017, Chinese film market is one of the "few large enough to compete with that of the United States" (Overpeck 2018: 27), generating in 2017 8.2 billion USD in box-office revenue (Table IX) – almost twenty times higher than 13 years ago. Due to strict regulatory mechanisms - high quotas for national content, distribution restrictions, censorship (Su 2016) -, Chinese cinema keeps achieving an estimated national market share of 50%. Yet Chinese films are particularly made in order to satisfy the impressive expansion of national film market and they achieve extremely poor results in the global marketplace (Table VII).

Regarding European movies, between 2012 and 2016, only 10% of European films on release were on release outside Europe. And the US market represents around one third of total admissions to European films outside Europe (European Audiovisual Observatory 2018: 9). Even more problematically, analysing the Table VIII on the Top 10 EU (UK movies included) movies worldwide, three points must be highlighted: first, all the movies are produced in France and in the UK; second, except *Intouchables*, all these movies are anglophone; and third, five from these are produced by the same French producer and film-maker, Luc Besson, who since 1990s has moved "towards popular genres and narratives previously considered the

domain of Hollywood" (Bergfelder 2005: 318). One of the more interesting developments since the GATS talks on cultural exception is also the ethnocentric structure of the US audiovisual market. Over the last twenty-five years and with certain minor movie exceptions, such as *Lucy*, *Taken II and III*, *Slumdog Millionaire*, *The King's Speech* – that recorded important box-office revenue in the US market (over 100 million USD) – the market share of non-US movie productions is extremely low, going from 2% to 9%.

Thus, the "cinema-world" contributes to increase the imbalance within the global audiovisual economy and to establish the Hollywood dominance in two directions (see also Table VI): first, it is used for limiting the access of foreign movies – which do not enjoy the necessary financial and marketing resources such as Hollywood studios – to the US market based on an exclusive deregulation; second, following the same logic, it grants the advantage to Hollywood movies in the global marketplace, serving to a progressive coordination of national markets and to a convergence of the audience's preferences (Scott 2004, Miller et al. 2005). Indeed, all these statistics reveal the expertise and the financing and marketing capabilities of Hollywood in terms of worldwide film distribution. Despite their competition with each other, the Hollywood studios are usually connected by a common film language and a strong strategic interdependence (Augros and Kitsopanidou 2009).

Furthermore, since 2000s, the platformisation of cultural content has been a fundamental change in the global cultural economy (Jin 2017). New powerful digital actors such as content aggregators (iTunes), video sharing websites

(YouTube), VOD services (Netflix), electronic commerce companies (Amazon) have unequalled capacities to disseminate cultural content and exercise influence over whether and how cultural content can be accessed. It is revealing that today the only world VOD services are US companies, such as Netflix and Amazon Prime Video⁹: the first is available worldwide except mainland China, Syria, North Korea and the second launched worldwide in December 2016 (except for mainland China, Cuba, Iran, North Korea and Syria).

Here, the case of China is representative about the potential change of cultural content flow due to the digital shift. As of May 2018, Netflix, Amazon Prime Video and other foreign VOD services are blocked for operating in mainland China under the Internet censorship policy, leaving plenty of room for encouraging national private investment and strengthening Chinese VOD services. The three Chinese internet giants Baidu, Alibaba and Tencent (collectively known as BAT)¹⁰ have been expanding in the entertainment sector (Meng 2018: 95), setting up VOD companies. In this regard, foreign streaming giants are missing out and the China's fast-growing VOD market¹¹ is currently dominated by three platforms operated by BAT – Baidu's iQiyi, Alibaba's Youku and Tencent's Tencent Video¹².

⁹ Netflix, founded in 1997, is a US entertainment company and its business model include VOD services and film and television production. As of May 2018, Netflix has around 125 million total subscribers worldwide. In 2018, Netflix plans to spend 8 billion USD on content. Amazon Prime Video, launched in 2006, is an Internet video on demand service that is owned and operated by Amazon. In the US, the number of subscribers reach 26 million. However, there are no official data about the worldwide subscribers.

¹⁰ Baidu has the 2nd largest search engine in the world and held more than 70% market share in China's search engine market. Tencent is a Chinese

Chinese authorities restrict national VOD companies to ensuring that no more than 30% of their content emanates from overseas. In this context, the search for US cultural content was a direct effect of banning foreign VOD services and the content licensing deals, thus, have been strongly multiplied: (a) in September 2013, Tencent Video signed a deal with Disney Media Distribution to bring a collection of Disney, Pixar and Marvel Studios titles to the company's streaming movie service; (b) in November 2014, Tencent became the HBO's exclusive online partner in China; (c) in March 2017, Warner Bros signed a deal to supply movies to iQiyi; (d) Netflix introduce original content in China via a licensing deal signed in April 2017 with iQiyi; (e) in December 2017, Youku, the video streaming player of e-commerce giant Alibaba, signed content licencing deal with NBCUniversal and Sony Pictures Television.

Indeed, the dominance of BAT in the VOD market is strongly based on strict regulation of Chinese authorities, which ban the activities of foreign streaming giants. In other terms, VOD market seems to be a mirror of the Chinese film market: impressive domestic expansion of the VOD market; encouragement of national private investment; strong presence of Chinese and

multinational investment holding conglomerate whose companies specialize in Internet-related services and products, entertainment, and artificial intelligence. Alibaba group is a Chinese multinational e-commerce, retail, Internet and artificial intelligence conglomerate.

¹¹ According to Statista, revenue in the Chinese VOD market amounts to 1.73 billion USD in 2018 compared to 0.93 billion USD in 2016. URL: <https://www.statista.com/outlook/201/117/video-on-demand/china#market-revenue>.

¹² By February 2018, Tencent Video and iQiyi achieved more than 60 million subscribers and Youku reached more than 40 million subscribers.

US cultural content¹³. By contrast, the activities of the three platforms are extremely poor beyond the mainland China. As stated by Yang Weidong, president of Youku, “by cooperating with NBCUniversal and Sony Pictures Television to show famous Hollywood films on our platform, we can bring richer global content into Alibaba’s entertainment ecosystem” (South China Morning Post 2017).

Lastly, it has to be said that since the arrival of Trump administration, the new priorities of the US trade diplomacy could have an impact on the worldwide cultural content flow, insofar as over the last thirty years, the US FTAs have been a key tool for eliminating foreign trade barriers in cultural content. It is revealing China and US are currently negotiating a 6-year old agreement dealing with the film industry. The goal is to loosen China’s film imports quotas, increase revenue-sharing terms for Hollywood rights owners and increase the number of permitted distributors. The negotiations were initially planned to be concluded by the end of 2017. That did not happen due to the decisions of Trump administration to impose tariffs on several Chinese goods and services. In fact, it is rather complex to assess today the effects of these decisions on global cultural flows. But, it would be possible to lead to more ethnocentric cultural markets slowing down the US cultural content expansion rather than to the rise of a worldwide challenger to the Hollywood industry.

¹³ China released its new Film Industry Promotion Law on 1st March 2017 in order to strengthen the ability of authorities to promote and censorship the film content. In this context, 5 000 screens around the country will receive government support to screen domestic films that “guide thought and educate the people”. Since March 2018, the Party’s

Concluding remarks

The article has offered a first investigation in order to understand the influence of the EU in global governance of trade and culture, paying special attention to the nexus between ‘culture and digital technologies’ and to analyse whether this influence is translated into a change of balance of power in the global cultural economy. The preceding overview reveals four key points:

First, the international regulation of cultural industries is based on a normative dichotomy between free trade principle, which favours the breaking down of regulatory and financial measures in the cultural sector as prominent conditions of development for the sector on one side, and on the other side, the cultural exception principle, which recognizes the importance of cultural policies and the specificity of cultural goods and services. This dichotomy has been established beyond international political cleavages, such as North/South divide or West/the Rest. Today, the online platforms have given rise to a big political debate. In the context of information technology revolution, the digital technologies offer innovative ways of providing cultural content over electronic networks and they even complicate the demarcation between content and transmission, challenging strongly the principle of the specificity of cultural services and their treatment based on ‘cultural exception’. Even though since the arrival of Trump administration, US administration is no longer the political

Propaganda Department has gotten the responsibility of controlling the film content, replacing the State Administration of Press, Publication, Radio, Film and Television that managed the censorship until then (European Audiovisual Observatory 2008-2018).

entrepreneur of free trade principle in cultural sector, the digitization has the effect of blurring the definition of cultural services in trade agreements and of putting in question the specificity of digital cultural services and the legitimacy of cultural policy.

Second, in the EU the major issue is related to the regulation of the digital cultural economy in order to involve the new Internet players and platforms in the financing, distribution and visibility of European cultural content. The EU response is based on a logic *à la carte*, which historically dominates the EU intervention in cultural industries. In the context of the AVMSD review, the EU recognizes the importance of quota (itself a cultural policy tool) requiring digital platforms to devote a part of their catalogues to European cultural content and of taxing non-domestic VOD players targeting a given Member State in order to contribute to the EU cultural content production. Indeed, these measures follow path-dependence logic from analogue to digital era. However, the fact that it is a political agreement and not legally binding minimizes its significance. At the same time, the EU landscape is constantly characterized by the weakness, or even the unwillingness, of preventing the Hollywood dominance in the EU audiovisual market.

Third, since the CDCE adoption, the EU has sought to conduct a principled foreign policy in terms of culture, especially using trade agreements as the main way to transpose cultural norms and searching to establish itself as a foreign policy actor in cultural affairs. However, EU initiatives in promoting cultural norms to global governance of trade and investment face both lack of social support from culture organizations of professionals and

reluctance of member states with strong interests in the cultural affairs. The article placed emphasis on the disconnect between Commission and French governments/European culture organizations, which is a serious constraint for the EU influence in external cultural affairs.

Fourth, despite these developments in the global governance of trade and culture, American media culture continues to play a dominant role in global cultural economy and EU is not still regarded as a global, or even regional power in global audiovisual market. Even though financial and regulatory measures represent forms of surviving and maintaining a national cinematography such as the case of France, South Korea, or China, they fail to challenge the dominance of Hollywood in terms of attraction capacity and worldwide distribution. And here the case of China was revealing. The Chinese expansion of film and VOD markets was based on strict regulation, encouragement of national private investment, and strong restrictions on the activities of foreign film and VOD companies. By contrast, Chinese film content achieve extremely poor results in the global marketplace.

| Table V (Source: Mojo) Film (2008-2017) | % of its global revenues within the “international markets” (outside the US and Canada) |
|---|---|
| Ice Age: Collision Course (2016) | 84.3% |
| Gulliver’s Travel (2010) | 82.0% |
| The Fate of the Furious (2017) | 81.7% |
| Ice Age: Continental Drift (2012) | 81.6% |
| The Golden Compass (2007) | 81.2% |
| The Mummy (2017) | 80.4% |
| The Smurfs 2 (2013) | 79.6% |
| Life of Pi (2012) | 79.5% |
| The Adventures of Tintin (2011) | 79.3% |
| Transformers: The Last Knight (2017) | 78.5% |
| Battleship (2012) | 78.4% |
| 2012 (2009) | 78.4% |
| Pirates of the Caribbean: Dead Men Tell No Tales (2017) | 78.3% |
| A Good Day to Die Hard (2013) | 77.9% |
| Ice Age: Dawn of the Dinosaurs (2009) | 77.8% |
| Transformers: Age of Extinction (2014) | 77.8% |
| Spectre (2015) | 77.3% |
| Pirates of the Caribbean: On Stranger Tides (2011) | 76.9% |
| Furious 7 (2015) | 76.7% |
| Mamma Mia (2008) | 76.4% |
| RoboCop (2014) | 75.9% |
| The Tourist (2010) | 75.7% |
| American Reunion (2012) | 75.7% |
| Hansel and Gretel: Witch Hunters (2013) | 75.4% |
| Pacific Rim (2013) | 75.2% |
| Kung Fu Panda 2 (2011) | 75.2% |

Table VI: Top 15 Hollywood movies worldwide and gross in selected markets (source: Mojo)

| Movie | Total Box-Office (in million USD) | (including) United States/Canada | China | Australia | UK | Thailand | Malaysia | Singapore |
|-------------------------------------|-----------------------------------|----------------------------------|-------|-----------|-------|----------|----------|-----------|
| Avatar (2009) | 2 787.9 | 760.5 | 204.1 | 105.7 | 150.0 | 8.4 | 7.7 | 8.1 |
| Titanic (1997) | 2 186.7 | 659.3 | 43.9 | 38.8 | 114.0 | 4.7 | 2.7 | 4.1 |
| Star Wars: the Force Awakens (2015) | 2 068.2 | 936.6 | 52.3 | 20.5 | 50.6 | 1.6 | 2.8 | 2.5 |
| Avengers: Infinity War (2018) | 1 909.4 | 626.4 | 333.7 | 44.5 | 87.6 | 17.6 | 16.9 | 11.4 |
| Jurassic World (2015) | 1 671.7 | 652.2 | 228.7 | 38.9 | 99.6 | 8.1 | 11.5 | 8.7 |
| Marvel’s Avengers (2012) | 1 518.8 | 623.3 | 86.3 | 54.3 | 80.3 | 7.9 | 10.9 | 11.1 |

| | | | | | | | | |
|---|---------|-------|-------|------|-------|------|------|------|
| Furious 7 (2015) | 1 516.0 | 353.0 | 390.9 | 39.9 | 59.9 | 13.2 | 15.9 | 6.8 |
| Avengers: Age of Ultron (2015) | 1 405.4 | 459.0 | 240.1 | 30.9 | 76.6 | 8.8 | 13.3 | 9.9 |
| Black Panther (2018) | 1 344.1 | 698.0 | 105.0 | 31.1 | 70.5 | 8.9 | 10.2 | 7.4 |
| Harry Potter and the Deathly Hallows 2 (2011) | 1 341.5 | 381.0 | 60.8 | 51.3 | 117.2 | 6.7 | 4.6 | 6.5 |
| Star Wars : the Last Jedi (2017) | 1 332.8 | 620.1 | 42.5 | 45.0 | 111.1 | 4.5 | 3.7 | 4.6 |
| Frozen (2013) | 1 276.4 | 400.7 | 48.2 | 26.7 | 57.9 | 1.4 | 3.6 | 3.8 |
| Beauty and the Beast (2017) | 1 263.5 | 504.0 | 85.7 | 36.3 | 90.5 | 5.1 | 5.5 | 5.3 |
| The Fate of the Furious (2017) | 1 236.0 | 226.0 | 392.8 | 21.4 | 37.5 | 9.3 | 12.1 | 5.5 |
| Iron Man 3 (2013) | 1 214.8 | 409.0 | 121.2 | 36.1 | 57.0 | 8.8 | 13.9 | 10.2 |

Table VII: Top 10 Chinese movies worldwide and gross in selected markets (source: Mojo)

| Movie | Total box-office | China | US/Canada | Australia | UK | Thailand | Malaysia | Singapore |
|-------------------------------|------------------|-------|-----------|-----------|------|----------|----------|-----------|
| Wolf Warrior 2 (2017) | 867.6 | 854.2 | 2.7 | 1.3 | 0.03 | 0.03 | - | - |
| Operation Red Sea (2018) | 568.0 | 579.7 | 1.5 | 0.6 | - | - | - | - |
| The Mermaid (2016) | 550.5 | 526.8 | 3.2 | 0.8 | 0.1 | 0.2 | 7.0 | 3.1 |
| Detective Chinatown II (2018) | 544.0 | 541.4 | 1.9 | 0.5 | 0.08 | - | - | - |
| Monster Hunt (2016) | 385.2 | 381.8 | 0.03 | 0.3 | - | 0.03 | 0.4 | 0.4 |
| Monster Hunt II (2018) | 361.6 | 356.3 | | 0.2 | 0.05 | - | 3.0 | 1.0 |
| Never Say Die (2017) | 333.9 | 327.8 | - | 0.4 | 0.02 | - | - | - |
| Mojin: the Lost Legend (2015) | 259.3 | 255.7 | 1.2 | 0.5 | - | 0.06 | 0.08 | 0.3 |
| Kung Fu Yoga (2017) | 254.2 | 251.5 | 0.3 | - | 0.01 | 0.2 | 2.1 | - |
| Journey to the West (2017) | 246.6 | 239.5 | 0.8 | 0.3 | 0.1 | 0.2 | 2.3 | 1.1 |

Table VIII: Top 10 EU movies worldwide and gross in selected markets (source: Mojo)

| Movie | Total Box-Office (in million USD) | (including) United States/Canada | China | France | Germany | Spain | South Korea | Singapore |
|-----------------------------|-----------------------------------|----------------------------------|-------|--------|---------|-------|-------------|-----------|
| Lucy (France-2014) | 458.8 | 126.6 | 44.7 | 43.7 | 16.8 | 12.9 | 15.9 | 3.0 |
| Intouchables (France, 2012) | 426.3 | 10.1 | - | 166.1 | 79.0 | 21.0 | 11.0 | 0.08 |
| King's speech (2010, UK) | 414.2 | 138.7 | - | 26.7 | 23.5 | 15.8 | 5.5 | 0.5 |
| Slumdog millionaire | 377.9 | 141.3 | 2.2 | 21.5 | 19.1 | 14.8 | 5.8 | 1.2 |

| | | | | | | | | |
|---|-------|-------|----------------------|------|----------------------|----------------------|----------------------|----------------------|
| (UK, 2008) | | | | | | | | |
| Taken 2 (France, 2012) | 376.1 | 139.8 | - | 24.4 | 10.7 | 4.9 | 15.5 | 1.3 |
| Taken 3 (France, 2015) | 326.4 | 89.2 | 32.2 | 19.2 | 10.4 | 2.5 | 14.5 | 2.8 |
| Resident Evil: Afterlife (France, 2010) | 300.2 | 60.1 | 21.6 | 9.0 | 16.1 | 7.8 | 12.9 | 1.0 |
| The fifth element (France, 1997) | 263.9 | 63.8 | No data available | 54.0 | No data available | No data available | No data available | No data available |
| The Full Monty (UK, 1997) | 257.9 | 45.9 | - | 20.7 | 12.7 | 14.9 | 0.4 | 0.8 |
| Bean (UK, 1997) | 251.2 | 45.3 | - | 20.6 | 36.1 | 9.7 | 0.3 | 1.5 |

| Table IX (Source: MPAA) Countries/Year (box-office in USD billion) | 2008 | 2010 | 2012 | 2016 | 2017 |
|--|------|------|------|------|------|
| China | 0.6 | 1.5 | 2.7 | 6.6 | 8.2 |
| Russia | 0.8 | 1.0 | 1.2 | 0.7 | 1.0 |
| India | 1.8 | 1.3 | 1.5 | 1.9 | 1.6 |
| Japan | 1.8 | 2.5 | 2.4 | 2.0 | 2.0 |
| South Korea | 0.8 | 1.0 | 1.3 | 1.5 | 1.6 |

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About CEFIR:

The Center for International Relations Studies (CEFIR) is an integral part of the Political Science Department of the University of Liège (ULiège).

Address:

Department of Political Science
Faculty of Law, Political Science and Criminology
University of Liège
Quartier Agora, Place des Orateurs, 3
4000 Liège (Sart Tilman)
Belgium.

Website: www.cefir.uliege.be

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How to reference this paper:

Antonios Vlassis, « Cultural policies, digital technologies and global cultural economy:

European Union in the American imperium (still)? », *CEFIR Working Paper*, N° 6, June 2018, pp. 1-22.

About the Autor :

Antonios Vlassis, is Research Professor in the Center for International Relations Studies (CEFIR), Department of Political Science, University of Liège. He obtained

his PhD in Political Science from Sciences Po Bordeaux (France). His research and teaching fields deal with international cooperation, international political economy, global cultural politics, EU cultural and media policies and digital globalisation. Previously, he was teaching and doing research in political science at the Université du Québec à Montréal (UQAM), SciencesPo Bordeaux, Université libre de Bruxelles, European School of Political and Social Sciences (ESPOL)-UCL (Lille).

