



INTERNATIONAL
INTELLECTUAL
PROPERTY
INSTITUTE

The New Cold War on American Culture –a Challenge for the Bush Administration

Hon. Bruce A. Lehman

January 2001

© IIPI

Hollywood is at the center of a new cold war – a war unknown to most Americans. Even though most people don't know much about it, this cold war on American culture will affect their lives. Consider the fact that over 7.6 million Americans are employed in the culture-based, copyright industries.

The remarkable growth of the U.S. economy during the last decade has been export driven. The world has had an insatiable appetite for American technology. And, global free trade – spurred by the 1994 World Trade Organization Treaty (WTO) – has opened wide the doors to American high-tech exports.

However, the WTO Treaty left out a huge and increasingly important area of international commerce – cultural products, including movies, television programming, music, books and magazines that are delivered to the consuming public through the new information technologies. And, America's less successful competitors have been working overtime to create new barriers to U.S. industry access to their markets.

Consider the following statement in a paper drafted by French-speaking African Ministers of Culture in preparation for an international conference in Paris last month, where I was privileged to present a keynote speech.

This is the main challenge of world trade, and in particular trade in cultural products, in a world dominated by a single culture with the ambition of making everything else revolves around its concepts and laws. This represents a real danger for humanity!

One of the most strident voices at the conference was that of Ms. Sheila Copp, Deputy Prime Minister of Canada. Ms. Copp, who also serves as Heritage Minister, directly attacked the United States as a threat to global "cultural diversity". Her anti-American rhetoric was reminiscent of Soviet delegates at the UN in the 1950s. She called on other countries to follow the Canadian example of establishing quotas for broadcast and cable distribution of audiovisual product. She quoted glowingly from government statistics showing that Canada's \$200 million subsidy for program production, combined with quotas reserving broadcast time for these subsidized productions, had been a success. The subsidy, she advised her fellow ministers, was

in large measure paid for by taxes on cable television systems retransmitting American programming.

What she did not tell her audience was that non-protectionist U.S. policies have permitted hundreds of millions of dollars worth of U.S. film and television production to take place in Canada and that Toronto's role as North America's second largest commercial theatre center might not survive if productions developed there could not be later sent to Broadway.

I questioned Minister Copp about U.S. Actors Guilds' charges of runaway productions taking work from Americans. She responded that – even with the large number of U.S. productions in Canada – the balance of trade in audiovisual product still favored the United States with more than twice as much revenue flowing south as that flowing north. Of course, what she failed to acknowledge is that that is not bad for a country less than one-tenth the population of the United States which enjoys a very favorable balance of trade over-all. By contrast, if the United States were to require parity in specific economic sectors as a condition of free trade, Canada's auto industry – one of the world's largest – would lose its principal market and lead the entire country into poverty.

The UNESCO conference was clearly part of an effort – common in situations where some countries are dissatisfied with their leverage in WTO Trade negotiations – to create “soft law” which will undercut the United States in future trade negotiations.

The UNESCO Conference was a typical battleground in the Franco-Canadian war against U.S. cultural workers and industries. While the UNESCO conference was taking place in Paris, a related diplomatic Conference on the rights of actors was taking place at the World Intellectual Property Organization (WIPO) in Geneva. In spite of landmark concessions by the MPAA and strong lobbying by the SAG and AFTRA, the European Union – led by France – opposed any reasonable compromise with the U.S. Rather than see French industry encouraged to sell product into the U.S. with attendant benefits for French actors, the Government of France would far prefer to protect from any future challenge its own system of cultural subsidies and quotas which support a state-funded film industry.

The United States is a mature market for film and television programming. Growth in the industry will require access to the emerging markets in Asia, Latin America and Eastern Europe. If France and Canada have their way, U.S. access to these opportunities will be barred in any future trade agreement. It is vital to the health of the emerging information economy that the incoming Administration treat seriously the skirmishes of the new cold war on American culture. Politicians and bureaucrats in Paris and Ottawa must not be permitted to win any battle in their wrong-headed war on American culture.