

The Merchants of Education: Global Politics and the Uneven Education Liberalization Process within the WTO¹

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Introduction

The General Agreement on Trade in Services (GATS) is one of the principal treaties of the World Trade Organization (WTO). The agreement covers twelve services sectors, including education (WTO 2000). Since this agreement was created, the global governance of education scenario has become more complex because a set of trade disciplines and commercial rules have become relevant to education regulation activities at the national and sub-national level.

The system of rules of the GATS pushes for the progressive liberalization of education all over the world and for the constitution of a new international regime on trade in education. However, if we observe the actual results of the GATS negotiations, it doesn't seem that the 'globalization project' impelled by the agreement has been totally successful. Most of the WTO member countries avoided committing education during the Uruguay Round (1986-1994) and, when they did, they introduced numerous limitations and exceptions. Something similar happened during the more recent Doha Round (2001- ongoing in 2008).

The uneven evolution of the GATS raises several questions. Specifically, the question this article tries to answer is: why do countries decide to participate – or not to participate – in the new multilateral 'free-trade in education regime' through the adoption of liberalization commitments within the GATS? This question will be answered through an explanation based on mechanisms. In doing so, I aim to reveal the causal mechanisms of education liberalization within the GATS and to explore

how the effectiveness of these mechanisms is contingent on contextual conditions and national politics.

The article is composed of four sections. First, I describe the object of my research as well as my framework of inquiry, which is inspired by the ‘Globally Structured Agenda for Education’ approach (GSAE) (Dale 2000). Second, I explore the structures that frame the liberalization process, referring specifically to the WTO rules that affect more directly negotiations in service sectors. Third, I discuss the preferences settlement of countries in GATS and education negotiations, focusing on their decisions as well as on the inter-scalar complexities of the decision-making procedure. Finally, I argue that the key mechanisms of education liberalization commitments of the countries are embedded within the dominant negotiation rationale within the WTO context. I also highlight the conditions that mediate between the activation of the mechanisms and their political outcomes.

My argument is based on intensive fieldwork involving international actors who directly participate in the negotiation subsystem of the GATS (trade negotiators in the WTO headquarters and WTO staff). The fieldwork has been more intensive in relation to two countries (Argentina and Chile), where I have also interviewed Ministry of Trade representatives and education stakeholders representatives. Doing field-work at the national level was necessary to capture the multi-level nature of trade negotiations as well as to have a more complete picture of the politics of the services negotiations. The main criterion for selecting the countries was comparability. The two cases are ‘comparable’ because they share some features, but they differ in relation to the independent variable (Green 2003). In our case, the latter means that each country has a different behavior when negotiating education in the framework of the GATS (Argentina has publicly stated that is not going to commit education under any trade agreement, and Chile signaled its willingness to include

education within the Doha Round framework and, in fact, has already opened education to trade in numerous bilateral trade agreements). Between June 2005 and December 2007, I conducted a total of twenty-seven interviews of trade representatives and twenty-nine interviews of education representatives. The interviews retrieved data about the procedure of the negotiations (consultations to stakeholders, articulation of the negotiations between the global and national level, etc.), the position of the country in relation to the liberalization of education within the GATS as well as the rationale that grounds the position adopted.

Education Sciences and the ‘Politics of Education’ Turn

Since the 1990s, research on ‘globalization’ has been strongly present in the field of education sciences. But globalization is more than a new topic in the research agenda. Taking globalization seriously means having to review the theory and methodology we use, as well as the analytical instruments and the core research questions. One theoretical approach that seeks to face these challenges is the Globally Structured Agenda for Education approach (GSAE). The GSAE provides a coherent corpus of theoretical and conceptual elements to capture the complex and multidimensional relation between globalization and education. Its main ontological assumption is that the world capitalist economy is the driving force of globalization and the first causal source of multiple transformations manifested in different policy areas, including education. Consequently, capitalism’s expansion and transformations directly and indirectly affect contemporary education systems, although its effects on education systems are also locally mediated (Dale 2000). So, globalization is not an absolute project with identical effects in all places (Robertson and Dale 2006). Although globalization presents common features around the world, the effects of

globalization in education and in other fields are mediated by domestic factors and contingencies.

Following this approach, one of the objectives of educational research should be to explain the link between the changes in the global economy and politics, and the changes in national educational policies and practices (Dale 2000). This implies recognizing that education outcomes are not always related to educational inputs and procedures, at least in part because education is highly influenced by extra-educational events and processes. That is the reason why the GSAE stresses the need to methodologically transcend ‘educationism’ and to consider the ‘politics of education’ level of analysis (Dale and Robertson 2007). The politics of education refer to the educational agenda and the processes and structures through which this agenda is created (Dale, 1994). In a more globalized environment, the politics of education level of analysis entails understanding education problems and systems as embedded within a complex local, national and global political economy (Novelli and Lopes-Cardozo 2008). In this context, international organizations, both regional and global, are becoming more influential in the settlement of policy agendas that will frame education politics at the national and local level (Robertson and Dale 2006). The increasing role of a broad range of finance-driven and humanitarian international organizations in education means that we need to adopt an inter-sectorial approach to explain education. To a great extent, this is due to the fact that these organizations do not always treat education as a topic; they rather conceive education as a resource to deal with other topics (Jones 2007). So, they subordinate education to non-education agendas that cover, for instance, social and economic issues, such as poverty reduction, economic growth and, since the constitution of the WTO, international trade.

Furthermore adopting a pluri-scalar conception of education phenomena

permits a more accurate representation of the nature of power relations, decision-taking procedures and the outcomes of these procedures. In the global era, it is important to analyse the same phenomenon in more than one scale and to differentiate how the elements are presented and articulated in each of the relevant scales (Robertson et al. 2002). In one word, the scalar interaction and the scalar division of education governance become new variables that introduce complexity to education reality and, consequently, to education analysis.

Finally, the politics of education focus implies that the (re)structuring of a global education agenda is not a process without subjects. International organizations, transnational corporations and powerful states are key actors in shaping and driving this process. Nevertheless, globalization can also be contested – and transformed – through a range of sociopolitical and discursive processes, strategies, and struggles, led by labor unions or local and global social movements (Robertson et al 2002).

Focus on Mechanisms

Global structures contribute, more and more, to our understanding of a broad range of education events and changes that emerge at the national and local levels. However, a more strategic and relational argumentation line would also contemplate that education events and changes are the consequence of causal mechanisms activated by actors in different scales and layers of structure. The GSSE identifies a set of external mechanisms that, once activated, account for the global influences in national education policy. Specifically, Dale (1999) categorizes a series of voluntary and compulsory global mechanisms, normally related to international organizations, which, in recent decades, have acquired more centrality than traditional mechanisms of external influence such as 'policy borrowing' and 'policy learning'. These new mechanisms are:

- *imposition* is activated when external actors, such as international organizations or powerful states, compel some countries to take on particular education policies (the classic example being the conditionality to credit of the World Bank, the IMF and other aid agencies to borrower countries);
- *harmonization* is realized when a set of countries mutually agree on the implementation of common policies in a certain policy area (e.g., the configuration of the European Space for Higher Education);
- *dissemination* is activated when an international organization uses persuasion and its technical knowledge to convince countries on the implementation of certain policies (e.g., through annual reports, best practices data-bases and technical assistance)s;
- *standardization* occurs when the international community defines and promotes the adhesion to a set of policy principles and standards that frame the countries' behavior (e.g., international performance tests, such as the PISA, contribute to the standardization of curricular content at the global level); and
- *installing interdependence* occurs when countries agree to achieve common objectives to tackle problems that require international cooperation (e.g., climate change, 'education for all').

Definition of the Research Problem

The emergence of an international organization, such as the WTO, that promotes free trade at a global level and directly alters national education regulation, validates the GSAE's main claim regarding global capitalism as the primary causal source of important changes in the education field. The constitution of GATS itself represents a radical change of the rules of the game for transnational education.

However, as will be developed, the GATS is an incomplete agreement that must be progressively negotiated by countries. Having said that, my research interest is centered on how countries deal with this new transnational framework of rules and how they contribute to the structuration process of the trade in education regime promoted by the agreement. I do not pretend to analyze ‘why the GATS exists’; rather I seek to understand why the WTO member countries liberalize education under the GATS and, consequently, they accept (or refuse) to incorporate GATS rules in the regulation of their education systems.

Answering this causal question implies answering other questions with a more constitutive logic, such as: who influences and who makes the final decision to liberalize – or not – education in the framework of the WTO (education ministries, trade representatives, education stakeholders, etc.)? At which scale is this decision actually taken (global or local)? Which external mechanisms are being activated by the WTO to influence the behavior of member countries in relation to education liberalization? Which extra-educational factors are affecting the liberalization of education?

Education in the GATS/WTO System of Rules

The WTO system does not have a particular education mandate, nor does it push for an explicit education agenda. The WTO is basically concerned with the promotion of free trade of all kinds of goods and services, including education services, at a planetary scale. However, the barriers to trade that the WTO (via GATS) seeks to remove or adjust are embedded in nation states’ education regulations. They are, for instance, limits to foreign capital in education services, taxes on the repatriation of the profits of education companies, stipulations as to what type of legal status educational centers must adopt, quality of educational services measures,

subsidies to educational centers, etc. (Verger 2008a).

The negotiations of trade in services are developed in the framework of a strict system of rules that pushes for certain outcomes, drives towards ‘possible and desirable’ results, and rules out ‘unacceptable’ results. The most important WTO rules for negotiating services are contained in the GATS and, specifically, in the “Progressive Liberalization” section of the agreement, which establishes that:

Members shall enter into successive rounds of negotiations, beginning not later than five years from the date of entry into force of the WTO Agreement and periodically thereafter, with a view to achieving a progressively higher level of liberalization. Such negotiations shall be directed to the reduction or elimination of the adverse effects on trade in services of measures as a means of providing effective market access. (Article XIX)

Article XXI (also included in the progressive liberalization section) establishes significant impediments for countries to break off liberalization commitments.

These articles make clear that the rules of the game contained in the GATS are not only about trade; they are about the promotion of a specific system of international trade: ‘free trade’.² Thus, the constitutive rules and principles of the WTO/GATS seek the promotion of free trade at a global scale. They present this specific trade system as the “natural kind of capitalism” that all the countries of the world should embrace (Wade 2005). There are other principles that theoretically orient the role and content of the WTO, but none of them is so well fixed as the free-trade principle. In fact, this principle is stronger in the WTO than in the precursor trade rules, the General Agreement on Trade and Tariffs (GATT), adopted in 1947 and incorporated into the WTO when it was established in 1995. The original GATT instituted a commercial regime of Keynesian-embedded liberalism. But the WTO, which was created in a period of neoliberal climax, clearly breaks the balance

between the global liberalization objective and the capacity of states to deliver on their social purposes, for instance, providing public services such as health and education (Ford 2002; Ruggie 1994).

The *methodology of the negotiation* of services constitutes another important set of rules to understand the GATS outcomes. The specific methodology is not totally fixed in the GATS; member countries have to reach a consensus on negotiation procedures at the beginning of each negotiation round. In the two services rounds (Uruguay and Doha), the demand-offer method was adopted. First, each country makes demands to other countries to open those service sectors in which they are interested. Then, the countries respond to these demands by listing the sectors (e.g., education, health, tourism) and subsectors (e.g., primary, secondary, higher education, and adult education) they are offering for liberalization. These lists are provisional and can be modified successively during the negotiations. The round concludes when all the member countries present their last and definitive list of offers. The lists indicate whether the countries decide to introduce liberalization commitments, in which services sectors and subsectors, and at what level of intensity. It is not compulsory to liberalize a minimum of services sectors or subsectors at the end of the round, although the EU tried, unsuccessfully, to change this rule in the WTO ministerial conference in Hong Kong in 2005 as a way of accelerating the liberalization process.³

It is important to stress that education and other services sectors are not negotiated independently or one by one. They are negotiated in relation to all the topics covered by the negotiation round. The topics covered in the Doha Round, in addition to services, include the following: application issues, non-agriculture market access, norms, intellectual property, differences settlement, textiles, agriculture, investment, government procurement, trade facilitation, environment, electronic

commerce, small economies, debt and finances, technology transfer, technical cooperation, less developed countries, special and differential treatment, and subsidies, (WTO 2005a). The method of negotiating all the topics at the same time and contingently is known, in trade language, as the *all unique method*. This implies that offers on one topic are conditioned to, what trade negotiators call, the “level of ambition” or the average level of liberalization of the different topics negotiated during the round.

Another important set of rules that can also affect the services outcomes is not actually contained in the GATS itself, but is articulated in the WTO accession rules, the dispute settlement system and the trade policy exams. The *WTO accession rules*, in contrast to the rules mentioned above, only affect the new members of the organization. These rules force those countries that want to become WTO members to apply deep liberalization packages in services as well as in other sectors of their economy (Verger 2008b). The *Dispute Settlement System* is very powerful and effective (WTO 2004). It does not force members to establish liberalization commitments, but can contribute to the reinterpretation of the existing commitments to broaden their scope – as happened to the USA in relation to the gambling services case (Ortino 2006).⁴ Last, but not least, in relation to the *Trade Policy Reviews*, all member countries submit periodically their trade policies in all areas, including services. The policies are then subject to evaluation by the WTO Trade Policy Review Body based on criteria oriented by free and open trade, previsibility, transparency and guarantees for foreign providers and exporters. These tests can condition the behavior of those member countries aspiring to get a good mark on the review or, at least, to avoid being publicly denigrated (Henderson 1998).

The Education Liberalization: Decisions and Procedures

Until 2008, most of the WTO members have made use of the flexibility rule in the services negotiations and have not committed education within the GATS. Specifically, only 47 out of more than 150 member countries have done so.⁵ In the Doha Round the state of the art could change because several countries are planning to commit education. Specifically, seven countries are offering education for the first time, and eight countries are widening the liberalization commitments in education made in previous negotiations.⁶

As the analysis of the WTO rules shows, member countries are encouraged to establish liberalization commitments in education (and other services sectors), but they are not normally forced to do it. Most states have enough leeway to decide whether they want to open their education to trade in the GATS framework (the new member countries would be the exception). So, the decision-taking procedure at the national level is a variable that can alter the results of the negotiations. That is why the politics and the actors that within and beyond “the state” drive and conduct the decision-making process in the framework of this organization must be considered.

In relation to the decision-taking process, the first thing to be acknowledged is that only a specific faction of the state represents ‘the state’ within the WTO. Specifically, the WTO state representatives are linked to the Ministries of Trade, Economy and/or Foreign Affairs. This has important implications because how the decisions are framed and by whom directly affect the final result. Despite the fact that the WTO agreements have to be ratified by national parliaments in most countries, the full procedure is being coordinated by trade experts who control the data and knowledge on the policy issue as well as key information related to the negotiation process (e.g., other actors’ preferences and demands). So, trade representatives conduct the negotiations and, very often, aiming to achieve the positions they prefer,

they influence the views of the state regulators and private stakeholders that interact in the focal services sectors. For instance, in relation to the education sector, trade representatives usually emphasise the opportunities of education liberalization and minimize the risks (such as a quality education decrease). In fact, most of the trade negotiators interviewed believe in the positive effects of education liberalization within the GATS. To illustrate:

There is a clear consensus on the fact that the education in my country is bad, and we have to find ways of improving it. This means having to bring teachers from abroad [...]. The GATS could increase competitiveness, and that is indispensable. (Trade negotiator 12, Geneva, 2006)

[In education] we can receive interesting things from other countries, both in relation to the teaching profession, and in relation to curriculum aspects; it also offers the possibility to our students to receive foreign university services without having to leave the country. (Trade negotiator 04, Geneva, 2006)

Officially, however, trade ministries do not define the preferences of the country autonomously. In the case of the GATS negotiations, they are supposed to consult the stakeholders and regulators of each service sector at the national level, which is a tedious task because of the large number of sectorial meetings that are required and the wide range of demands and inputs that must be processed. The GATS covers twelve broad services sectors, and each sector represents a field where official regulators, private providers, interest groups, trade unions and quality assurance agencies interact. The fact that these actors normally make contradictory demands in the framework of the GATS negotiations makes the process much more complex. For instance, in relation to the education sector, the education ministry may be interested in opening education to trade to attract foreign investment and expertise

to the higher education system, while the association of private universities may oppose it to avoid having to compete with new foreign private providers.

Thus, this consultation process is usually done by taking ‘shortcuts’, because the trade negotiators do not have enough time or human resources to develop a deep process in relation to all the sectors and actors, as noted by these negotiators from Chile and Argentina:⁷

[Negotiating services] is just horrible. Our team is very small and we have to participate in a lot of meetings. So, it is not easy [...] Everybody expects you to know everything; when I attend a meeting on computing services, I am supposed to understand everything and that is impossible [...] And the world of services is so complex that nobody understands anything, nobody... In Chile there are only ten people who really know what services negotiations are about.

(Trade negotiator 17, Santiago, 2006)

The problem of selecting the offers is that just a few people are working on this area; only one person is doing this in our country at the multilateral level. And very few people understand it... [C]onsultations with regulators are problematic (...) [because] they don't understand GATS; their work consists of regulating, and they never regulate a service taking into account that it can be traded. They just try to achieve certain polity objectives through regulation, without taking into account how this could affect trade (...) It is a hard work to explain to them why we are asking what we are asking (...) Regulators of certain sectors just don't know why their work is related to an international treaty... [I]t takes a lot of time... and in many occasions it is a fruitless task. (Trade negotiator 02, Geneva, 2006)

Consequently, the consultation process cannot be as complete as it is supposed to be. However, in addition to resource constraints, political bias and preferences also limit broader participation in the consultation processes. As a result, some actors are ‘more consulted’ than others. For example, trade negotiators normally have extensive interactions with the employers and national industry representatives:

We are organizing the private services industry in our country. We want them to understand what it is about and help them to formulate their demands. They are more and more mobilized, they have learnt a lot... (Trade negotiator 18, Santiago, 2006)

In the framework of Doha we have consulted the services industry, and our demand has been done on the basis of what these industries want, what they want to export. (Trade negotiator 05, Geneva, 2006)

However, trade negotiators interact less often with trade union representatives, whom they view as opposing liberalization policies:

Teachers’ Unions? Yes, they talk about GATS, but they have not discussed the topic very deeply; they are confused, they are afraid... [T]hey are afraid that education could be privatized. But in our country there has been private education for the last 50 years. Whatever the government does to make education more efficient, they think that education will be privatized... (Trade negotiator 07, Geneva, 2006)

Unions do not understand GATS; their arguments are fallacious... The GATS does not degenerate education policy; education policy degenerates by itself (Trade negotiator 21, Madrid, 2006)

Another common shortcut is related to the type of consultation (strong or soft) that is done. First, the stakeholders can be asked whether or not they want their sector to be opened (or more opened) to trade under the GATS. That would be a *strong* type of consultation because the stakeholders would have the opportunity to directly define the country position. Alternatively, trade negotiators can engage in *soft* consultation by asking stakeholders ‘how they would adjust some technical and regulatory aspects if trade liberalization commitments are adopted’. In this case, the decision to open the sector to international trade is, in effect, already taken by the trade ministry, prior to consultation. Although both models occur, interviewees reported that the *soft* model (at least in relation to the education sector) is the most common. This implies that education ministries and other education stakeholders are not key actors when defining the country’s position in the negotiations.

The Red Line through Education: Evidence from Country Cases

Once the country preferences have been established at the national level, the trade ministry communicates the negotiation guidelines to the country trade representatives at the WTO. This mandate can be more or less strict.⁸ In the less strict case, the mandate is more open to the interpretation of the trade negotiator. However, there are sectors through which countries draw a clear red-line, so that trade negotiators know for sure that they cannot offer the liberalization of this sector during the negotiations. During the Doha round, for instance, some countries, such as Argentina, Brazil and Venezuela drew a red line through the education sector. As the respective trade representatives stated:

We received the plurilateral demand on education coordinated by New Zealand [in 2006], but we received the instruction from *the capital*⁹ that we should not

even attend the meeting. It is a topic absolutely vetoed for us. (Trade negotiator 01, Geneva, 2006)

Education is an interesting case. Initially, we thought that we would have offensive interests¹⁰ (...) but the defensive parties came onto the scene and, because of ideology or lack of knowledge, they neglected any possibility of making offers [or] demands in education because they say that education should not be a commodity or a tradable object. It seems that the consultation process was very comprehensive in Buenos Aires; in fact, even a statement against the negotiation of education within the WTO was adopted in the framework of MERCOSUR. (Trade negotiator 02, Geneva, 2006)

Education is one of the most sensitive sectors, of course. In general, we have very open services sectors, in telecommunications, in audio-visual, etc. But education and health are two key issues to address the social problems that we want to address in our country. That is why we are not committing even a bit of sovereignty in these two areas. (Trade negotiator 11, Geneva, 2006)

The decision to not commit education in these countries is associated with domestic political conditions. The first common pattern of them is that they have governments with an economic-nationalist ideology and a socialist or social-democrat orientation. Second, the governments have been receptive to the demands of anti-GATS education stakeholders (normally, public universities and teacher unions). And third, in these countries, the education ministry has intervened in the negotiations process, publicly stating that education cannot be committed in trade agreements. In countries such as Argentina, where the Ministry of Trade was willing to commit to

education, the Ministry of Education exercised its veto power over making such commitments. The Ministry of Education of this country, after an anti-GATS campaign initiated by the biggest teacher unions in these countries, signed public declarations, such as *La Declaración de Brasilia* and *La Declaración de Montevideo*, which state that the education sector is red-lined with regard to negotiations under the GATS:

The declaration [...] expresses the following commitments: on the part of the Ministers of Education, the conviction of not including education within the scope of GATS; on the part of the teachers unions, to raise awareness and promote mobilization to sustain the principle of education as a right, and not as a commodity. (Brasilia Declaration, see IE-AL, 2004)

[The education ministries] reaffirm, in the framework of the WTO services negotiations, the position that education is a public good (...) and underline the importance of protecting the State authority in education regulation, which would be drastically limited in case our governments assume liberalization commitments in this sector. (Montevideo Declaration, 2005)¹¹

At times, the education ministry's veto has generated internal conflicts within the State, as is evident in the Argentinean case itself. The trade representatives of this country, after receiving the plurilateral demand on education in 2006, consulted the education ministry representatives to ask if they would be willing to open 'education' to trade (notice that, in this case, a *strong* type of consultation was promoted). The education ministry representatives responded that it was absolutely impossible to do so because the Education Minister had indicated by signing the above-mentioned declarations his opposition to committing education in free trade agreements.

Interestingly, the Argentinean trade negotiator was very disappointed with the answer and warned the education representative that the Trade Minister in person would 'solve this problem with the Education Minister at the political level' (Trade negotiator 16, Buenos Aires, 2006). However, in the end, the position of the Ministry of Education prevailed.

The complexity of the GATS negotiation procedure shows that the State is a field made up of different units that can have different agendas and priorities that overlap or conflict (Jessop, 1990). So, only certain factions of the State succeed in imposing their agenda and preferences in relation to international organizations. This would explain why, for instance, there are contradictions between the content of international agreements such as the GATS (negotiated by Trade Ministers) and the UNESCO Convention on Cultural Diversity (negotiated by Education and Culture Ministers), although both agreements have been signed, to a great extent, by the same states.¹² The GATS negotiations also reflect that non-state actors are able to become politically relevant in the global governance scenario. In fact, the red lines drawn through education in some countries show that non-state actors, such as teachers unions, can play a key role to define the country's position in certain trade areas.

Explaining GATS and Education Outcomes

The WTO rules and the negotiating procedures help us understand education trade liberalization within the GATS, but we also need to consider mediating factors such as interests and ideas of member countries. Both interests and ideas refer to human action as well as social structures and, as it will be argued, they are important components of the explanation of the results of the GATS negotiations.

Most of the top-down mechanisms categorized by Dale (imposition, harmonization, standardization, dissemination, etc.) are being activated in the framework of the WTO. Nevertheless, none of these mechanisms by itself broadly explains the education liberalization subscribed by the countries within the WTO/GATS.

First, as we have seen, education liberalization commitments are not generally imposed. The *imposition* mechanism is only activated in relation to the WTO new members and in the specific moment of their entry – see explanation above on the WTO access rules. In other cases, smaller economies and weaker states are exposed to blackmail or threats. In fact, rich countries have also the capacity to give loans or foreign aid as well to alleviate debt, and can use these to encourage countries to sign certain trade agreements (Jawara and Kwa 2004). However, these mechanisms only affect weaker countries and are intensified in key moments of the negotiations. In the majority of cases, developed and developing countries adopt liberalization commitments voluntarily. On the other hand, members can also use the Dispute Settlement Rules to impose a behavior on other countries, but it has never been activated in relation to the education sector.

Second, *harmonization* could be considered a more frequent and powerful mechanism than imposition because the WTO rules encourage gradual trade liberalization, and member countries formally accepted this harmonization framework when they signed the GATS. Nevertheless, as we have seen, this process is not advancing smoothly because an important number of member countries are rejecting the establishment of liberalization commitments. Third, the *standardization* mechanism will become more central when the domestic regulation negotiations finish (Abugattas 2006), but as of 2008 this was not very directly linked to the liberalization negotiations.¹³

Finally, the *dissemination* mechanism is being activated within the WTO to promote education liberalization. The WTO staff is very active in disseminating the free trade principle through different instruments (trade policy reviews, publications, courses for trade negotiators, technical assistance and so on), but these instruments have a very general nature and, hardly ever focus specifically on the education sector. In fact, within the WTO staff, there is only one person – an international lawyer – dedicated to education, and the WTO Secretariat has published only two papers on education since it was created (see WTO 1998 and 2005b). But this is the normal consequence of the fact that, as mentioned, the WTO does not have an explicit ‘education agenda’ or an ‘education mandate’. Other pro-free trade international organizations such as the OECD and the World Bank are also promoting the advantages, for both rich and developing countries, to open their education under the GATS (see Larsen *et al.* 2002; OECD 2004; OECD and World Bank 2007). Although, again, the messages contained in such dissemination activities are unlikely to determine a country’s decision regarding whether or not to open education to trade.

The Negotiation Rationale

Beyond top-down mechanisms, the key mechanism to understand the results of the GATS negotiations in the education field is embedded in the dominant negotiation rationale at the WTO. Educationists have tried to discover the ‘education rationale’ behind education liberalization under the GATS. For instance, several authors argue that some countries – such as China and Malaysia – facilitate trade in education services to attract expertise and knowledge from abroad. Therefore, they would use the GATS and other trade agreements to strengthen this capacity building process (Larsen *et al.* 2004; Zhang 2003). Knight (2002) explores the educational arguments in the legitimating discourse of those countries that promote education

liberalization under the GATS such as New Zealand, Australia and the USA. In turn, Mundy and Iga (2003) maintain that there is a link between education funding policies of countries and education liberalization within the GATS. Elsewhere, I have also tried to explain the same phenomenon through a constructivist approach and through the analysis of the official positions on education of a sample of WTO member countries (Verger 2008a). Nevertheless, in general, attempts to identify education rationales in the countries' trade policy have been rather forced. Probably, this is due to the fact that researchers have taken for granted that there is a causal relationship between the GATS outcomes and the education necessities, worries or strategies of countries. Instead of assuming this relationship, the preliminary research question should be: *is there an 'education-oriented rationale' in the GATS negotiations?*

Most trade negotiators interviewed think of education as a potentially profitable and tradable industry that can contribute to a nation's wealth. So, a certain education rationale, although of a business-oriented nature, can be identified during the negotiation process. However, this rationale is more relevant in the demands stage of the negotiations than in the offers one. This means that "education" is not normally behind the decision of opening education in the GATS framework. There are some observable general trends that indicate this. First, I have found that certain characteristics of education systems (such as the size of the private sector, subsidies to private centers or the private funding of education) are not statistically related (at least in a way that can be globally extrapolated) with the results of GATS negotiations (Verger 2008b). Second, although higher education is the education subsector in which trade flows are bigger and trade liberalization pressures and demands are more intense, such pressures have not been reflected, until now, in a higher frequency of

liberalization commitments compared to other education subsectors (primary, secondary and adult education) (Verger 2009-forthcoming).

Moreover, the interviews conducted with trade negotiators show that, to some extent, the topic of education has a very low profile in the discourse of the actors that are conducting the services negotiations. When asked about education issues, trade negotiators did not demonstrate much of an awareness of the passionate debate on GATS and its effects on education initiated by the international education community, and they never referred to education sources when discussing the topic. Negotiators have their own opinions on the area, which, as mentioned, normally emphasizes the potential positive effects of GATS for education. In fact, it seems that they apply to education the same meaning frames that they would apply to the analysis of any other service or commodity.

Finally, the interview data also show that, an absence of a shared narrative on the aims and conditions that make necessary an international trade in education regime (for a more detailed analysis, see Verger 2008a). In brief, it is doubtful that the education arguments are the driving rationale of the decision of whether or not to liberalize education under the GATS.

However, a few exceptions have been identified during the Doha Round. As mentioned before, certain countries have adopted the official position of not committing education because of explicit worries over the GATS effects on education. In some countries these concerns have been directly expressed by the government (Venezuela) and in others they have been raised by influential education stakeholders and then adopted by the government (Argentina and Brazil).¹⁴

However, this cautious approach to the education liberalization was more common during the Uruguay Round. In that round, the services area was very new and generated uncertainties that clearly conditioned the behavior of the countries,

above all developing countries. This would explain why, during the Uruguay Round, the great majority of developing countries did not commit sensitive sectors such as education. In fact, this was also the attitude of countries, such as Chile, that latter on become more openly liberal in relation to trade in services:

In that moment the ignorance on services was so high that we just did what other countries did. If the developed countries did not commit education and health, we would not be so naïve to do it. Our starting point was the offers of developed countries and, from that point, we started to take out things ... We did it because of prejudice and without any fundamental reason. Also to leave negotiation spaces for the future [...] in that moment we were very cautious. (Trade negotiator 18, Santiago, 2006)

In Uruguay, we were extremely conservative; the GATS was very new and we did the minimum possible. (Trade negotiator 17, Santiago, 2006)

In the Doha Round, the cautious approach became less relevant and most countries were willing to offer education depending on the level of ambition acquired by the negotiations. This is due to the fact that, in the framework of a multilateral negotiation, the principal objective of trade representatives is to consolidate or to open new markets to favor their national industry's export activities. If to achieve this objective they have to make some "concessions" in certain sectors (opening them to trade), they would do so. However, this negotiation rationale drastically contradicts the free trade principle at the core of the WTO system of rules. The liberal theory of trade sustains that opening national markets to international competition is not only positive for foreign exporters; it is also positive for the importer because 'free trade' optimizes utilities and contributes to a more efficient and competitive national industry and consumption markets. Instead of really applying free trade theory,

negotiators seem to be swapping stickers to fulfill the interests of their country's bigger exporters. One Argentinean negotiator explained very clearly the bargaining nature of the negotiators, indicating that the objective of each country is to maximize their particular interests: "We are not going to give presents for free. When you go to the market to buy potatoes, you need five *pesos*, but with this money you have to try to buy a five-kilo bag, not the one-kilo bag ... We are on it." (Trade negotiator 15, Buenos Aires, 2006).

Stances like this contradict clearly the nature of free trade. If countries were free-trade believers, they would remove barriers to trade unilaterally and without having to expect any concession by others. In fact, they would not consider removing barriers to trade as 'concessions,' but would consider that it is the best policy to organize most sectors of their economy. However, this is not the dominant set of ideas among trade negotiators. The chief of the Chilean delegation in the WTO, who articulated strongly free-trade beliefs, was really disappointed with this situation:

In the WTO context, there are a lot of things that are irrational. The basic premise of the system is that free trade is good, that Smith and Ricardo were right. (...) However, the negotiation process is inverted. First, we talk about liberalizing the economy as a 'concession', as a cost, when actually it is a benefit. (...) A lot of countries, above all the developing countries, do not understand the basic premise of free trade and the rules of the game ... [In the negotiations] there is a deeply wrong ideology (...) The recent history demonstrates that the free trade premise is right, that it works ... If we organize an open discussion, it is clear which argument [should] win. However, it doesn't happen. (Trade negotiator 12, Geneva, 2006)

Robert Putnam (1998) has already argued that international negotiators must satisfy above all else "national interests" and push forward these interests in light of

what is available to negotiators from other countries. Paul Krugman (1997, 114) has also captured very clearly the contradiction between the liberalization principle and the actual facts at the WTO and other international trade forums:

Anyone who has tried to make sense of international trade negotiations eventually realizes that they can only be understood by realizing that they are a game scored according to mercantilist rules, in which an increase in exports – no matter how expensive to produce in terms of other opportunities foregone – is a victory, and an increase in imports – no matter how many resources it releases for other uses – is a defeat.

Following Krugman's statement, the mercantilist ideology would be the master frame of the WTO negotiations. Interestingly, mercantilism was supposed to be superseded by the comparative advantage theory and by the free trade proposal a long time ago. However, at least in the education services sector, it still constitutes an informal set of rules that casts a shadow over the formal WTO rules and is much more influential than the official liberalization rules and principles. The mercantilist ideology entails education being treated as one more bargaining chip in the framework of the above mentioned "all unique" negotiation procedure that prevails at the WTO. The majority of countries could offer education in exchange for liberalization commitments in other areas where they have offensive interests (such as agriculture, cotton or textile). This is normally the case of developing countries, which normally do not have so much capacity of exporting education and are more susceptible of having defensive interests. As the negotiators of three developing countries admitted:¹⁵

We always perceive services as a bargaining chip; we could make concessions if we get something back. That is our basic logic for negotiating services. The premise that "liberalization is good" doesn't work with us. We do not believe in this doctrine; in fact, this discourse sets my nerves on edge. Here, nobody

believes it, not even their preachers [referring to the WTO staff] believe it.
(Trade negotiator 01, Geneva, 2006)

I always see the services area as an instrument of developed countries for opening new markets, which is totally legitimate... [However,] we are not going to improve our current services offer, which is actually a good offer, without receiving something in exchange, [and not just] receiving empty promises in agriculture. (Trade negotiator 15, Buenos Aires, 2006)

Education? No, we don't have any commitment at the WTO level. Neither have we received any demand on education. We will only commit education if we can receive something in exchange (...). In the end, we present an all unique list, we do a general balance and education is just one part. (Trade negotiator 07, Geneva, 2006)

Analytical Remarks

If member countries' actions and decisions were driven by the WTO rules and principles, education liberalization would advance faster. If that was the case, negotiations regarding liberalizing trade of education services would respond to a linear and top-down model, as the one represented by Figure 1. In this model, countries appropriate and/or act in accordance with the rules and the norms that have been constructed and accepted by them in the framework of the WTO. So, the WTO system of rules, which is located at the global level, would become the principal factor conditioning the GATS results in the education field. The expected result would be countries committing to education liberalization. Once the round finishes, these commitments become a part of the international trade in education regime. This

new regime, when a new round of education begins, will act as an autonomous source of influence that would contribute to the harmonization of the liberalization process.

[FIGURE 1 ABOUT HERE]

Nevertheless, the actual picture in the WTO is much more complex (see Figure 2). First, several mechanisms and rationales are activated at the same time and in contradictory ways: harmonization, the cautious approach and the strategy of using education as a bargaining chip. I have stressed that the latter, which is a consequence of the predominance of the mercantilist ideology in the WTO forum, has become the key rationale during the Doha Round (all indicators are that ‘caution’ was more relevant in the Uruguay Round). Mercantilism is not promoted at the WTO level; rather, it is the consequence of WTO member countries pushing for their particular national interests (or, more precisely, for particular national industry interests).

[FIGURE 2 ABOUT HERE]

Furthermore, the powers and effects of the mercantilist ideology are mediated by factors and conditions, mostly located at the national level. One of these conditions is endogenous to the WTO system and consists in the level of ambition of the negotiations round. This means that, for instance, if the northern countries are not willing to remove export subsidies and other trade barriers to agriculture during the negotiations, the agriculture-exporting countries will not commit education. They will rather choose to protect this and other sectors to have more bargaining power in future negotiations. Other national-level factors include: a) the level of centralization of the decision-making within the ministry of trade; b) the ideology of the government of the

country; c) the role played by education stakeholders in the settlement process. The country cases analyzed show that in a context with a social-democrat and economic nationalistic government, with civil society campaigning against GATS and with a low level of centralization of the final decision in the Trade Ministry, education will not be committed. In such cases these three factors clearly favor the rejection of education commitments within the GATS and obstruct the activation or the effectiveness of the bargaining chip mechanism.

Conclusions

The decision-taking processes within the WTO are framed by various endogenous and exogenous factors. In this article, the elements that affect education liberalization decisions have been ordered in a pluri-scalar analytical model. The final model (see Figure 2) distinguishes the structures from the events, and emphasizes the explanatory power of intermediate elements. These elements refer to interests, ideas and mechanisms activated by human agency within the politics of the services negotiations.

Since the 1990s, the WTO has joined the group of trade and finance-driven international organizations with ‘education’ in its framework. The fact that education regulation is being altered by the decisions that are taken in an international trade forum is a clear example of how economic globalization affects transformations in current education systems. Indeed, the WTO system of rules, far from being neutral, tries to drive member countries to apply free trade policies in education and all other service and commodity sectors. The WTO rules are powerful, but not absolute and their effects on national education policies are not always direct. In fact, in the current round, the Doha Round, the WTO rules are clearly mediated by the mercantilist

ideology that predominates in the negotiation process. After penetrating the black-box of the negotiations, it can be observed that member countries are basically pushing to maximize the interests of their national export industry. Consequently, most countries will liberalize education if doing so permits them to achieve their general trade objectives within the negotiation process. This bargaining chip mechanism is another clear sign that extra-education factors and rationales can affect the content of national educational policies and regulations. It also shows that, although the “demands of global Capital” help explain the existence of GATS, the specific demands of nation-based capitalist factions explain better whether or not countries decide to apply the GATS disciplines to the education sector.

Nevertheless, the WTO services negotiations do not only reflect the conflicting interests of the member countries and their export industries. On occasion, the negotiation procedure, which requires new pluri-scalar patterns of political coordination, generates tensions and conflict of interests *within* the State itself. This reinforces the idea that the State, rather than being a ‘rational subject’ or a ‘static unit’, is a field of struggle with internal contradictions. The state faction that is present at the WTO, although representing the State as a whole, is directly linked to the county’s Ministry of Trade. Consequently, the country preferences are framed from a particular world view, as well as from specific prerrogatives and rationales. Other factions of the State, in our case the Education Ministries, do not necessarily agree with the views and preferences of the trade representatives, who normally have the main control over the negotiations. As Cox (1995) suggests, one of the consequences of the internationalization of the State in relation to international organizations is that the activity of the localized ministries (i.e., those state sections that do not participate directly in the international fora – e.g., the Education Ministry) remains subordinated

to supra-national agreements that are controlled by the internationalized state faction – in our case, the Ministry of Trade or equivalent. However, in the GATS and education case this rule is contingent on the level of participation and empowerment of the Education Ministry and other education stakeholders.

In fact, the interview findings also illustrate the role of non-state actors and the reallocation of power within global politics. Indeed, the cases analyzed suggest that the global and the local scales are not necessarily related in a deterministic way (i.e. only the global affecting the local). Without a doubt, ‘the global’, represented by the WTO system, imposes certain decisions on certain countries and activates the harmonization of trade and non-trade policies; the preferences shaping and the agenda negotiating settlement are also normally developed at the global level. Nevertheless, the locus of decision-making mainly remains at the national level, where local actors are particularly active and strategic in pushing for their particular interests. As a consequence, domestic interests and actors successfully challenge the WTO’s external influences. This is particularly the case of local education stakeholders that, under certain favorable conditions, have been able to influence the outcomes of the GATS negotiations. So, despite the fact that teachers unions and university associations do not have formal decision-making powers in the context of international trade negotiations, in some countries, to date, they have successfully blocked the constitution of the global trade in education regime promoted by the WTO.

Notes

¹ Thanks are due to Mar Griera, Mario Novelli, Xavier Rambla and Susan L.

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also to the anonymous reviewers and coeditors of the CER for their constructive suggestions.

² Free trade is an international trade system that promotes or allows the unrestricted flow of goods and services between countries. This liberal conception of trade is grounded in the principle of “comparative advantage”, which says that “countries prosper first by taking advantage of their assets in order to concentrate on what they can produce best, and then by trading these products for products that other countries produce best...” (WTO, 2005a, 13). The WTO is clearly framed by this theory, expressing that “liberal trade policies (...) sharpen competition, motivate innovation and breed success. They multiply the rewards that result from producing the best products, with the best design, at the best price...” (WTO, 2005a, 13).

³ Specifically, the EU pushed for the introduction of numerical benchmarks to obligate member countries to adopt liberalization commitments in a minimum number of sub-sectors each round (Khor 2006). Eventually, members only agreed on reinforcing the plurilateral approach, which permits to a group of countries with common interests in a specific sector to making joint demands (Knight 2006).

⁴ The USA federal and state law restricted the economic activity of “casinos on-line”. Antigua and Barbados considered that the USA was breaking their liberalization commitments and asked the WTO Dispute Settlement Body to create a panel. To defend itself, the USA first argued that it did not liberalize this sort of services. However, the Panel interpreted that the USA GATS Schedule includes specific commitments for gambling and betting services, which fit within the sub-sector entitled “Other Recreational Services (except sporting).” See the DISPUTE DS285 “USA — Measures Affecting the Cross-Border Supply of Gambling and Betting Services” in http://www.wto.int/english/tratop_e/dispu_e/cases_e/ds285_e.htm

⁵ This is not a common pattern for all services sectors. For instance, tourist services have been liberalized by 129 members and financial services by 109. In these figures, we include the EU as a single member – that is, EU member countries are not counted separately.

⁶ Source: WTO on-line documents data base (<http://www.wto.org/wto/ddf/ep/search.html>).

⁷ On occasion, the ‘understanding’ problems affect the negotiators themselves. As a negotiator admitted: “In relation to goods, negotiators perfectly know what they are exchanging, where are the problems, which are the barriers of trade in apples, TVs, cars, etc. Everything is very clear. However, when negotiating services, we do it with a bandage on our eyes... There is still a lot of lack of knowledge...” (Trade negotiator 18, Santiago, 2006)

⁸ The Less Developed Countries (LDCs) represent an exception to this pluri-scalar negotiation procedure. This is due to the fact that LDCs concentrate their few skilled human resources in the WTO headquarters. These negotiators do not receive clear and strong national mandates and the connections and level of coordination with the national trade ministry is usually low. As a consequence, the LDC negotiators have more autonomy to define the preferences and destiny of their country within the WTO negotiations than other countries’ negotiators. This observation was also observed in the GATT case (Curzon and Curzon 1972).

⁹ The ‘capital’ is a metaphor commonly used by the negotiators to refer to the Ministry of Trade (or equivalent) of a country.

¹⁰ In the trade negotiators’ jargon, having “offensive interests” in a topic/sector means that a country is pushing proactively for the trade liberalization of this topic/sector at the international level.

¹¹ MERCOSUR/XXIX RME/ACTA N° 2/05. November 2005. Source: www.sic.inep.gov.br

¹² The UNESCO Convention on Cultural Diversity establishes that cultural international exchange cannot be regulated only by the market because this would mean a loss of cultural richness. The convention allows member states to promote policies to protect cultural diversity, although this contradict free trade rules (see UNESCO 2005).

¹³ The Domestic Regulation working group has been settled within the WTO Council on Trade in Services and promotes parallel negotiations to the liberalization negotiations. In the framework of this working group, member countries are trying to reach a consensus on how to complete article VI of GATS, on domestic regulation. To do that, they have to define

which type of national policies can be considered 'more burdensome than necessary' in keeping countries from reaching their national objectives. The negotiations are centered in regulatory aspects such as qualification requirements, licensing requirements and technical standards.

¹⁴ Interestingly, trade negotiators of Argentina and Brazil do not personally share the official 'defensive' position adopted by their countries concerning education. They consider it exaggerated and based on political reasons rather than 'real' concerns (Trade Negotiators 01, 02, 15, Geneva / Buenos Aires, 2006).

¹⁵ Two of these quotations belong to negotiators of the two countries that signed the 'Brasilia Declaration', which shows that, as mentioned in the previous note, the official position of a country is not necessarily shared by its representatives.

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FIGURE 1

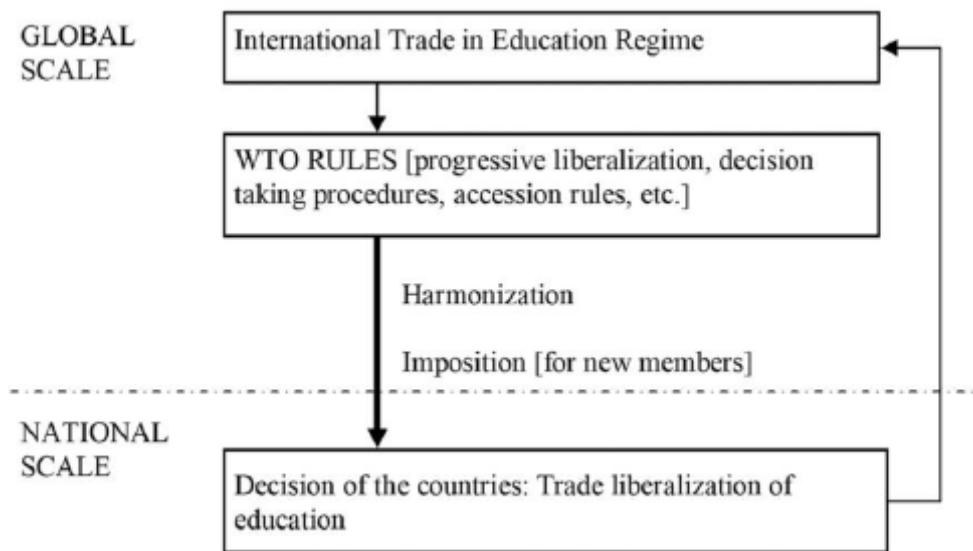


FIGURE 2

