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CULTURAL DIVERSITY AND REGIONAL TRADE AGREEMENTS: THE CASE OF AUDIOVISUAL SERVICES*

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ABSTRACT

The difficult relationship between the two global public goods of cultural plurality and international economic integration is often analysed at world level, stressing the jurisdictional overlap between the WTO system and other multilateral regimes. The tension is particularly strong in the audiovisual sector, where technological and economic forces, leading towards a higher degree of international integration, seem to conflict with the need to preserve and develop a plurality of cultural identities.
Similar problems arise at regional level. Building on the political economy of international trade negotiations, this paper compares the General Agreement on Trade in Services with the most relevant regional and bilateral trade agreements in the services sector, in order to understand how the double-edged interplay between governments and domestic interest groups affects the trade-off between cultural plurality and international integration.
Preferential trade agreements (PTAs) propose different regimes for the governance of cultural diversity, going from an integral 'cultural exemption', to a broad liberalization of trade in cultural products. While GATS negotiations in audiovisual services in the Doha Development Agenda have not reached substantial progress, negotiations at preferential level seem to allow for new solutions. A narrower agenda, fewer participants, and specific features of the cultural sector in regional contexts play a major role.
PTAs can partially act as a laboratory suggesting solutions to develop in the multilateral trading system, but a WTO-specific approach to cultural goods and services is needed.
The existence of non-trade legal instruments settings rules on cultural policies does not create major tensions at the preferential level, and sets further opportunities, as well as hurdles, to improve the multilateral governance of the trade and culture dilemma.

Keywords: cultural policies, regional integration, audiovisual services.
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1. Introduction

International economic integration has often been blamed to collide with the protection and promotion of non-economic objectives, such as environmental and labour standards. These dilemmas call for new developments in the system of international relations, aimed at providing for more effective governance. The trade-off between international economic integration and cultural diversity is a major example of this tension, due to the fact that many cultural activities produce valuable economic goods. The opening of domestic markets to international flows of products related to cultural identities, such as films and music, is often perceived as a threat for specific local cultures. On the other hand, domestic policies and regulations that a number of States have implemented in order to preserve and develop the plurality of cultural expressions are under scrutiny for their explicit or unintended restrictive effects on international economic transactions.

The status of cultural products has proved to be a most contentious issue in the World Trade Organization (WTO), where many countries refuse to open their markets, arguing that protecting domestic cultural industries is needed in order to preserve national identity. At the same time, initiatives for establishing a specific international regime for cultural diversity outside the multilateral trading system have intensified, originating new concerns as to the possible coordination of instruments that pursue goals perceived as clashing with each other. The final outcome of this process being the approval of the 'Convention on the Protection and Promotion of the Diversity of Cultural Expressions' at the United Nations Educational, Scientific and Cultural Organization (UNESCO), which has triggered a large debate on the need to clarify its relationship with WTO rules to avoid misuse of its provisions with regard to trade policies.

Recent developments in the conceptualization of 'global public goods' support the vision that international governance is needed for cultural diversity. Building on the public goods notion, Kaul, Grunberg and Stern (1999) have developed a theory of 'global public goods', which can be applied to the concept of cultural diversity. In fact, cultural plurality, defined as the existence of a number of diverse cultural identities, can be seen as a pure global public good, as its benefits are non-excludable, non-rival and cut across countries, population groups and generations. This definition can be applied both at the national level, within each country, where it calls for the protection of cultural minorities, and in the world system. It is based on a vision of cultural dialogue as part of the social capital building the identity of a community (Baker, 2000). Cultural plurality is a supply-side concept, not to be confused with the simple differentiation of cultural preferences, which in principle could be satisfied by a range of differentiated cultural products made by a unique producer. Moreover, cultural plurality should not be confused with competition in the cultural industry, which, although important, does not necessarily ensure a plurality of cultural identities.

The supply of global public goods starts at the national level, but single States' policies on their own cannot adequately provide for this kind of goods, and international cooperation is required. Notably, according to Kaul, Grunberg and Stern (1999), an increase in international cooperation is needed to close the three 'gaps' – jurisdictional, participation, incentive – that undermine the provision of some global public goods. As these gaps are present also in the case of cultural plurality, co-ordination of policies at the international level is required.

But the global arena is not the only level at which global public goods such as cultural diversity and economic integration are supplied. The regional dimension is getting growing relevance in the governance of international relations. Countries that face similar concerns establish agreements and organizations to cope with. A broad range of regional associations, operating in specific fields, is including the protection and promotion of cultural diversity among its goals.

On the other hand, preferential arrangements between groups of countries are often agreed to foster reciprocal economic integration. The number of preferential trade agreements (PTAs) has dramatically increased over the last decade. Moreover, there is a constant attempt to extend their coverage to a wider compass, including political, social, and cultural matters. Regional trade agreements (RTAs) are at the very heart of this phenomenon. In various geographic areas, neighbouring countries are gradually extending the areas for regional cooperation, starting from the reciprocal opening of national markets, and then experimenting ever deeper forms of integration.

This paper investigates how the trade and culture dilemma is set in the main PTAs, focusing on provisions for the audiovisual sector, for two reasons. First, audiovisual products have proved to be one of the most controversial issues in the debate. Second, this sector is undergoing rapid and substantial technological changes, leading to increased concentration and vertical as well as inter-sectoral integration. In this sense, pressures towards the removal of barriers to international transactions are not only external, but intrinsic as well, further accruing the tension originated by the dual nature (cultural and economic) of audiovisual products.

Section 2, using the General Agreement on Trade in Services (GATS) as a benchmark, surveys all the main PTAs dealing with audiovisuals. Section 3 builds on the political economy of trade negotiations in order to assess the different regimes set by regional and bilateral trade agreements on audiovisual products, and to evaluate their potential interactions with multilateral institutions, such as the WTO and the UNESCO Convention. Section 4 concludes.

2. Preferential economic integration: what role for cultural plurality?

2.1 Background: the WTO rules on audiovisuals

Before moving to examine preferential regimes for audiovisuals, it is useful to briefly survey how the sector is regulated in the multilateral trading system.

In the WTO regime, rules on audiovisuals can be found in a number of agreements, also because, as it is the case for ‘cultural products’ in general, they are not neatly defined, and the dividing line between services and goods remains somewhat uncertain. The main agreement regulating trade in audiovisuals is the GATS, which aims at liberalizing trade in services, including the audiovisual sector. Relevant provisions are also embodied in the Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement), which establishes minimum levels of protection that each government has to give to contents and authors, in order to reduce potential tensions in international trade relations originating from a different extent of protection and enforcement of intellectual property rights in national laws (WTO, 2006). As trade in audiovisual services cannot be completely disentangled from trade in goods, the General Agreement on Tariffs and Trade (GATT) is to be taken into account as well in examining the WTO regime for audiovisuals. Moreover, a series of other WTO Agreements have a potential bearing on the sector, such

as the Agreement on Subsidies and Countervailing Duties, the Agreement on Implementation of Article VI of GATT 1994 (the antidumping agreement), the Agreement on Safeguards, the Agreement on Trade-Related Investment Measures (the TRIMs Agreement), and the Ministerial Declaration on Trade in Information Technology Products (also known as the Information Technology Agreement or ITA) (Beviglia-Zampetti, 2005).

Nonetheless, the GATS stands as the most important multilateral discipline on trade in audiovisuals. This paper will use it as a benchmark in order to assess how trade agreements manage cultural diversity at regional and bilateral level.

The main features of the GATS are as follows. Services may be exchanged through four modes of supply: cross-border supply (mode 1), consumption abroad (mode 2), commercial presence (normally implying foreign direct investment - mode 3), presence of natural persons (mode 4). The GATS sets both general obligations and a framework for specific commitments undertaken by Member States. The most-favoured-nation (MFN) treatment and transparency are general obligations, which apply automatically in every sector. However, Members were allowed to list temporary MFN exceptions in specific sectors.

GATS specific commitments concern market access and national treatment. Members negotiate in which sectors and modes to undertake commitments, and to which scope. The commitments appear in schedules that list the sectors being opened, the extent of market access being given in those sectors, and any limitations on national treatment. It is the so-called "positive list" approach, preferred to the "negative list" approach because of the difficulty of determining all the measures that applied to each service sector in order to decide which to exempt (Hoekman and Kostecki, 2001).

Each Member is required to have a schedule of specific commitments, but there is no obligation on the extent or coverage of commitments. Thus, Members are free to tailor their schedule in accordance with the features of their domestic service sectors and with national policy objectives.

There is no doubt that the GATS allows Members for a high degree of flexibility, but it is questionable whether this has really helped to attain greater liberalization. In fact, in the Uruguay Round most Members opted for a minimal initial schedule of commitments, and the first subsequent round of negotiations has not been concluded yet. It started on time in 2000, notwithstanding the failure of the Seattle Ministerial Conference, and was then included in the negotiations the Doha Development Agenda, which, however, even before their recent interruption, did not achieve any significant outcome.

Audiovisual services have proved to be one of the main contentious areas in the process of trade liberalization. During the Uruguay Round the conflict between national audiovisual policies and international economic integration, which dates back to the twenties (Footer and Graber, 2000), erupted with particular intensity. Canada and the European Union (EU), although in different forms, tried to carve out an exemption of cultural products and policies from WTO rules, based on their linkages with the plurality of cultural identities. The US claimed that a cultural exemption would have allowed for implementing broad protectionist measures, and advocated deep liberalization of market access in the audiovisual sector.

The GATS incorporates a compromise solution. Audiovisual services were not excluded from the general obligations envisaged in the GATS, but the EU and several

other countries took exemptions from the MFN principle in this sector. More importantly, Members did generally abstain from undertaking specific commitments in audiovisual services. Only nineteen countries included this sector in their GATS schedule (WTO, 1998). Among the large audiovisual producers, only the US has taken substantial commitments at the various stages of audiovisual production, distribution, and transmission, while other countries limited the opening up of their audiovisual sector to very specific issues.

In the preparatory phase of the Doha Round of GATS negotiations, only US, Switzerland and Brazil made new proposals in the area of audiovisual services, without any concrete effect. During the negotiations, only seven bilateral requests covered new or improved commitments on audiovisual services (EC, 2005). In order to give new impulse to negotiations on trade in services, the Hong Kong Ministerial Declaration called for groups of Members to present plurilateral requests focused on a specific sector or mode of supply to other Members, in addition to bilateral request-and-offer negotiations. Before the 'time out' decided last July, the US, Hong Kong, China, Japan, Mexico, Singapore, and Taiwan had presented such a plurilateral request in the audiovisual sector, asking for undertaking new and improved commitments, extending both the sector coverage and the level of commitment, and reducing the scope and number of MFN exemptions (ESF, 2006).

2.2 Audiovisual services in PTAs: a survey

PTAs adopt a number of different approaches and solutions in dealing with the audiovisual sector. The following review briefly illustrates the regime on audiovisual services provided for in the most relevant trade agreements, both at regional and at bilateral level. The two tables show their main features, and compare them with the GATS regime.

2.2.1 Regional trade agreements

EUROPE

The **European integration agreements** have been the first RTAs to deal with liberalization of trade in services. In the audiovisual sector, as European integration goes well beyond a free trade agreement (FTA), the European Union (EU) regime contains provisions not only on trade in services, but on common policies as well. European institutions have a shared competence in the cultural field, with specific reference to the audiovisual sector and to the target of protecting cultural plurality.

Since its establishment, European audiovisual policy – which nowadays encompasses a system of rules concerning the transmission and the contents of audiovisual services, as well as a wide range of support tools - has been aimed at promoting both economic integration and cultural diversity. By overcoming the plurality of languages, the diversity of cultural consumption patterns, and the fragmentation of distribution networks, the creation of a single European market is perceived as strengthening the development of both a competitive cultural industry and a strong cultural identity. Thus, within the EU the trade-off between economic integration and cultural diversity seems to fade away, as the former is seen as a tool for promoting the latter, by enlarging market access for national audiovisual products.

On the other hand, at the external level and notably in the multilateral trading system, the EU policy is characterised by a negative stance on undertaking trade liberalization commitments in audiovisual services under the GATS. At the same time, the EU is a major player in international initiatives concerning the protection of cultural plurality.

However, this double-standard policy has proven to be quite complex to implement. On one hand, at the internal level, audiovisuals are a major example of the imperfect stage of EU integration in services market (Langhammer, 2005), and the Commission strives to remove trade barriers, arousing the opposition of countries and interest groups that see EU integration as a threat to their cultural identity. On the other hand, at the international level, the search for European identity leads the EU to protect the audiovisual sector, at the cost of disputes with other countries interested in trade liberalization.

The **Euro-Mediterranean Partnership (EUROMED)**, an ambitious project of regional integration between the EU and Southern Mediterranean countries, involves not only trade, but political and social matters as well. The creation of a free trade area for goods and services by 2010 is the main goal of the economic chapter. However, the Euro-Mediterranean Association Agreements concluded between the EU and each Mediterranean Partner do not establish specific obligations with regard to liberalization of trade in services[1]. A first round of negotiations on services between the EU and some Mediterranean Partners[2] has been launched in March 2006, at the Marrakech Euro-Med Trade Ministerial Conference. On the other hand, cooperation in the audiovisual field is envisaged in each Association Agreement, and a specific programme is in place at the regional level. As a result, the present situation is quite ambiguous: audiovisual products can circulate freely if supported by the Euro-Med audiovisual programme; otherwise they are subject to restrictions. In this sense, the EU policy entails potential protectionist implications (Ghoneim, 2004) and the full accomplishment of Euro-Mediterranean integration needs clarification on this point. On the EU side, consistently with the proposed synergy between economic integration and promotion of a European common cultural identity, the opening of audiovisual markets (at least *de jure*) has proven to be realized only in the context of membership enlargements. That is what happened with Cyprus and Malta, formerly Mediterranean Partners. But, with regard to the whole Euro-Mediterranean area, this seems quite a long way to go.

The **European Free Trade Association (EFTA) Convention** sets free trade in goods and services among the present four Member States (Iceland, Liechtenstein, Norway, and Switzerland). Trade in goods is fully liberalized, while, with regard to services, Members are allowed to list a number of reservations. Notably, all Members but Iceland have included the audiovisual sector in their reservation schedules, keeping it completely unbound, as under the GATS.

AMERICAS

The **North American Free Trade Agreement (NAFTA)** is structured around two key bi-national relationships: US-Canada and US-Mexico (Mosco and Schiller, 2001). This is the case in the cultural sector as well, where different provisions were agreed

[1] Some of the Association Agreements include provisions on the right of establishment, which potentially affect trade in services.

[2] Egypt, Israel, Jordan, Lebanon, Morocco, Palestinian Authority, Tunisia. Negotiations on trade in services should be undertaken also between the EU and Turkey, in the framework of Turkey's accession talks.

(Galperin, 1999b). The NAFTA includes a specific exemption for cultural industries from trade liberalization provisions in goods and services between the US and Canada, according to the regime set in the 1989 Canada-United States Free Trade Agreement (CUSFTA). On the other hand, between the US and Mexico, trade in cultural services has been liberalized under the NAFTA, which contains GATS-plus provisions and commitments. Notably, the agreement sets:

- a negative list approach to liberalization;
- specific rules for investment and temporary entry of business people, both in goods- and in services-related activities;
- a general obligation with regard to the right of non-establishment, which, facilitating e-commerce, has a growing relevance for trade in audiovisual services.

As to specific commitments, the US fully liberalizes its audiovisual sector, and Mexico maintains only some of its GATS exceptions to complete liberalization of cultural industries in the NAFTA.

The NAFTA, more than finding a solution to the trade-off between international integration and cultural diversity, implicitly states that the trade-off itself does not exist. On the Canadian side, cultural diversity can only be furthered by carving it from international economic integration, while from the US standpoint liberalization of cultural products, notably audiovisuals, at regional as well as at multilateral level, is considered "the best way to promote cultural diversity" (WTO, 2005), and Mexico apparently shares this view, albeit only in the context of PTAs.

The approach adopted in the NAFTA for US-Mexico trade in audiovisuals seems to influence other South and Central American countries' position on the issue. Such RTAs as the **Group of Three** (Colombia, Mexico, Venezuela) and the **Mexico-Northern Triangle** (El Salvador, Guatemala, Honduras) **FTA** reach almost complete opening of regional audiovisual markets, underlining the importance of the "pivotal role" (Sauvé, 2002) played by Mexico.

A high degree of integration for audiovisual markets in this region is also envisaged by the **Dominican Republic-Central America** (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua)**-US Free Trade Agreement (CAFTA-DR)**.

The creation of a free-trade area for goods and services is one of the main goals of the **Common Market of the Southern Cone (MERCOSUR)**. Nonetheless, till present, real liberalization of trade in services has proven to be not so plain to achieve. Audiovisuals are a major example. Member States have subjected them to broad reservations when dealing with trade, while adopting a number of policies oriented at achieving regional integration in this sector. In 2003, a Special Conference of Cinema and Audiovisual Authorities of MERCOSUR (RECAM) has been created, in order to implement effective integration of audiovisual industries, help the free flow of audiovisual products within the region, and protect MERCOSUR cultural plurality.

ASIA

The Association of Southeast Asian Nations (ASEAN) aims at achieving free trade in services within the region through periodic negotiations of packages of commitments under the **ASEAN Framework Agreement on Services (AFAS)**. The AFAS has a GATS-type structure, and is intended to attain GATS-plus commitments. The audiovisual sector stays as an exception to this perspective, and is still completely unbound, although

some AFAS Member States (namely, Malaysia, Singapore and Thailand) have undertaken specific commitments under the GATS.

On the other hand, in order to create an ASEAN community bound by a common regional identity, Member States have set up a Committee to deal with cultural matters, including audiovisuals, and recommend policies and programmes for regional cooperation in this field.

The South Asian Association for Regional Cooperation (SAARC), created in 1985, aims to accelerate the process of development in Member States (Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka), and to facilitate economic integration in the region, working as a forum to negotiate trade agreements. In 1995, SAARC countries set up a preferential trade agreement (SAPTA), which in 2006 has been replaced by the **South Asian Free Trade Agreement (SAFTA)**, aiming at establishing a free trade area by 2016. Services were not covered by the SAPTA, and have not yet been included in the new SAFTA.

In the SAARC framework, the audiovisual sector has been a key area for cooperation since the beginnings, in order to promote regional culture. Nonetheless, from the trade viewpoint, audiovisuals are a highly controversial issue, notably in the relationships between India (the largest world film producer) and Pakistan, which has imposed a ban on Indian films (the so-called 'Bollywood vs. Lollywood' quarrel). Moreover, Pakistani government has already shown an overall tough position versus Indian exports, refusing to grant MFN status to India (Sen, 2006). Implementation of the SAFTA already announces as highly contentious, and consensus on audiovisuals liberalization does not seem to be next item on the agenda.

Table 1 – Key features of RTAs dealing with audiovisuals

Agreements	Liberalization approach	Treatment of audiovisual services	Specific policies for integrating audiovisual services	Degree of liberalization (GATS as a benchmark)
European integration agreements	Negative list	Covered	Yes	> GATS
Euro-Mediterranean Partnership (EUROMED)	Negative list	Ongoing negotiations	Yes	
European Free Trade Association (EFTA) Convention	Negative list	Covered*	No	Iceland > GATS Lichtenstein = GATS Norway = GATS Switzerland = GATS
North American Free Trade Agreement (NAFTA) (1994)	Negative list	US-Canada: Cultural exemption US-Mexico: Covered	No	Canada = GATS Mexico > GATS US = GATS

Group of Three (1995)	Negative list	Covered	No	Colombia > GATS Mexico > GATS Venezuela > GATS
Mexico-Northern Triangle (2000)	Negative list	Covered	No	Mexico > GATS El Salvador > GATS Guatemala > GATS Honduras > GATS
Dominican Republic-Central America-US FTA (CAFTA-DR) (2003)	Negative list	Covered	No	US = GATS El Salvador > GATS Guatemala > GATS Honduras > GATS Nicaragua > GATS Costa Rica > GATS Dominican Republic > GATS
Common Market of the Southern Cone (MERCOSUR) (1991)	Positive list	Specific commitments	Yes	Argentina > GATS Brazil > GATS Paraguay > GATS Uruguay > GATS
ASEAN Framework Agreement on Services (AFAS) (1995)	Positive list	No specific commitments	Yes	Brunei = GATS Cambodia = GATS Indonesia = GATS Laos** Malaysia < GATS Myanmar = GATS Philippines = GATS Singapore < GATS Thailand < GATS Vietnam**
South Asia Free Trade Agreement (SAFTA) (2006)	Positive list	Not negotiated yet	Yes	

* Audiovisual services are included in the EFTA Convention, but Lichtenstein, Norway, and Switzerland took a reservation in order to maintain this sector unbound.
** Non Member State of the WTO

2.2.2 Bilateral trade agreements

As well as RTAs, bilateral trade agreements dealing with audiovisual services present a broad range of approaches (see Table 2). Nonetheless, they show stronger commonalities as to the extent of liberalization reached in the audiovisual sector. Independently on their overall scope, and on whether they adopt a positive- or a negative-list approach, nearly all the surveyed agreements achieve deeper integration of audiovisual markets than the GATS, and, in some cases, full liberalization.

Only in a few bilateral trade agreements Member States do not open their audiovisual markets to each other. Interestingly, this is mainly the case for arrangements involving the EU or Canada, all of which include a *de jure* or *de facto* exemption for audiovisuals, consistently with what we have seen for RTAs. Thus, it can be argued that the main players on the international arena having a strong position on how audiovisuals

should (not) be regulated in the WTO framework are willing (and able) to adopt this stance in preferential trade relations as well.

Analogously, at the other end of the spectrum, the US attains a broad opening of partners' audiovisual markets under all of its bilateral trade agreements[3]. Notably, FTAs concluded by the US over the last four years mark a shift in US audiovisual trade policy (Wunsch-Vincent, 2003; Bernier, 2004), previously oriented to simply remove any kind of protectionist measure adopted by the partners in the audiovisual sector. In addition to the negative list approach, these 'new generation' agreements show three main common features:

- dismantling of existing financial support schemes for culture and content production is not asked for;
- concerning local content requirements and other barriers to trade based on traditional technologies, US negotiators aim at freezing existing regulations in FTAs schedules, more than at eliminating them[4];
- a special focus is placed on complete liberalization of e-commerce[5].

Currently, the US is negotiating a number of PTAs, which are likely to pursue the same policy with regard to audiovisual products and digital trade. For instance, the draft text of the Colombia Trade Promotion Agreement (CTPA) is quite similar to those we have surveyed, as to both structure and coverage: e-commerce should be fully liberalized, and audiovisual markets should be opened to a considerable extent.

In the South Korea-US FTA (KORUSFTA), which is currently under negotiation, audiovisual products have been a main controversial issue since its very beginnings. South Korea, which in the GATS made broad commitments in sound recording and motion picture and video tape production and distribution services, has kept in place a 'screen quota' system, requiring local cinemas to project national movies at least 146 days in the year. Since the US had put the reduction of this system as a substantial condition to start FTA talks, in January 2006 South Korea eventually agreed to halve the screen quota by July (Sung-ki, 2006), and then pledged to a further liberalization (Yon-se, 2006). Negotiations started in June, reaching agreement on about 40% of issues at the end of the first round (Yonhap, 2006), and the subsequent talks have made only little progress. As the KORUSFTA is heavily criticized on both sides, the next rounds of negotiations will be crucial to see if an overall consensus can be achieved on controversial issues, including the regime for audiovisuals.

[3] Recent FTAs involving the US are mostly bilateral (US-Chile FTA, 2002, US-Singapore FTA, 2003, US-Australia FTA (AUSAFTA), 2004, US-Morocco FTA, 2004, US-Bahrain FTA, 2006), but the proposed analysis also applies to the only 'new generation' regional agreement, the CAFTA-DR (see Table 1).

[4] A clear example of this 'freezing strategy' can be seen in the Australia-US FTA (AUSAFTA), where Australia managed to preserve existing restrictive measures in traditional audiovisual services, but loosed the right to introduce stricter measures (Bernier, 2004).

[5] Only in the US-Bahrain FTA e-commerce is liberalized subject to reservations inscribed in each country's schedule on trade in services. However, under this agreement Bahrain fully opens its audiovisual sector.

Table 2 – Key features of bilateral trade agreements dealing with audiovisuals

Agreements	Liberalization approach	Treatment of audiovisual services	Degree of liberalization (GATS as a benchmark)
Australia – New Zealand Closer Economic Relations Trade Agreement (ANZCERTA) (1983)	Negative list	Covered	Australia > GATS New Zealand > GATS
Canada-Chile FTA (1997)	Negative list	Cultural exemption	Canada = GATS Chile = GATS
Canada-Costa Rica (2002)	Negative list	Cultural exemption	Canada = GATS Costa Rica = GATS
Canada-Israel FTA (1997)	Negative list	Cultural exemption	Canada = GATS Israel < GATS
Chile-Mexico FTA (1999)	Negative list	Covered	Chile > GATS Mexico > GATS
EFTA-Chile FTA (2004)	Positive list	No specific commitments	Chile = GATS EFTA = GATS
EFTA-Singapore FTA (2003)	Positive list	Specific commitments	EFTA = GATS Singapore > GATS
EU-Chile Association Agreement (2003)	Positive list	No specific commitments under the trade chapter. Specific programs under the cooperation chapter	EU = GATS Chile = GATS
EU-Mexico Global Agreement (2000)	Positive list	Audiovisual exemption	EU = GATS Mexico < GATS
Japan-Mexico Economic Partnership (2005)	Negative list	Covered	Japan > GATS Mexico > GATS
Korea-Chile FTA (2004)	Negative list	Covered	Chile > GATS Korea > GATS
Korea-Singapore FTA (2006)	Negative list	Covered	Korea > GATS Singapore > GATS
New Zealand-Singapore Closer Economic Partnership Agreement (2001)	Positive list	Specific commitments	New Zealand < GATS Singapore > GATS
Singapore-Japan New-Age Economic Partnership (2002)	Positive list	Specific commitments	Japan > GATS Singapore > GATS
US-Australia FTA (AUSAFTA) (2004)	Negative list	Covered	Australia > GATS US = GATS
US-Bahrain FTA (2006)	Negative list	Covered	US = GATS Baharain > GATS

US-Chile FTA (2002)	Negative list	Covered	Chile > GATS US = GATS
US-Singapore FTA (2003)	Negative list	Covered	Singapore > GATS US = GATS
US-Jordan FTA (2001)	Positive list	Specific commitments	US = GATS Jordan > GATS
US-Morocco FTA (2004)	Negative list	Covered	Morocco > GATS US = GATS
US-Singapore FTA (2003)	Negative list	Covered	Singapore > GATS US = GATS

3. Investigating the trade and culture dilemma: a political economy perspective

Three main features emerge from the previous survey:

- PTAs set various equilibria between cultural plurality and economic integration, often achieving deeper liberalization of audiovisuals than the multilateral trading system;
- the two main players on the trading arena (EU and US) consistently adopt their own policy stances in all agreements and at each level of negotiation; other countries find in each agreement a specific trade-off, reaching different degrees of liberalization;
- bilateral trade agreements seem to provide for deeper economic integration in the audiovisual sector than RTAs.

The remainder of this paper develops a political economy-based approach in order to explain and assess the dynamics of trade negotiations and the outcomes of preferential liberalization in the audiovisual sector.

3.1 The mechanics of trade negotiations: an overview

Achieving greater economic integration trough multilateral trade negotiations generally relies on inter-sectoral trade-offs and mobilization of interest groups to support reforms. In a simplified mercantilist view, negotiators compare benefits deriving from access to key foreign markets with costs due to opening of domestic sectors. In each country vested interest groups play a vital role in this process. Import-competing producers will lobby against trade liberalization, often prevailing on the weakly organized interests of consumers. On the other hand, producers that would benefit from better access to export markets will lobby their own government for removing import restrictions in other sectors, so helping to create international coalitions sustaining broad liberalization. As stated by Hoekman and Kostecki (2001, p. 120), "essentially, all trade negotiations are multi-level, involving both domestic bargaining among interest groups, and negotiations between governments that represent these national interests" – the interplay between governments and interest groups opposing each other, on the domestic side, and the interaction between trade negotiators on the international side, is referred to as the 'two-level game' (Putnam, 1988).

In this sense, reciprocity is a crucial principle in multilateral trade negotiations, as it ensures negotiators that their country will obtain some 'payment' for the concessions granted in opening domestic markets, and that no free riding behaviour will occur.

However, these basic mechanics, which have allowed WTO Members to reach a considerable extent of liberalization with regard to trade in goods, have shown to be not completely fit for trade in services. From a general standpoint, it should be considered that services are less traded internationally than goods, because of both their intrinsic economic nature, often requiring personal contact between consumers and producers, and high political barriers. These features influence the interplay between opposite vested interest groups, so that "the number and political weight of import-competing sectors may greatly exceed that of export-oriented service sectors interested in obtaining access to foreign markets" (Hoekman and Kostecki, 2001, p. 246). Nonetheless, services exporters could form powerful coalitions with domestic firms importing services as strategic inputs for their activities, thus leading to different equilibria in the lobbying game and pushing negotiators towards a broader concept of reciprocity than in goods negotiations (Hoekman and Messerlin, 2000).

But reciprocity has also a different scope when dealing with services negotiations. Messerlin and Cocq (2004) point out three core reasons that restrain the extent to which reciprocity can be applied to services: assessing the concessions offered by other countries in other service sectors is not an easy task; there are no clear-cut and agreed definitions to ascertain the nationality of a service; the real extent of liberalization achieved depends heavily on domestic regulatory reforms, and not only on the removal of trade barriers, implying that "regulatory agencies enter into the picture as players more prominently than in the case of trade in goods" (Hoekman and Braga, 1997, p. 22). Given these particular features, it has been argued that trade liberalization in services relies on a unilateral approach, more than on international negotiations (Jacquet *et al.*, 1999). The latter would basically serve only to secure the opening of service sectors already decided at the national level in the view of a better performance of domestic economies.

However, the outlined dynamics can change as the negotiation agenda broadens. In fact, the more are the sectors involved in negotiations, the larger is the possibility of inter-sectoral exchanges of concessions, the stronger are the incentives for interest groups to mobilize in order to push towards an agreement and for policy-makers to adopt this stance. In the WTO, this argument has led to prefer an horizontal rather than a sectoral approach to services negotiations, as well as to intertwine them with other negotiation tables, binding governments to reach an agreement in each issue by the principle of the 'single undertaking', adopted in the Uruguay Round and confirmed in the Doha Development Agenda.

The same mechanics underlie regional trade negotiations, but some specific aspects constituting the main rationale to go regional are worth recalling. First, countries that decide to start negotiating a regional trade agreement are usually like-minded, or at least have strong incentives in achieving an effective result. Incentives may have both economic and non-economic nature, and political and strategic objectives have often revealed to be a powerful triggering force to reach successful trade liberalization on a preferential basis, more than offsetting concerns and pressures of groups adverse to it (OECD, 2003). Second, non-economic goals can be pursued in the multilateral trading system as well, but they are much more difficult to agree. Thirdly, as WTO negotiation rounds are getting longer, the business community may perceive preferential integration as leading to quicker results, and exert more intense lobbying on national governments. Lobbying will be even stronger if firms think the preferential agreement could translate into increased negotiating power when dealing at the multilateral table, thus raising the expectation that a success of regional negotiations will help open third markets as well (Hoekman and Kostecki, 2001).

With specific regard to trade in services, Hoekman and Braga (1997, p. 22) point out that in regional agreements it may be easier to reach liberalization, and to a broader extent, because "in regional talks, governments may be more like-minded with respect to the general objectives underlying at least a subset of the regulatory regimes applying to service industries, especially if - as is often the case - the countries involved have similar cultures and per capita incomes and are in geographic proximity". Notably, the authors stress that mutual recognition of standards and qualifications, trade-offs across issues, and issue linkages or side-payments may be more feasible, thus facilitating opening up national services markets. Furthermore, they observe that regional liberalization leads to more predictable results. Due to the smaller number of countries participating to negotiations, and to greater similarity in their domestic regulations, it is easier to evaluate the outcomes of liberalization and to internalize benefits. Free riding concerns are less relevant, and governments and interest groups are more willing to liberalize.

Notwithstanding these differences in the interplay between governments and interest groups, it has been argued that provisions found in PTAs on trade in services are normally quite similar to those in the GATS (Sauvé, 2002). Notably, disciplines provided in order to achieve the progressive liberalization of services markets are almost the same, and, with a few exceptions, RTAs have not substantially tackled the implications of domestic regulation on trade in services, nor the lack of regulatory cooperation, nor the key 'unfinished' rule-making items on the GATS agenda[6]. The OECD underlines that "RTAs have generally made little progress in opening up those services sectors that have to date proven particularly difficult to address at the multilateral level (e.g. air and maritime transport; audio-visual services; energy services)" (Sauvé, 2002, p. 6). On the other hand, multilateral negotiations have resulted in a broader degree of liberalization in some key areas (basic telecommunications, financial services) so that it can be argued that "the political economy of multilateral bargaining […] may help overcome the resistance to liberalization arising in the narrower or asymmetrical confines of regional compacts" (*ib.*). As a matter of fact, the limited number of countries involved in RTAs can have opposite effects as to the outcome of preferential trade negotiations. On one hand, among few players it could be easier to negotiate and reach consensus in a quicker time than in the multilateral system. Moreover, preferential negotiations can be focused on specific issues all countries are interested in, thus allowing for a less controversial agenda. On the other hand, the fewer are the States participating in the negotiations, the more "weak States may agree to specific demands of strong States" (Bhagwati, 1993, p. 43), as it becomes more difficult to create coalitions with like-minded States. In the multilateral framework 'weak' countries can more easily pursue national interests, obtaining support from stronger States, as to both the list of subjects to include in the negotiations and the most appropriate extent of liberalization for each area. A broader negotiation agenda, even if more complex to fully implement, can help the emergence of inter-sectoral coalitions between each country's interest groups, leaving room for a larger number of trade-offs, which can push States towards liberalization.

However, recently, the slow pace of negotiations and the lack of results at the multilateral level have given rise to a 'new generation' of PTAs that tend to contain 'GATS-plus' service provisions, in terms of both the extent of liberalization and the coverage of supply modes. As we have seen in Section 2, an increasing number of PTAs adopt a negative list approach to market opening, which "as a practical matter […] can be more effective and ambitious in producing liberalization" (Sauvé, 2002, p. 5) than the positive list

[6] According to the OECD, this is not the case for public procurement, where regional agreements have reached broader liberalization than the GATS. However, this issue is often excluded from general negotiations on services, and subject to dedicated negotiations (Sauvé, 2002).

approach found in the GATS. Notably, this seems to be the case for recent FTAs involving the US, that include GATS-plus obligations in areas of specific interest (such as telecommunications, e-commerce, financial and audiovisual services), while replicating existing commitments or adopting GATS-minus provisions on other issues (e.g., limited definitions of consumption abroad and presence of natural persons as modes of supply for services) (Abugattas Majluf, 2004).

3.2 Specific features of the two-level game in negotiations on audiovisuals

The previous comparative analysis of the audiovisual regime provided by the GATS and by the main PTAs allows a better understanding of the political economy of trade negotiations in cultural services.

The lobbying pressure exerted by vested interest groups is extremely effective. Generally speaking, the audiovisual industry has a strong monopoly power in national markets, is highly concentrated, and quite small if compared to the whole economy. In this sense, it offers a perfect illustration of the Olsonian theory of collective action (Olson, 1965), where small and well-organized interest groups succeed in shaping trade policies to their own convenience, and in spreading their costs over other sectors. This applies independently of the stance pursued by the interest groups. For instance, it fits to the audiovisual industry in the EU (Messerlin, 2000), where it lobbies for protection, as well as in the US[7], where it pushes towards world-wide liberalization, and in Mexico (Galperin, 1999b), where its trade policy orientation varies according to each negotiation table.

An interesting point is to understand which underlying factors shape the preferences of domestic audiovisual industries towards a protectionist or a liberal trade policy. Some industries are strongly export-oriented (e.g., US), while others are more import-competing (e.g., Germany). But often the export-oriented or import-competing nature of a national audiovisual industry is a relative concept, depending on the specific features of the trading partners' audiovisual markets. For instance, the Chilean and Mexican audiovisual industries can benefit from greater liberalization with regard to the US market, because of the large Hispanic community, which, for cultural and linguistic reasons, is a potential major audience. At the same time, language, content and genre barriers may act as a protection for national producers against US exports. Thus, it is reasonable to argue that the Chilean and Mexican cultural industries ask their governments for a liberal trade agenda when negotiating with countries presenting similar distinctive features. As it relies on market-specific characteristics, this argument is not easily applicable in negotiations with a large number of partners.

In this sense, for reasons internal to the vested interest groups in the audiovisual sector, their lobbying is susceptible to be more oriented towards liberalization in bilateral than in regional, and even more so than in multilateral trade agreements.

Obviously, the stances adopted by interest groups are not the only factor explaining why countries express different attitudes when dealing with the audiovisual sector under

[7] Two main lobbies interact with the US Trade Representative (USTR) to influence the US trade policy in the audiovisual sector: the Motion Picture Association of America (MPAA), representing the 'big seven' of the US film industry - Buena Vista (Walt Disney Company), Metro-Goldwin-Mayer, Paramount Pictures, Sony, Twentieth Century Fox, Universal Studios, Warner Bros (Time Warner) - and the Recording Industry Association of America (RIAA), created by the 'big four' of the US recording industry - EMI, Sony BMG Music Entertainment, Universal Music Group, Warner Music Group.

different trade agreements. National governments' objectives and concerns are a major determinant as well.

A first reflection regards the issue of incentives. Some countries, such as Singapore, Chile, Mexico, have recently concluded a huge number of bilateral trade agreements, both in their region and with far-away countries. In many of these agreements, as seen in Section 2, they commit to wider trade liberalization in audiovisuals than under the GATS and the RTAs in which they participate. It seems likely that these countries prefer to negotiate on a bilateral basis in order to get the most they can from each trading partner. They are ready to open their audiovisual markets (perhaps they would do that even unilaterally), but bilateral negotiations offer stronger incentives to undertake full commitments than regional or multilateral negotiations.

A second remark should be made on the question of asymmetry. The comparison of different PTAs shows that the political and economic (un)balance between the Parties strongly influences the setting of the trade and culture trade-off. The South Korean decision to reduce screen quotas prior to the launch of negotiations with the US, or the wide commitments undertaken by highly US dependent Central American States as to the opening of their audiovisual markets under the CAFTA-DR, prove that asymmetries among negotiators matter a lot in determining governments stance on controversial issues.

A final observation concerns the potential role of a specific factor such as the proximity of partners' national cultural identities. For instance, the Australian government implements a large set of cultural policies protecting the domestic audiovisual industry, aiming at preserving national cultural identity. Even under the FTA with the US, Australia has managed to maintain the audiovisual sector relatively protected. However, when negotiating the CER with New Zealand, Australia agreed to a broad liberalization of its audiovisual market. In this case, as for some Central American RTAs, the cultural commonality seems to reduce the perception of trade in cultural products as undermining national identities. On the contrary, the creation of a single cultural market appears as an important step in further promoting the partners' (common) cultural identity, representing the counterpart of the protectionist stance vis-à-vis third States, similarly to what emerges from our analysis of the EU policy. Nonetheless, this logic may apply to governments, but clashes with the interests of industrial lobbies, often perceiving cultural proximity as a threat to their share of national markets. Thus, while undoubtedly entering in the game, the exact outcome of this factor is not completely clear.

To sum up, the basic logic reviewed in Section 3.1 proves to be crucial in shaping the solution to the tension between cultural and economic imperatives, but it intertwines with mechanisms that are specific to the cultural sector.

3.3 What for multilateral negotiations?

Our review of the regime provided for audiovisual services in bilateral and regional trade agreements helps clarify some controversial issues in the literature on the relationship between PTAs and the multilateral trading system.

Useful insights can be drawn for the huge debate concerning the effects of a negative- versus a positive-list approach on the extent of liberalization. The GATS is often criticized because its positive-list approach to scheduling liberalization commitments is

considered less effective and less transparent than the negative listing. Less effective because countries can make commitments below the *status quo*, and are not urged to afford real liberalization. Less transparent because a positive list of commitments is of difficult reading for investors, and does not depict immediately the actual degree of liberalization each country commits to (Sauvé, 2002). On the other hand, it is argued that the negative list approach requires the Parties to be perfectly aware of all applicable measures. Thus, it can penalize countries who cannot correctly evaluate the real extent of liberalization they are committing to (Bernier, 2004; Gagné *et al.*, 2004).

Our survey of PTAs shows that, although the negative list is used in most agreements liberalizing the audiovisual sector, there is not necessarily a linkage between the approach to liberalization and the extent to which audiovisual markets are opened. For instance, the US-Jordan FTA and the Japan-Singapore FTA provide for a considerable degree of liberalization in audiovisual services, scheduling commitments accordingly to a positive-list approach.

With regard to the contents of liberalization, the main question concerns the capacity of PTAs to tackle issues that are difficult to solve at the multilateral level. Regional and, mostly, bilateral trade agreements manage to achieve deeper integration in the cultural sector than the GATS. However, this is not a general phenomenon, and a number of PTAs find equilibrium only in exempting cultural products from their coverage, thus setting the grounds for potential clashes with WTO rules, which, though adopting a vague wording, require preferential liberalization to have substantial sectoral coverage.

PTAs finding a deal between trade and culture acceptable to all their Parties are built upon mechanisms specific to preferential liberalization, such as greater incentives (or constraints) for governments and a different perception of the cost-benefit balance by vested interest groups, as well as on the unique features of each country's cultural markets. Our analysis shows that PTAs are able to solve the trade and culture dilemma, but the attained solutions can hardly be transposed into the WTO context, since they do not depend on a universally applicable formula. Nonetheless, some of the measures provided by a number of PTAs could reveal useful in facilitating the current GATS negotiations on audiovisuals. Two elements appear as having particular bearing.

First, a proper regime for e-commerce should be included in the GATS, as well as specific provisions on the right of non establishment. Digital trade is becoming increasingly relevant for international flows of services (Wunsch-Vincent, 2005), and notably for audiovisuals. The lack of an appropriate discipline on this kind of transactions would automatically result in an incomplete trading regime, not closing the present loopholes, and thus generating new jurisdictional conflicts – adding to those discussed under the next section.

Second, a freezing strategy could be adopted, on the model of the AUSAFTA (Papandrea, 2004). Under this option, countries should necessarily undertake commitments in the audiovisual sector, at least binding the existing regime. This amounts to removing any 'policy space' for future protection policies. Existing restrictive measures could be maintained, but any further limitation to economic integration in the name of cultural plurality would be prevented.

PTAs can influence future developments of the GATS not only with regard to its content, but acting on its dynamics as well. The traditional analysis of the relationship between preferential and multilateral trading agreements relies on the idea of stumbling blocks vs. building blocks (Bhagwati, 1993). In the case of cultural products, the

perspective should be shifted. Going through the growing number of PTAs setting trading rules for cultural issues, there seems to be a trend led by the hegemon players towards the creation of two large coalitions. On one hand, the EU (and Canada) are spinning a thick net of agreements which do not consider the trade regime as fit to deal with cultural products. On the other hand, the US is pushing towards the opening of a large number of audiovisual markets. Neither the EU nor the US wants to ignore the multilateral negotiation forum, rather they are trying to enter in the game with the best (and larger) team. However, it should not be forgotten that more and more 'spoke' States of this hub-and-spoke system (Baldwin, 2006) are building independent linkages among each other. Hence, the outcome of the current GATS negotiations (if they will ever be resumed) is highly unpredictable. However, it seems clear that the development of WTO-specific incentives and dynamics is needed in order to make it possible to reach a compromise solution.

3.4 (Dis-)Overlapping jurisdictions

As we have seen, the status of cultural products is a main controversial topic in most trade negotiations. But the trading system is not the only option to provide global governance for cultural plurality, and controversies arise as to which international jurisdiction is the fittest to rule on this issue.

The idea of a specific international instrument on cultural diversity, proposed by Canada's cultural industries Sectoral Advisory Group on International Trade (SAGIT, 1999), gained growing consensus among governments and organizations concerned about the protection of cultural plurality and, thus, cultural products. Negotiations for an international agreement on cultural plurality were undertaken under the aegis of the UNESCO, and resulted into the adoption of the 'Convention on the Protection and Promotion of the Diversity of Cultural Expressions' (2005). Essentially, the Convention encourages cooperation among States and the adoption of all appropriate measures and policies in order to promote and protect cultural plurality, sets guiding principles to establish the framework in which national sovereignty in the cultural field should operate, and provides for a dedicated mechanism for the settlement of disputes.

The major supporters of the Convention have been countries such as Canada and the EU, the same that oppose most strongly the inclusion of cultural products in the WTO regime. The viewpoint underlying this Convention marks a significantly different approach to the international governance for the cultural sector, based on the idea that the discipline on cultural policies should not be provided by trade rules, not even under an exception regime, but by a culture-related institution. In the same way, the tough opposition to the Convention led by the US can be interpreted more as originating from a negative stance on the attempt of setting the cultural sphere as the playfield fit to solve the trade and cultural dilemma, rather than as a disagreement on its specific content.

Since its first drafts, concerns have been arisen as to the capacity of the Convention to provide effective governance for international cultural policies (Acheson and Maule, 2004). As a matter of fact, due to the lack of enforceable obligations and to the possibility for Member States to opt out from the dispute settlement mechanism, the Convention has a declarative nature, more than being the intended binding standard-setting instrument.

Moreover, the UNESCO Convention does not clarify its relationship to other international instruments. This issue has been controversial during the negotiations, and a clear-cut solution was not reached. The Convention affirms not to be subordinated to

other treaties, but at the same time fails to establish itself as a credible autonomous source of international legitimacy for cultural policies. The major alarm is as to the potential overlapping between the Convention and international trade rules dealing with cultural products. Till present, assessments and concerns have focused on the interactions with the multilateral trading system, stressing that States could try to misuse the Convention in order not to comply with specific 'uncomfortable' commitments to the opening of cultural markets, and/or to hamper further liberalization in this sector, in the name of cultural diversity.

Actually, the Convention does not specifically set restrictions to free trade, nor allow their adoption by national governments. Nonetheless, it could be used to condition the developments in some 'grey zones' left by WTO rules, such as the discipline on subsidies and on safeguards in the GATS, when dealing with cultural products.

Potentially, the WTO is not the only regime which could conflict with the UNESCO Convention. Although providing for governance at the global level, in the lack of efficient coordination the Convention could clash also with instruments setting the discipline on cultural matters at regional levels, such as the provisions on cultural products in PTAs. The same concerns arisen as to the possible misuse of the Convention with regard to the multilateral trading system could apply to preferential economic integration.

Nonetheless, some reflections based on the analysis of the surveyed PTAs suggest that their interactions with the Convention on audiovisual services should create fewer controversies than with regard to the GATS.

First, most of the surveyed PTAs encompass an explicit clause on their relations to other international agreements, which is lacking in the GATS. Accordingly to those provisions, in case of jurisdictional overlapping or conflict, the Parties commit to consider the rules of the trade compact as prevailing on the disciplines set by any other treaty.

Second, due to the actual extent of PTAs rules on trade in audiovisuals, only a limited number of agreements could eventually clash with the Convention. PTAs which do not cover the audiovisual sector, because it is either subject to an explicit exemption, or excluded from each Party's commitments, are not susceptible of originating overlapping with the UNESCO Convention regime. In this case, the Convention can be a useful but disentangled integrative text, setting a discipline filling a juridical gap left by PTAs rules, without meddling with trade provisions. For instance, it could complement and/or support cooperation policies in the audiovisual sector set by agreements such as the EUROMED and the MERCOSUR.

On the other hand, most PTAs establishing provisions for the opening of audiovisual markets tend to set a steady equilibrium between cultural plurality and economic integration. The factors on which relies the decision to open the audiovisual sector on a preferential basis can be summarized as follows: either a shared view as to the appropriate regime for cultural products (e.g., the Group of Three), or interests and concerns prevailing on those oriented towards the protection of the audiovisual sector (such as in the CAFTA-DR), or a unilateral interest in liberalizing audiovisual services (e.g., the EFTA-Singapore FTA). In all these cases, it seems quite hard to find a rationale for a Party invoking the UNESCO Convention not to comply with its trade obligations.

More relevant concerns arise as to the possible overlapping when negotiating a deeper integration of audiovisual markets in PTAs providing for gradual liberalization, or

when dealing with new PTAs. With regard to the GATS, it has been argued (Iapadre, 2004) that the Convention could influence the two-level game of trade negotiations. It could strengthen, on one level, trade negotiators calling for the protection of cultural products, and, on the other level, the relative position of vested interest groups in the cultural sector in their confrontation with other import-competing and export-oriented groups.

The evidence about current negotiations indicates that this seems not to be the case for PTAs – and this is our third reflection. For instance, under the KORUSFTA, the South Korean government has agreed to a considerable opening of its audiovisual sector[8] even before the first official talks were launched. At the time, the UNESCO Convention had already been approved. Moreover, the South Korean film industry has immediately begun a fierce campaign against the agreement, calling for the need to protect cultural diversity, gaining, among others, the support of the International Network for Cultural Diversity (INCD), a global network of cultural producers and non-governmental groups, which has been a major player in pushing towards the UNESCO Convention. Nonetheless, till the current round, this has not resulted into an overturn of the way negotiations are going concerning the liberalization of the audiovisual sector. The pressure exerted by export-oriented South Korean and American industries (Klingner, 2006), and the political willingness of the South Korean government to conclude the FTA as an opportunity to improve its external relationships and to increase domestic competitiveness with regard to other Asian countries (Schott *et al.*, 2006) have prevailed.

As the Convention has not yet entered into force, and a limited number of PTAs has been launched after its approval, it is premature to assess exactly its influence on preferential trade negotiations. However, the specific features of the two-tier game at this level seem not to leave too much room for the UNESCO Convention to affect its outcome to a significant extent.

Where the Convention could play a relevant role is rather in encouraging governments worried by its potential pro-protectionist consequences under the GATS to boost the recourse to PTAs including explicit clauses (and commitments) on trade in cultural products. Indeed, this seems to be the way chosen by the US, in order to guarantee free trade for its cultural goods and activities – and, perhaps, to slow down the ratification of the UNESCO Convention. From this standpoint, there could be a real danger of moving towards further polarisation in dealing with the trade and culture dilemma in the multilateral trading system.

4. Conclusions

Cultural diversity is becoming a core concern for governments and civil society, and a range of international instruments to protect and promote this international public good is being developed, both at global and regional level. However, this trend has often proved to clash with the process of international economic integration.

PTAs, which are increasingly perceived as a powerful – although controversial – tool to promote international integration, deal with the 'trade and culture' dilemma as well, proposing different regimes for the governance of cultural diversity, going from an integral 'cultural exemption', as in the EU's preferential agreements with other countries and regions, to a broad liberalization of trade in cultural products, as in most of the FTAs concluded by the US. While GATS negotiations in audiovisual services in the Doha

[8] South Korea has not removed its screen quota system under any other PTA signed or negotiated till present.

Development Agenda have not reached substantial progress, the different two-level game of trade negotiations at regional level seems to allow for new solutions. A narrower agenda, fewer participants in the negotiations, and specific features of the cultural sector in regional contexts play a major role.

PTAs can partially act as a laboratory suggesting solutions to develop in the multilateral trading system. However, a specific approach to cultural goods and services is needed in the WTO, in order to avoid dangerous clashes between coalitions led by the hegemon players. The existence of non-trade legal instruments settings rules on cultural policies does not create major tensions at the preferential level, and sets further opportunities, as well as hurdles, to improve the multilateral governance of the trade and culture dilemma

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