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DEVELOPING A LABOUR VOICE IN TRADE POLICY AT THE NATIONAL LEVEL

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ABSTRACT

The substantial and increasing encroachment of trade agreements into almost every aspect of economic and social life make it imperative for trade unions to engage in trade policy and agreement making processes, not just at the international but also at the national level. However, union staff frequently lack knowledge, not only about the substantive issues related to trade, but also about the trade policy process within their own country. This research project, initiated by the Global Labour University (GLU), is an attempt to address this gap by undertaking a comparative analysis of trade union capacity to influence trade policies at the national level.

The analysis draws on case studies from a wide spectrum, ranging from developed and newly industrialised to developing countries. A framework drawn from social movement theory is used to reveal how differences in the political opportunity structure available within each country impacts on the strategic choices available to unions, and also, how trade policy processes and unions' own organisational structures and dynamics impact on their capacity to mobilise resources for action against trade liberalisation.

Great variation is found in the countries studied, both in terms of political opportunity structure and in terms of trade union capacity. In very few cases do unions have both institutional opportunity to intervene in trade policy processes and sufficiently developed policy expertise and mobilising capacity to take advantage of such opportunity. However, the research also shows that institutional opportunity is not static and unions can have an impact on trade policy and negotiations, even where they have limited access and capacity.

Background research: All research for the study was conducted by alumni of the Masters' programmes of the GLU under the direction of Professor Christoph Scherrer and Donna McGuire from the University of Kassel.¹ Individual country and campaign case studies are listed in the references and available, upon request, as GLU research group background papers.

We would like to thank the ILO for its ongoing support of this research project.

¹ In the case of Serbia, research assistance was supplied by Zoran Ristic from the Trade Union Confederation Nezavisnost.

Developing a Labour Voice in Trade Policy at the National Level

Donna McGuire and Christoph Scherrer

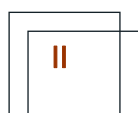
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TABLE OF CONTENTS

GLOSSARY OF TERMS.....	1
INTRODUCTION.....	3
Chapter 1: Trade Agreements’ Encroachment on Policy Space.....	3
Chapter 2: Theoretical Framework.....	6
PART I. MAPPING THE POLITICAL OPPORTUNITY STRUCTURE.....	12
Chapter 1: Tracing the National Trade Policy Process.....	12
1.1 Which branch of government controls trade policy-making?	12
1.2 The nature of civil society engagement in trade policy making.....	18
1.3 Channels of access to governmental and political actors.....	21
1.4 Trade policy legacy.....	23
Chapter 2: Situational Political Opportunities	25
2.1 Relationship to political parties.....	25
2.2 Extent of elite consensus.....	26
2.3 Windows of opportunities in the policy process.....	26
2.4 Expanding the political opportunity structure	28
Chapter 3: Capacity for State Repression.....	29
PART II. IDENTIFYING TRADE UNION CAPACITY TO INTERVENE	31
Chapter 1: Mobilising Structures and Resources	31
1.1 Organisational capacity, expertise and resources	32
1.2 Membership engagement.....	38
1.3 External resources and internal mobilisation.....	39
– some constraints	39
Chapter 2: Developing a Coherent Position - ‘Framing’ Trade.....	41
2.1 Level of awareness and perceived threat	41
2.2 Framing issues to mobilise support.....	42
2.3 Communication structures.....	46
Chapter 3: Strategies of Intervention and Protest	47
3.1 From lobbying to direct action	48
3.2 Linking POS and trade union strategies.....	48
3.3 Networking, coalition building and alliances.....	51
CONCLUSION	54
FURTHER RESEARCH AND PUBLICATION	60
GLU RESEARCH PROJECT CASE STUDIES	61
REFERENCES	63
APPENDICES	69



GLOSSARY OF TERMS

ACTU: Australian Council of Trade Unions
AFL-CIO: American Federation of Labour and Congress of Industrial Organizations
ALP: Australian Labor Party
ANC: African National Congress (South Africa)
AMWU: Australian Manufacturing Workers Union
APL: Alliance of Progressive Labour (Philippines)
AUSFTA: Australia United States Free Trade Agreement
BMWl: Federal Ministry of Economics and Technology
BWU: Barbados Workers' Union
CATUS: Confederation of Autonomous Trade Unions of Serbia (Serbia)
COSATU: Congress of South African Trade Unions
CRNM: Caribbean Regional Negotiating Machinery
CTUSB: Congress of Trade Unions and Staff Associations of Barbados
CUT: Central Única dos Trabalhadores (major labour federation - Brazil)
DFAT: Department of Foreign Affairs and Trade (Australia)
DGB: Deutscher Gewerkschaftsbund - Confederation of German Trade Unions
DTI: Department of Trade and Industry (Philippines and also South Africa)
EC: European Commission
EI: Education International
EPA: Economic Partnership Agreement
ETUC: European Trade Union Confederation
EU: European Union
FEDUSA: the Federation of Unions of South Africa
FKTU: the Federation of Korean Trade Unions
GATS: the General Agreement on Trade in Services
GUF: Global Union Federation
GURN: Global Union Research Network
HAS: the Hemispheric Social Alliance
ICFTU: International Confederation of Free Trade Unions
IILS: International Institute for Labour Studies
ITUC: International Trade Union Confederation
ILO: International Labour Organisation
IMF: International Monetary Fund
JSCOT: Joint Standing Committee on Treaties (Australia)
JPEPA: Japan Philippines Economic Partnership Agreement
KCTU: Korean Confederation of Trade Unions
KORUS FTA: South Korean – U.S. free trade agreement
MAI: Multilateral Agreement on Investment
MAKABAYAN: Workers for People's Liberation (Philippines)
MERCOSUR: 'Common Market of the South' trade bloc
MITI: Ministry of International Trade and Industry (Malaysia)
MTUC: Malaysian Trades Union Congress
NACTU: National Council of Trade Unions (South Africa)

NAFTA North America Free Trade Agreement
NAMA: Non-Agricultural Market Access negotiations in the WTO
NEDLAC: National Economic Development and Labour Council (South Africa)
NELEDI: National Labour and Economic Development Institute (South Africa)
NTEU: National Tertiary Education Union (Australia)
OWINFS: Our World is Not for Sale network
PSI: Public Services International
PT: Workers' Party, Brazil (*Partido dos Trabalhadores*)
REBRIP: Brazilian Network for the Integration of People
SACU: Southern African Customs Union
SPD: Social Democratic Party, Germany (*Sozialdemokratische Partei Deutschlands*)
TSG: Trade Strategy Group (South Africa)
TUCA: Trade Union Confederation of the Americas
TUCP: Trade Union Congress of the Philippines
TWN: the Third World Network
WTO: World Trade Organisation

INTRODUCTION

Chapter 1: Trade Agreements' Encroachment on Policy Space

Trade union responses to trade liberalisation take place within the context of wider social discontent with the impacts of neoliberal economic policy at both the national and global level. While international trade has resulted in efficiency gains, the ongoing liberalization of trade has not been accompanied by increases in prosperity everywhere. The gap between rich and poor, both within and between countries has widened. This growing disparity is characterised by the erosion of social rights, labour rights and environmental standards in many countries.

Multilateral trade agreements negotiated in the World Trade Organisation (WTO) have been used to try to liberalise and deregulate public services and sensitive local industries, potentially resulting in increased unemployment, lower labour standards, reduced access to essential services and a weakening of unions, especially those representing public sector employees, which play an important role in the labour movement (Rosskam 2006). This has led to the questioning of the principles and policies of global economic institutions by civil society and a shift in the debate about trade and trade liberalisation (O'Brien et al. 2000; Stiglitz and Charlton 2005).

However, the threat is not just at the multilateral level. The stalling of multilateral negotiations in the WTO has led to a proliferation of trade agreements at bilateral and regional levels as countries shift forums in an attempt to achieve trade liberalisation goals (Blaas and Becker 2007). In most cases, these agreements are WTO plus, in that they seek even deeper trade liberalisation than multilateral agreements. The resulting 'spaghetti bowl' of trade agreements (Baldwin and Lowe 2008:1) presents both challenges and opportunities for unions to influence trade policy at the national level.

The encroachment of trade agreements into new areas – not just trade in goods but also in services, not just reduction of tariffs but also of so-called 'non-tariff barriers' in the domestic regulation of services, intellectual property rights, investment provisions, competition policy and government procurement – potentially limits the policy choices of governments and their ability to provide universal access to essential services and to address environmental and development challenges related to sustainable growth and full employment. As a result, trade unions in many countries have started to engage with their governments over trade issues.

Lack of awareness and capacity

Despite the substantial and increasing encroachment of trade agreements into almost every aspect of economic and social life, the engagement of trade unions in trade policy and agreement making processes is generally lacking.² The engagement of trade unions in the field of international trade faces a number of challenges. Frequently, union staff lack knowledge, not only about the substantive issues related to trade, but also about the trade policy process within their own country. Knowledge about the likely impact of various trade policy measures is important in policy debates. Without the necessary expertise, trade unions will not be taken seriously in the policy arena. Furthermore, without knowing where to effectively intervene in the policy process, trade unions may be outmanoeuvred by other social forces. With this working paper we intend to assist trade unions in better understanding the trade policy process and in devising effective strategies for influencing these processes.

Despite the international nature of trade negotiations, trade agreements are ultimately negotiated and signed by national governments. Trade unions do not need to mobilize their members against remote and elusive authorities. They can start right at home to influence international trade policies. However, there appears to be a lack of comparative research which analyses the trade policy process at the national level, or attempts made by unions to influence this process through social dialogue, lobbying, campaigning and direct action. Given the proliferation of bilateral and regional trade agreements in recent years, this would seem to be an area requiring urgent attention. In addition, despite a growing literature on civil society attempts to influence trade and development policy (see for example, Brock and McGee 2004; Fox 2001; Najam 1999), the relationship between civil society actors and the state appears to be insufficiently analysed in relation to struggles over trade policy issues.

Methodology

This paper attempts to address this gap by undertaking a comparative analysis of trade union capacity to influence trade policies at the national level. The analysis draws on a wide spectrum of cases, ranging from developed and newly industrialised to developing countries. The study was conducted by alumni of the Masters' programme of the Global Labour University (GLU) under the direction of Professor Christoph Scherrer and Donna McGuire from the University of Kassel.³ Phase one of the study consists of eleven country case studies aimed at mapping the national trade policy process in each country and assessing the capacity for trade unions to intervene in this process at the national level. The countries included in this report are: Australia, Barbados, Brazil, Germany, Malaysia, Nigeria, the Philippines, Moldova, Serbia, South Africa and South Korea. The second phase

² This was confirmed, for example, by an online discussion on bilateral and regional trade agreements moderated by the Global Union Research Network (GURN), referred to in the ITUC's publication, 'Trade Unions and Bilaterals: Do's and Don'ts – a Trade Union Guide'.

³ Donna McGuire is an alumnus of the Master's programme of the Global Labour University (GLU) in Germany and is currently undertaking her PhD at the University of Kassel in the area of trade union advocacy and global economic governance.

of the study consists of a number of illustrative campaigns drawn from the countries in phase one, through which trade unions, along with other civil society groups, have attempted to influence specific trade negotiations. The countries in this phase include: Australia, Barbados, Brazil, Nigeria, the Philippines, and South Korea.

The value of adding a comparative analysis of union responses to trade negotiations in a range of different countries is that it can reveal how such responses vary in significance and character according to national circumstances, institutions and structures, which may facilitate some types of strategies while limiting or obstructing others (Hyman 200: 128). The countries chosen vary considerably along a range of significant variables including the institutional and legal frameworks in which unions are embedded, and the structure and history of the union movement. Comparing trade union capacity to influence trade policy and trade negotiations in these countries should reveal how differences in the political opportunity structure in each country impact on the strategic choices available to unions and also how trade policy processes and unions' own organisational structures and dynamics impact on their capacity to mobilise resources for action against trade liberalisation.

The report is divided into two main parts. Part I draws on the country case studies from phase one of the research in order to map the political opportunity structure which exists for organised labour at the national level in terms of the specific practices, institutions and points of access for civil society intervention. Part II analyses the capacity of trade unions to intervene in or influence that process in terms of the ability of national labour movements to: a) mobilise sufficient resources and grass roots support for collective action in relation to trade; b) develop a coherent position that frames issues in a way that builds 'common cause'; and c) develop effective strategies of intervention and protest. In addition to information from the country case studies, this section draws on illustrative examples from the trade union campaigns in the second phase of the study. Here we concentrate more on trade union capacity in terms of: the availability of resources and support structures; the types of frames developed, including the extent to which they resonate; and the nature of strategies utilised. We do not analyse or assess the outcomes of these campaigns in terms of whether they were ultimately successful in influencing trade policy and/or negotiations. A more detailed account and analysis of these campaigns and their outcomes is planned for publication in a further working paper.

Chapter 2: Theoretical Framework⁴

Social movement and new social movement theory concepts of political opportunity structure, resource mobilisation, framing and repertoires of contention are used as a lens to examine trade union attempts to influence the national policy process (see for example, McAdam et al. 1996; Tarrow 1998; Benford and Snow 2000; Meyer 2004). While these concepts were developed to explain the success or failure of social movement action, they can play an equally valuable explanatory role in labour research. Frundt (2005), for example, applies the concepts of political opportunity, resource mobilisation and framing to analyse the development of cross-border labour solidarity in the Americas. Frege and Kelly's (2003) innovative research into union revitalisation also demonstrates the usefulness of social movement theory as a framework to provide explanations for differences in union strategy and activity.

The concept of political opportunity structure has been criticized for a number of reasons: for not being clearly enough defined; for focusing too heavily on the political realm and political power while ignoring social and cultural factors; for treating opportunities as stable rather than subject to rapid change and for treating opportunities as "objectively existent" rather than socially constructed, in terms of their perception and strategic intervention by movement actors (Rucht 1996: 189). However, by combining a structural approach, which recognises the contextual nature of political opportunity, with elements of resource mobilisation and framing theory, we hope to overcome these deficiencies and provide a better understanding of the range of factors which directly and indirectly influence the capacity of trade unions to intervene in and change trade policy.

An analysis of the political opportunity structure impacting on a movement structure (in this case, the labour movement within the various countries of our study) can focus attention on the contextual factors "which facilitate or limit the building of a specific movement structure, resource collection, and the eventual carrying out of protest activities" (Rucht 1996: 188). A resource mobilization approach can help explain why similar "objective" structural conditions may generate stronger or weaker mobilisation capacities. These more structural approaches can be balanced by examining the ideational, social, cultural and psychological reasons facilitating or restraining collective action.

Political Opportunity Structure

Political opportunity structure (POS) refers to the openness of a political system to the demands of social forces, be they organized interest groups or social movements (Meyer 2004). It includes "the stability or instability of that broad set of elite alignments that typically undergird a polity; the presence or absence of elite allies and the state's capacity and propensity for state repression" (McAdam et al.1996: 27). POS is context specific. The responsiveness of a political system

⁴ Developed by McGuire (forthcoming 2011) as part of her PhD Thesis, 'Building a voice for labour in economic global governance: an assessment of union advocacy strategies in global trade negotiations'.

depends among other factors on the informal and formal channels available for social actors to access policy processes and put their concerns on the agenda, on the leading party in government, on the government's perception of its vulnerability to social protest, on the degree of policy consensus among policy makers, on the opinion of the attentive public, etc.. In other words, the opportunities are not fixed but always in flux, very much depending on perceptions (Tarrow 1998) and also varying across countries, institutions, issues and time periods (Sikkink 2005).

Resource mobilisation

However, political opportunity is only a starting point; "a necessary prerequisite to action" (McAdam et al. 1996: 8). The capacity for a movement to take advantage of such opportunities depends on the resources, mobilising structures and framing processes available to the actors involved (McAdam et al. 1996, Benford and Snow 2000). It must have sufficient "people, money, knowledge, frames, skills, and technical tools to process and distribute information and to influence people", and adequate mobilisation or collective structures through which these resources can be organised and mobilised and through which people can engage in collective action (Rucht 1996: 186). For the labour movement, such structures include its formal union structure and collective networks such as workplace delegate and union branch structures. It can also include associated community and civil society networks, political contacts, and formal and informal international networks.

Framing processes

There must also be a shared set of "collective action frames" which inspire people to become engaged, either by supplying resources or through participating in collective action. Benford and Snow (2000: 614) describe these "collective action frames" as "action-oriented sets of beliefs and meanings that inspire and legitimate the activities and campaigns of a social movement organization". Such frames play an interpretative role by simplifying and condensing complex events and ideas in ways designed to gather support, mobilise action and demobilise opponents (Benford and Snow 2000: 614). At the minimum, people need a shared sense of grievance and the hope that they can somehow redress the problem (McAdam et al.: 1996: 5). In order to inspire and legitimise their activities and campaigns and challenge existing frames, movements draw on sets of interpretive ideas, discourses and storylines from the existing "cultural stock" of what is considered an injustice or what is a violation of rights. As Zald (1996: 267) makes clear in his analysis of the relationship between culture, ideology and strategic framing:

"Contemporary framing of injustice and of political goals almost always draws on the larger societal definitions of relationships, of rights, and of responsibilities to highlight what is wrong with the current social order, and to suggest directions for change".

Repertoires of contention

All of the above factors, the nature of the political opportunity structure, a movement's mobilisation capacity and the way issues are framed, will impact on the types of strategies or "repertoires of contention" utilised by movement organisations and actors. Repertoires of contention refer to the variety of different modes of protest available within any given social context during a specific historical period (Tilly 1978). According to McCarthy, Smith and Zald, (1996: 292) the framing of issues and choice of strategies are also dependent on the arena being targeted. McCarthy et al. (ibid) distinguish between four types of arenas, each with their own agendas – the media agenda, the public agenda, the governmental agenda, and the electoral agenda – all with their own logic and processes. We could also include here the agenda of opponents, such as employers, investors and business lobby groups. Different strategic frames and strategies are required for activists to get their issue on these different agendas.

Unions as political actors

Trade unions have a long history of political engagement and have often been at the forefront of struggles for liberation and democracy. In many cases, labour movements have developed strong ties to liberation movements and subsequent political parties or formed political parties specifically designed to promote workers' interests in the political arena (Finnemore 2002). Therefore, it should come as no surprise that the labour movement has increasingly begun to mobilise collective power to challenge the growing levels of inequality caused by unfettered neo-liberal policies and to demand a voice in trade policy making at both the national and international level (see for example, O'Brien 2000; Shoch 2001; TUCA 2009).⁵

While union activities in many countries are constrained to some degree by the power of the state and employers, unions have a wide range of "power resources" available to them, including political power (Finnemore 2002: 72). Political power, like other sources of union power, arises from the pressure of collective action. This can be exercised by supporting political parties through votes or other resources, by mounting specific campaigns supported by public protests and mass action, by building alliances and mobilising community support around issues of common concern. Political power is frequently consolidated through the formation of federations to promote common interests "through political alliances, political lobbying and participation in bi-partite or tripartite structures" (Finnemore 2002: 73). It can also be used in combination with a wide range of other collective sources of power, including strikes, consumer boycotts and international solidarity, in order to gain access to new policy arenas, including trade policy (for a broader exploration of new sources of union power see Silver 2003, Chun 2005 and Webster, Lambert and Bezuidenhout 2008).

⁵ This phenomenon is also demonstrated by the country campaign case studies which form the second phase of this research project and which are referred to in Part II.

The policy making process

An understanding of national policy processes and knowledge about when and where decisions are made is essential for any group trying to intervene in these policy processes. The capacity to intervene early, when agendas are being set and policy is being formulated, is crucial. Once policy positions enjoy a consensus among policy makers, it can be much harder for any group to push policy in their own favoured direction. Expertise and credibility are two other important factors, especially in situations where policy makers themselves may lack expertise. This means having the capacity to carry out, or access, expert research in the particular policy area of interest and the expertise to make a convincing case for a particular policy position.

There are extensive bodies of literature which attempt to analyse and explain how the policy making process works (see for example, Dye 2005; Hill 1997; Sabatier 1999; Sutton 1999). For analytical purposes, public policy making is commonly divided into a number of discrete steps or processes. Dye (2005: 32) for example, divides policy making into six steps or processes: problem identification; agenda setting; policy formation; policy legitimation; policy implementation; and, policy evaluation. Each process involves various combinations of institutions and actors.⁶ However, as Dye (2005: 31) makes clear, the policy making process is rarely as orderly or straight forward as this. In real life policy making is rather messy, with considerable overlap of processes and participants.

As civil society organisations, trade unions can engage in these policy processes in a number of ways. Depending on their level of access to the policy making process and their policy engagement and mobilising capacity they can:

- Advocate – lobby and/or campaign for policy options they prefer and against those they oppose;
- Monitor – analyse the impact of policy positions, raise questions and hold policy makers accountable;
- Innovate and improve – critique policy issues and suggest ways of doing things differently; and
- Build capacity – develop and share strategies for intervening in policy arenas (Najam 1999; Vaille 2007).

They can also utilise formal structures for trade union engagement, such as tripartite and social dialogue arrangements, where these exist. In most cases, a combination of strategies will be most effective.

If policy intervention is to succeed, it must become a strategic priority for an organisation. This requires a long-term commitment to engagement in the policy area including: the ability to form partnerships and coalitions with other groups; to develop credibility (or at least non-excludability) with government agencies and policy makers; sufficient dedicated organisational and financial resources to

⁶ See Appendix 1, Dye's (2005) table illustrating policy making as a process.

support advocacy, including dedicated policy staff with political skills and policy expertise; sufficient communication skills and infrastructure to communicate with policy makers and members; an understanding of the political context and appropriate strategies i.e. political savvy; and technical expertise related to the particular public policy area, including the legislative process and other related policy issues (Reiseman et al., 2007: 15).

Trade policy making processes

Trade policy processes differ from most domestic issue areas in a number of respects. First of all, in the early stages the process involves preparation of a negotiating position vis-à-vis other governments. In order to maximise their bargaining power, trade negotiators prefer not to reveal bargaining positions to their counterparts. Furthermore, one of the main bargaining chip available to trade negotiators pushing for market access to specific domestic industries in foreign countries is the offer to allow their foreign counterparts access to their own market. Differences in areas of specialization can frequently lead to a situation where these counterparts are not interested in the same industries. Negotiators, therefore, may only be able to obtain export opportunity gains for one domestic industry by making another industry vulnerable to foreign competition.

Second, trade policy often overlaps with foreign policy, and economic concerns may be subordinated to strategic geo-political interests related to security and power issues – trade agreements may be more about security issues or gaining strategic partners than economic benefits. However, governments may not wish to make such issues ‘public’.⁷ This helps to explain why trade negotiations have traditionally been enshrouded in secrecy and why they continue to be mostly a prerogative of the executive. If negotiations were subject to parliamentary approval they would, in effect, become public and thus also open to the scrutiny of the broader public and trading partners.

Third, at the stage of ratification of trade agreements, the constitution or the political customs of many countries allow parliaments only to accept or reject the complete agreement. Amendments are ruled out. In addition, consultation processes tend to be highly selective and favour certain sectors of the business community while keeping other interested groups, and even some government departments, in the dark. In most cases, the consultation processes are not mandated and trade departments retain considerable autonomy and discretion over which groups to consult with and how such consultation takes place (Halle and Wolfe 2007).

However, since the mid-nineties, the increasing internationalisation of public policy through engagement in multilateral and bilateral trade agreements and growing concern about the negative impact of neo-liberal globalisation has generated considerable public debate about the ‘democratic deficit’ in trade

⁷ See Capling’s (2005) assessment of the Australian government’s negotiation of an FTA with the U.S., for example.

policy processes at the national and international level and has led to demands for greater transparency, democratic accountability and civil society participation (Capling and Nossal 2003).

PART I. MAPPING THE POLITICAL OPPORTUNITY STRUCTURE

As outlined above, the political opportunity structure (POS) is context specific. For trade unions, the responsiveness of a political system depends, among other factors, on the informal and formal channels available to voice their policy concerns to policy makers, on the party in power, on the government's perception of its vulnerability to social protest, on the degree of policy consensus among policy makers, on the opinion of the attentive public, etc. In other words, the opportunities are not fixed but always in flux, very much depending on perceptions (Tarrow 1998). For analytical purposes, we distinguish in the following between the political opportunity structure (POS), i.e. longer lasting features of the political system which allow for or constrain trade union involvement in trade policy making, and opportunities for political action that arise from specific situations. The latter are referred to as situational political opportunities (PO).

Given an ideal pluralist democratic system and a labour movement that can rightly claim to represent a majority of workers – be they employed, unemployed or retired – one would expect that the labour movement would be able to voice its concerns on trade issues to the legislature, (where a labour party would press its issues within the respective houses of parliament or congress), that its representatives would be invited to hearings at the respective ministries (even where a labour party was not in power), and that it could seek redress in court if it found that trade policies infringed on constitutional rights. Since workers (represented through the labour movement) usually constitute the majority of a population in post-agrarian societies, one would expect that the outcome of unions' political actions would result in a compromise that, at the least, would not violate core positions of the labour movement. In our sample countries we did not find such ideal conditions. Instead, we found that labour has scarcely a voice in issues of international trade by which it is affected.

Chapter 1: Tracing the National Trade Policy Process

1.1 *Which branch of government controls trade policy-making?*

The question of which branch of government controls the trade policy making process seems to be an important one for trade unions, in terms of opportunities for policy influence and access. For example, when the executive, i.e. the head of government and its ministries, controls the process without any major involvement of the legislature, then organised labour enjoys fewer opportunities to have its voice heard. This is because members of parliament or congress are usually more accessible to civil society organisations than the executive arm of government.

In our sample of countries we find that the legislatures are only marginally, if at all, involved in the trade policy making process. In Australia, for example, international trade agreements do not have to be ratified by parliament. While they must be tabled in parliament and referred to a special parliamentary committee, which can call for submissions and hold public inquiries,⁸ this committee can only make recommendations to the government. Its recommendations are not binding (McGuire 2009a).

In most of the other countries the legislative bodies have to ratify trade agreements and are thus, on paper, important actors in the process. In reality, however, the parliament's involvement is limited to the final stage of the process, the ratification of the trade agreement. At this stage of the process, parliamentarians have little choice but to vote the agreement 'up or down', i.e. accept it as it is, without change, or reject it completely. In many countries the legislature is restrained by (constitutional) law from making any modification to the agreement at this stage, for example in South Korea (Kim 2009a) and also in South Africa.⁹ Thus, while parliaments in many countries theoretically have the power to refuse to ratify an agreement, in practice they are reluctant to do so when this means undermining a carefully constructed international trade treaty. In the parliamentary systems where the government is composed of a majority in parliament, approval is mostly assured unless there is a break in the governing coalition. One exception is in South Korea where (as of November 2009) the National Assembly had not ratified the South Korea-U.S. Free Trade Agreement (KORUS FTA), despite it being concluded and signed in 2007 (Kim 2009a).¹⁰

In some countries which have a bicameral system (two houses or chambers of parliament), both chambers may have to approve a trade agreement. For example, in Brazil both the House of Representatives and the Federal Senate must ratify such agreements (Ruppert 2009). Where the ruling party in government does not have a majority in both houses, it may be more difficult for the executive to have a trade agreement ratified. In presidential systems, such as Brazil or the Philippines, the president may be faced by a majority of parties in opposition to his or her party in both houses of congress. Theoretically, this provides the legislative bodies with more power. In the Philippines, only the Senate has the right to ratify a treaty. However, as the 24 Senators are elected at large by the whole electorate, they tend to be less responsive to their constituency than the 250 representatives in the House of Representatives which are primarily elected by districts. Nonetheless, the Philippines's Senate was able to delay the ratification of the Japan-Philippine Economic Partnership Agreement (JPEPA) for

⁸ There is, however, a loophole. Cases in which the Minister for Foreign Affairs "certifies that a treaty is particularly urgent or sensitive, involving significant commercial, strategic or foreign policy interests" are excluded, and also bilateral agreements that conform to a model text previously approved by Cabinet (not usually trade agreements).

⁹ Under section 231 of the South African Constitution, Parliament is not empowered to amend international agreements, which are the Executive's prerogative (Draper 2004).

¹⁰ Nor had it been signed by the U.S. Congress (http://www.bilaterals.org/rubrique.php?id_rubrique=140).

more than two years, even though the agreement had already been signed by the executive (Viajar et al. 2009a and 2009b).

In addition, the executive often tries to circumvent parliament by claiming that a particular trade agreement does not need ratification. Within a number of countries in the study it is not clear which types of agreements require parliamentary ratification. The Moldovan government, for example, frequently only informs parliament about trade agreements after they are signed, claiming that the government's agreements do not require ratification. According to Moldovan law regarding international treaties, which also applies to free trade agreements, there are a number of ways treaties can be approved depending on their nature: they can be presented to the Parliament for ratification; they can be ratified by a government decision; or they can be presented to the Parliament for information only. However, inter-state trade agreements require parliament's ratification (Boincean 2009). In South Africa, annexes to trade agreements, which can contain important provisions, do not require parliamentary ratification (McGuire 2009b). In the Philippines, the government has attempted to circumvent the senate by negotiating 'executive agreements', i.e. international agreements negotiated between the president and a foreign country, especially in trade relations with China (Viajar et al. 2009).

In the case of the Japan Philippines Economic Partnership Agreement (JPEPA), the Philippine government had actually tried to avoid a senate vote by declaring this partnership agreement to be an 'executive agreement'. Such agreements need not be ratified by the senate, but they should, in theory, not contradict prior acts of congress. Civil society groups have successfully challenged this move in the Supreme Court. The Court ruled that the JPEPA was an 'international treaty' rather than an 'executive agreement' and thus, it needed the concurrence of the Senate before it could be implemented. (Viajar et al. 2009a/2009b). This rare case of trade policy contestation in court was successful on procedural rather than substantive grounds, as courts usually abstain from judgments on trade policies.

Another possibility for intervention appears to be at the level of implementing legislation, where required. Most international trade agreements require some complementary domestic legislation to give effect to the various provisions negotiated. However, as in the ratification process, parliamentarians are generally reluctant to refuse to pass implementing legislation as this, in effect, means rejecting the complete agreement. It is not usually possible at this stage to make changes to the negotiated agreement. One exception was in Australia where labour, then in opposition, was able to push for last minute changes to the Australia United States Free Trade Agreement (AUSFTA) at the implementation stage, in response to civil society concerns (McGuire 2009a). While these changes were relatively minor and did not challenge the main thrust of the agreement, they represent an important intervention in the trade negotiation process and at least indicate the 'possibility' of using implementing legislation as a means to reject an agreement, if the political will exists.

The exclusion of legislative bodies from the trade policy formulation process does not appear to be enshrined in the constitutions of the countries in the sample. Theoretically, the parliaments of these countries could initiate hearings on proposed trade legislation or agreements far ahead of the signing of international agreements and they could introduce new legislation to improve the transparency and openness of the trade negotiating process. This has happened, for example, in both Australia and, to a more limited extent, in South Korea. In 1996, the Howard Government introduced a range of reforms designed to overcome a perceived 'democracy deficit' in the treaty-making process and ensure greater transparency and public participation. These reforms established a Parliamentary Joint Standing Committee on Treaties (JSCOT) with power to review treaties, initiate hearings and make recommendations to government, and made it mandatory to table agreements in Parliament (after signing, but before ratification), as well as introducing a requirement to undertake a National Impact Assessment (NIA) of proposed trade agreements (McGuire 2009a). In 2004, the South Korean government introduced legislation to enhance transparency of the free trade agreement negotiating process and introduced a public hearing for building national consensus (Kim 2009a).

Such initiatives could make a substantial contribution to encouraging public debate on trade policy and negotiations but may, in themselves, not result in any real consultation (as the Australian and South Korean cases have subsequently shown). The fact that the parties in government enjoy a majority in the legislative bodies forestalls this possibility in most cases. However, the parliaments of Germany and Australia have recently raised their 'voice' before the conclusion of an international treaty.¹¹

In a democratic society, with high esteem for government accountability, the frequent usurpation of trade policy powers by the executive can actually open up a political opportunity. The fact that trade negotiations take place in secret can be publicised in order to create a scandal and thereby de-legitimise the content of the negotiations (see Chapter 3.1 for details of union strategies).

Of course, strengthening the parliament in relation to the government on issues important to labour is a lot easier if labour has strong friendly relations to a party in parliament, such as the Workers' Party (*Partido dos Trabalhadores* - PT) in Brazil, the Social Democratic Party (*Sozialdemokratische Partei Deutschlands* - SPD) in Germany and the African National Congress (ANC) in South Africa. The labour-friendly party may nevertheless take a different position on trade issues. Up until recently, the ANC in South Africa, for example, has pursued a liberalising focus at odds with the aims of the labour movement (McGuire 2009b). There is a danger that a close relationship between unions and a political party could actually stifle debate and close opportunities, especially where unions are reluctant to publicly challenge the political party for fear of damaging the alliance or bringing the party out of favour, thereby diminishing its power.

¹¹ In both countries concerns were raised in the Parliament about the GATS negotiations, mainly in response to considerable union and civil society pressure.

In the cases of Barbados and Germany, much of the trade negotiating authority has been delegated upwards to the Caribbean Regional Negotiating Machinery (CRNM) and the European Commission (EC) respectively. These supranational bodies are further removed from ordinary citizens and thus less accessible to labour. Trade unions in Barbados do have access to the CRNM through the Technical Working Group, but participation is limited to an advisory role. They can put forward their views, but are not engaged directly in the negotiating process (Deane 2009). Within the European Union (EU), trade negotiations are conducted by the EU Commissioner for trade,¹² in consultation with the so-called “Article 133 Committee”, in which trade negotiation positions are discussed with the government representatives of member states. With the exception of Austria, where the state sponsored Federal Chamber of Labour (Arbeiterkammer) is part of the Austrian delegation¹³, representatives of the trade union movement have no access to this consultative body. They can turn to the EU parliament, but its competencies in the field of trade are even less pronounced than for most legislatures of the member states. They basically have to rely on the consultative initiatives of the EU Directorate-General for Trade (DG Trade)¹⁴, which are very much skewed in favour of business (Deckwirth 2005). South African unions also need to find ways to influence regional supranational institutions which have been put into place as a result of the new Southern African Customs Union (SACU) agreement, which came into force in July 2004. This means, in theory, that decisions over tariffs and trade remedies will be taken at the SACU level by a Council of Ministers (Draper 2007: 253).

Within most governments in the sample, neither the ministry nor the government department in charge of trade negotiations usually has any ties to the labour movement. Departmental staff tend to be more receptive to the business community’s position on trade issues and can be considered primarily pro-business. Malaysia’s Ministry of International Trade and Industry (MITI), the Philippines’ Department of Trade and Industry (DTI) and the German Ministry with responsibility for trade, the Federal Ministry of Economics and Technology (BMWi), all fit this characterization. While Australia’s Department of Foreign Affairs and Trade (DFAT) did for a time introduce a WTO advisory committee with representatives of broader civil society, including a trade union representative, most of its advisory bodies consist exclusively of representatives from big business and industry.¹⁵

¹² With the de-nationalisation of the European decision making process in trade policy, the European Commission gained relevance and political power. Those trying to influence trade now target the Directorate General for Trade rather than national governments (Deckwirth 2005: 13).

¹³ Austrian Chamber of Labour – Brussels Office (<http://www.akeuropa.eu/en/About-AKEU/>)

¹⁴ The Directorate General for Trade of the European Commission is in charge of implementing the common trade policy of the European Union (<http://ec.europa.eu/trade/about/>)

¹⁵ Doubts were raised by the labour representative on this advisory body about the effectiveness of this body in terms of consultation. It has since been disbanded – although the reasons are not clear.

In South Africa, however, organised business has not established hegemony over government in the field of trade policy and business lacks the degree of “commercial intelligence” found in many developed countries, and which frequently plays a big role in influencing government positions (Draper 2007: 277). Both organised business and organised labour have a formal relationship with the South African Department of Trade and Industry (DTI) through the tripartite economic institution, the National Economic Development and Labour Council (NEDLAC). Unions are very active in trying to influence trade policy positions within this arena. Political ties and connections to the trade ministry and officials within the DTI also exist through the main union federation’s alliance with the ruling government party (McGuire 2009b). Exceptions can also be found in countries where a change in the governing party leads to a broad-based exchange of personnel in ministry leadership positions. The assumption of power by a labour friendly party in these countries may be accompanied by a more labour friendly (or at least accessible) ministry and department of trade, as in Brazil for example (see details in section 2.1 below). However, access should not be equated automatically with policy influence. In Australia, for example, the new trade minister in the incoming labour government comes from the union movement (he is a former president of the Australian Council of Trade Unions - ACTU). While this has no doubt improved informal and formal access for unions, it has not necessarily resulted in policy positions more in line with the trade unions’ preferences. At this stage, the Australian Trade Minister seems to be treading the same trade liberalisation path as his predecessor and, as there have been no major changes within the bureaucracy, it is unlikely that a significant shift in attitude towards trade within DFAT has occurred (McGuire 2009a).

Governments, however, are not monolithic. While one ministry may take the lead on trade negotiations, usually other ministries are involved in interagency decision making processes. This is especially true in the case of free trade agreements which cover many policy areas and therefore touch upon the jurisdiction of many ministries. For example, during the not yet concluded U.S.-Malaysia free trade agreement, the Malaysian MITI coordinated the overall negotiations but respective ministries and agencies were responsible for specific areas of negotiation. In addition, the Human Resource Ministry was consulted in relation to labour issues (Rajeswari 2009). In the Philippines, the National Economic and Development Authority (NEDA), the body responsible for the formulation of social and economic policies, has traditionally been more inclined to consider developmental issues (Viajar et al. 2009a). Interagency consultations can provide opportunities for veto or deal-making (if other social forces and related ministries are perceived to be hurt by further liberalisation). In Australia, the potential impact of the AUSFTA on a wide spectrum of policy areas forced DFAT to widen its consultation with other ministries and opened up many more points for pressure and intervention by social forces (McGuire 2009). However, while the involvement of many ministries may open points of access for civil society groups, in the case of the Philippines it was perceived to be more a point

of closure, due to a lack of transparency in the consultation and policy formation process, which made policy intervention difficult (Viajar et al. 2009a).

External forces, such as transparency requirements of trading partners, can also impact on government practices and open up opportunities for civil society participation. The requirement for initial trade negotiating positions to be submitted to Congress in the U.S., for example, made it harder for the governments of Malaysia, South Korea and Australia to keep details of FTA negotiations with the U.S. secret (Rajeswari 2009; Kim 2009; McGuire 2009a). In Australia, this information was used by unions and civil society groups to put pressure on the Australian government's position over the course of negotiations (McGuire 2009a). Unions in all three countries also benefited from the active role which the U.S. labour federation (the AFL-CIO) plays in the trade policy arena. However, in most cases negotiations are conducted in a cloud of secrecy, and final negotiation positions are only clear when the agreement has already been signed and is presented to parliament for ratification.

There may also be opportunities for coalitions with governments at the sub-national level, particularly where trade agreements have the potential to impact on the capacity of these levels of government to supply and regulate services, as with the General Agreement on Trade in Services (GATS), for example. Local and regional councils across Europe and in Canada, Australia and New Zealand have campaigned vigorously to have public services excluded from the GATS treaty and to protect their right to regulate essential services such as water and energy, which are often provided and regulated at this level (McGuire 2005:36). In Germany, GATS was seen as threatening the right of the federal government and its Länder (federal states) to implement cultural and audio-visual policies designed to preserve heritage and cultural diversity. Those opposed to GATS were able to appeal to Article 133 of the European Community (EC) Treaty, which gives member states shared competency with the EC in regard to negotiation and conclusion of agreements relating to certain issues, such as the trade in cultural and audio visual services. In Germany, this treaty rule would apply both to the federal level of government and to the Länder (federal states) as they have responsibility for regulation and implementation of audio-visual and cultural policies (Enders et al. 2003). Thus, local governments are natural allies of unions in the fight to influence trade policy. In addition, local governments are often significant employers in public and essential services, so the potential for member involvement is significant.

1.2 The nature of civil society engagement in trade policy making

Executive dominance of trade does not necessarily mean the exclusion of labour. In some cases, labour has institutional access, and ministries in many countries hold hearings or conduct other forms of civil society dialogue – although these are usually dominated by business associations. In our sample we find a wide spectrum of forms of consultation: very limited; with only very select groups from

the business community; with select groups, including labour; and pluralistic (theoretically), including many points of access for civil society organisations.

Very limited consultation

Unions in Serbia are not consulted on trade policy and have been largely excluded from the reform processes designed to restructure trade policy and processes in conformation with WTO accession and EU membership requirements. The government commonly disregards recommendations by trade unions on economic matters and defends its position by referring to the demands of international institutions (EU, IMF, World Bank and WTO). Laws governing trade negotiations have yet to be introduced and no other mechanisms for civil society dialogue on trade exist (Vukojcic and Ristic 2009).

The situation is similar in Moldova, despite the enactment of laws in 2005 that foresee civil society consultations by parliament and the establishment in 2008 of a permanent council of experts, the National Participation Council, which includes experts from civil society. The government is also required to post legislative drafts on the Parliament's official website for comments from civil society. While these are important gains, in practice they have not, as yet, led to consultation. Since parliament only plays a small role in the trade policy-making process, the cooperation between parliament and civil society has little meaning in the field of trade. The government limits its dealings with civil society groups to training sessions: it does not consult NGOs on drafts of trade agreements, and the full text of trade agreements is only published once they have been signed (Boincean 2009).

Selective consultation - mainly with business interests

Most common across countries studied were close consultations with the business community, whereby some business interests may have greater access than others. In South Korea, there is a civilian advisory group but the government nominates only free trade friendly representatives to it (Kim 2009a). In Brazil, no formal institutional body exists through which civil society can participate in trade policy debates and, in the past, consultations have tended to be limited to business representatives. The scenario has changed since Lula's election and labour has started to engage in trade-related discussions with the government (Ruppert 2009). However, while the Lula government has opened more spaces for civil society (including labour) consultation and participation in debates over trade negotiating positions, these tend to be non-institutionalised and therefore subject to 'preferential' selection (de Motta Veiga 2007).

The situation is mostly the same in Australia, where the multiple advisory and consultative bodies are populated by representatives from big business, industry and agriculture. For a brief period, as a result of union and civil society pressure, a WTO advisory body was set up, which included representatives from civil society and labour. However, it was regarded by these representatives as tokenistic at best. No equivalent consultative mechanism exists for regional and bilateral trade agreements. However, as a result of the mid 1990 reforms (mentioned above), proposed trade agreements are publicly announced in newspapers and posted

on the DFAT website and submissions are called from interested parties. DFAT also holds formal briefings on trade negotiations for 'stakeholders', including trade unions and NGOs, and sometimes holds public forums. A special Senate committee (JSCOT) has been established which reviews all international treaties, and other parliamentary inquiries can be established on request from the Senate or House of Representatives. These committees and inquiries provide civil society access through submissions and public hearings. In the lead up to and during the negotiations for the AUSFTA, for example, four separate Senate inquiries were held in Australia, one of which included the impact of GATS. However, as the government is free to ignore the recommendations from these inquiries they do not necessarily equal real consultation or influence; especially if there is little likelihood of trade becoming an election issue (McGuire 2009a).

Selective consultation which includes labour

Only in a few countries does labour enjoy privileged access to government, more or less regardless of the party in power. These are countries with an institutionalized social dialogue process on economic matters. Among them we find South Africa, which has a specific tri-partite institution, the National Economic Development and Labour Council (NEDLAC), through which organised labour has formal input into trade policy making and negotiating positions, and Barbados, where unions are able to put forward their position through social partnership arrangements but which, in practice, results only in limited real input into trade negotiating positions.

While trade unions in Germany have been invited to tripartite forums on macroeconomic policies from time to time, trade policies have not been part of the dialogue. This is probably not the result of intentional exclusion but more likely arises from the fact that the major trade unions have their base in export-oriented industries and therefore generally support liberal trade policies. Only recently, during WTO negotiations on the GATS, did some German unions have a different view from the government's, at which point they had to fight hard for information from the ministry, even under a social democratic government. The ministry responsible for trade was not used to dealing with labour on these issues. At the EU level, the European Trade Union Confederation (ETUC), which includes the German union federation, the Deutscher Gewerkschaftsbund (DGB), has consultation rights as a social partner and lobbies the DG Trade staff on a regular basis (EC 2009).

Pluralistic including many civil society organisations

In principle, the trade policy process in the Philippines features many points of access for civil society groups. Unlike other countries, there is no single trade office that deals with trade policy formation and negotiation. Instead, formulation of trade policy positions and negotiating strategies during bilateral and multilateral trade negotiations is dispersed among many government agencies, with the Department of Trade and Industry (DTI) playing more of a coordination role. The various ministries in this process are expected to consult with their respective producers and service providers or their constituencies regarding

trade-related issues. The ministries, however, enjoy discretionary powers over the forms of consultation. Hearings are not always open to the public: most of them involve mainly business representatives and even when civil society groups are invited, no meaningful exchange of ideas is allowed to take place. As one interviewed expert said: “Consultations are held for purposes of reporting that such activity took place” (Viajar et al. 2009a). The latter is also true for South Korea, where public hearings are just a formality to conform to the letter but not the spirit of the law (Kim 2009a).

Potential mechanisms for broad consultation also exist in Nigeria. A so-called National Focal Point has been established by the Ministry of Commerce and Industry as a forum for consultation on trade issues among relevant government ministries, agencies, and the private sector, including civil society. The first draft of a trade agreement or act is made public, comments are invited and after the second draft, public hearings are held. However, as of yet, trade unions have not made much use of this forum (James 2009). Other possibilities for civil society consultation exist in specific trade negotiation processes, such as the Non-State Actor consultation provisions in the negotiations for the Economic Partnership Agreement (EPA) with the European Union (James and Odigie 2009).

1.3 Channels of access to governmental and political actors

Beyond formal channels of consultation and civil society dialogue, unions may also have informal channels of access to governmental and political actors. These informal channels of access can play a valuable role in helping unions put their concerns on the political and legislative agenda, particularly where they are shut out of the formal policy making process. In terms of the nature of trade union engagement with governmental actors and accessibility to decision makers/political actors, we found great variety across cases.

Many channels of access

While all three union federations in South Africa have institutionalised access through NEDLAC, the Congress of South African Trade Unions (COSATU), which is the dominant union confederation, also has direct channels of access to ministers and key decision makers through its formal alliance with the governing ANC and its strength as a union movement. There are also considerable opportunities for informal access due to the high percentage of former unionists who have become members of parliament and subsequently government ministers. However, access does not always translate into influence. Under the former Mbeki-led ANC government, COSATU struggled to get the government to consider its concerns without significant member mobilisation, despite the formal alliance (McGuire 2009b).

In Brazil, the main union federation, Central Única dos Trabalhadores (CUT), has close contact with the government due to the Workers Party (PT) being in power. While there are no institutionalised forms of access to trade policy making, CUT has both formal and informal channels of access to government officials and political actors. The government responds to letters and trade officials are willing

to meet with CUT representatives. The CUT is invited to participate in governmental meetings and discuss current negotiations. Key governmental actors accept invitations to the federation's office in order to give briefings about the state of trade negotiations. In addition, since 2003, CUT representatives are routinely included in the official Brazilian delegation to WTO Ministerial Conferences (Ruppert 2009).

Unions in Barbados also have relatively good relations with government and institutionalised access to government and policy decision makers through tripartite social partnership arrangements. The Barbados Workers' Union (BWU), which is the strongest union in the Congress of Trade Unions and Staff Associations of Barbados (CTUSB) has solid political connections and relationships with government as well as considerable expertise in international affairs through its well-connected leadership (Deane 2009a).

Some channels of access

As a political and social entity, the Nigeria Labour Congress (NLC) has substantial influence in Nigeria and has a close relationship to the labour party (in opposition). Trade unions have both formal and informal contact and meetings with political parties and political actors in the form of lobbying meetings or informal discussions (James 2009).

In the Philippines, access to the legislative and executive branches depends largely on party affiliations and government connections. The Alliance of Progressive Labour (APL), for example, has a direct link with a small political party called Akbayan (Citizens Action Party) which has one seat in the House of Representatives. The APL, together with allied labour organisations such as MAKABAYAN and other social movements, coordinates with Akbayan on its legislative lobbying and trade campaigns. Other labour centres, such as the Trade Union Congress of the Philippines (TUCP), have formal representation in the government's consultative process of trade policy formulation. The TUCP is also part of the Joint Consultative Committee on NAMA¹⁶ (JCC-NAMA) and works together with NUWHRAIN-APL within the National Anti-Poverty Commission, a government agency which advances trade policy recommendations affecting the labour sector. Unions also have access through their participation in the FairTrade Alliance, which is led by a prominent former Senator who is well respected in the Philippine legislature. This informal influence worked well in attempts to pressure the government to renegotiate the Japan Philippines Economic Partnership Agreement (JPEPA). Unions also maintain relations with legislators and government officials who are considered sympathetic or open to the perspectives of labour organizations (Viajar et al. 2009a).

In Australia, during the period studied, there was a very union-hostile government in power at the federal level and therefore little informal access for unions. Ministers and DFAT officials responded to formal letters and met with representatives from the ACTU and affiliate unions on request but were not open

¹⁶ Non Agricultural Market Access (NAMA) negotiations in the WTO.

to alternative policy positions. Unions have access to the legislature through their alignment with the Australian Labor Party (ALP),¹⁷ which was in opposition until recently. Many unions are formally affiliated to the ALP at the state branch level, which provides an avenue for putting their policy positions on the Labor party agenda. While these policy positions do not commit the ALP to anything once it is in government, they potentially provide some leverage for holding the Party to account. There are also considerable opportunities for informal access to the ALP due to the high percentage of former unionists who have become members of parliament and subsequently opposition or government ministers (McGuire 2009a).

In Germany, unions have no formal allegiance to political parties but traditionally have close contacts with the SPD which was, until recently, a coalition partner in government. However, it has no close contacts in the ministry responsible for trade. At the national level, there are no formal channels for engagement on trade except for lobbying ministers and members of parliament through letter writing. At the European level, unions have the possibility of writing submissions and participating in public hearings called by various parliamentary committees. As mentioned above, they also have formal consultation rights as social partners within the EC through the DGB's affiliation with the ETUC.

Little or no access

In South Korea, unions generally have little access to government, regardless of their party affiliations. The Korean Confederation of Trade Unions (KCTU) is aligned with the labour party (in opposition) but has no access to the government or official trade policy process. However, even the federation which is aligned with government, the Federation of Korean Trade Unions (FKTU), did not have access to trade making policy or decision makers, even though some of its members have become government officers (Kim 2009a). Unions in Malaysia have also never been 'invited' into the trade negotiation process. A few formal processes for consultation exist but are not well utilised and unions generally only learn of issues or policies after they come into enforcement (Rajeswari 2009).

In Moldova (Boincean 2009) and Serbia (Vukojicic and Ristic 2009), trade union federations appear to have little access, either through formal processes or through connections with governmental or political actors. Even where some consultation rights exist, such as in Moldova, trade unions are not always informed about proposed agreements, programmes or laws.

1.4 Trade policy legacy

As important as channels of access to government are, they are of little use if the messages sent through these channels fall on deaf ears. Access does not equal influence. A government's receptiveness to trade union demands depends on many factors including its re-election calculations and the strength of the dominant policy discourse. If the labour movement is deemed to be a decisive

¹⁷ The Labor in the Australian Labor Party is spelled in the U.S. style to distinguish it from the labour movement more generally.

force in upcoming elections then the government may be accommodating to labour's demands, regardless of prior established channels of communication. However, outside of these usually rare moments, the government's responsiveness will also depend on the degree to which the demands raised by labour resonate with the ministerial and departmental staff. If the government has pursued liberalisation policies for a long period, then it is highly unlikely that proposals which question these policies in general (as opposed to those calling for an exception in favour of a specific social group) will be well received by the civil servants in charge of trade policy formation and negotiations. Thus, another dimension of the political opportunity structure is the history and the extent of the government's consensus on trade policy. Unless previous policies have been discredited among a great majority of opinion leaders, it is more likely that policy proposals in line with the past consensus will effectively resonate with policy makers.

For German trade unionists it is therefore particularly difficult to challenge the tenets of trade liberalisation as these policies have long been pursued and have been supported by most trade unions. Even the campaign against GATS did not challenge trade liberalisation in general, only its extension to sectors previously not considered to engage in trade, i.e. public services. With the exception of Germany, all other countries in the study have pursued protectionist policies up until the neo-liberal shift towards free markets starting in the early 1980s.

The shift has been most pronounced in the transformation societies of Moldova (Boincean 2009) and Serbia (Vukojicic and Ristic 2009) and also very noticeable in South Africa after the overthrow of apartheid (McGuire 2009b). In these cases, the trade liberalisation discourses of international organisations such as the IMF, the World Bank and the WTO have played a major role, due to the push for these countries to be integrated into international trade and economic regimes, and their desire to attract foreign investment. When faced with criticism, governments have defended their position in relation to these requirements.

While less dramatic, there was also a major shift in Australia during this time. This shift was ushered in by a labour government in the early 1980s and, at the time, enjoyed broad support of large sections of the trade union movement. It was accompanied by sweeping reforms in the labour market which effectively decentralised collective bargaining while 'disciplining' workers. The trade-off for unions was a say in policy making and an increase in the social wage for workers. While the 'Accord', as it is known,¹⁸ has since fallen out of favour, the pursuit of national interest through trade liberalisation has been consistently pursued, regardless of the political party in power (McGuire 2009a).

¹⁸ The 'Prices and Incomes Accord' between the Australian Labor Party (ALP), the Federal Labor Government and the ACTU marked an essentially corporatist period of policy making for unions and government.

Insofar as trade unions in these countries did not support liberalisation during this phase, their message fell mostly on deaf ears in the ministries, but also in the media. Brazil represents something of an exception. Even under the neo-liberal governments of Collor de Mello, Franco and Cardoso, counter forces in government and industry prevented a complete opening of the economy. The broad based discrediting of neo-liberalism, starting with the Asian crisis, heightened by the protest against the WTO in Seattle, the dot-com bubble bust, and the current world economic crisis opened up windows of resistance, especially concerning free trade agreements, as they cover many policy fields (Ruppert 2009 and Hachmann 2009).

Chapter 2: Situational Political Opportunities

Beyond channels of access and discursive receptivity, political opportunities depend on situational factors such as the party in power, the extent of elite consensus on policy issues and the existence of elite allies. Electoral cycles can also provide “windows of opportunity to bring issues to public attention and to the attention of elites”. It can be much easier to raise the level of public debate on policy matters during elections, and governments are likely to be more receptive than at other times (McCarthy et al.1996: 299).

2.1 *Relationship to political parties*

A labour friendly party in government can compensate for the lack of institutional channels of communication through personal contacts between the leadership of the trade unions and the party. It is also likely that policy ideas proposed by trade unions are at least understood by party officials and party members in government. In South Africa, for example, COSATU’s alliance with the ruling ANC provides multiple avenues of access to government, in addition to existing institutional channels (McGuire 2009b).

Nevertheless, the labour movement should not expect the support of a labour friendly government on trade policy issues. A labour (or social democratic) party in government tends to avoid alienating the representatives of capital in order to stay in power (Beck and Scherrer 2005). The social-democratic government of Schröder (1998-2005) in Germany is a case in point, but also the ANC government under Mbeki in South Africa (1999-2008)¹⁹, and to a lesser extent Lula’s PT government in Brazil. Furthermore, in most political systems an incoming labour government will not be able to replace major layers of civil servants with its own members. In Germany, the ministry in charge of trade (the BMWI) kept its liberal outlook also under a social democratic minister (Beck and Scherrer 2005) and in Australia there appears to be little shift in trade policy under the incoming labour government (McGuire 2009a). In Brazil, the situation is somewhat different. Here the Lula government implemented considerable changes within the institutional

¹⁹ This may improve with the new ANC government. The current trade minister is reportedly much more receptive to the labour position and many ‘progressive’ left unionists have been appointed to positions of influence (McGuire 2009b).

bodies responsible for trade policy making²⁰ and opened more spaces for civil society (including labour) consultation and participation in debates over trade negotiating positions (de Motta Veiga 2007). Whether this represents a real capacity for unions to influence the trade policy agenda or whether it represents an 'instrumental' use of civil society to legitimise the government's position is an open question. Attempts by unions to link trade and labour, for example, continue to be resisted (ibid). In general, the broad consensus which trade liberalization enjoys among experts in most countries is a further hindrance in any shift towards policy more in favour of workers.

2.2 Extent of elite consensus

Political opportunities increase for political 'outsiders' if the 'insiders' disagree strongly among each other in the respective policy field. President Lula would probably not have succeeded in keeping Brazil outside a U.S. dominated Free Trade Agreement of the Americas (FTAA) without the support of a sizable fraction of Brazilian manufacturing capital (Hachmann 2009). Also, the Brazilian union and civil society campaign against the inclusion of education in GATS was supported by the resistance of key education policy makers to the commercialisation of their field (Verger and Novelli 2009). In South Korea, although consensus among elites is normally relatively strong, the debate over the free trade agreement with the U.S. divided political parties and lawmakers, even within the ruling party. These divisions, combined with the Korean government's lack of preparation in relation to the negotiations, strengthened public resistance to the agreement and promoted public consensus about the need to approach the agreement with caution (Kim 2009/2009a).

In Australia, we find a relatively strong consensus on trade liberalisation between government and business regardless of the party in power. However, during the campaign against the AUSFTA in Australia, campaigners were able to take advantage of resistance from key policy makers in the fields of health and culture, concerned about the impact of further deregulation and liberalisation on health benefits and cultural identity (McGuire 2009a). In South Africa, the relatively weak bonds between business and government have enabled labour to forge an alliance with manufacturing interests, which has been a major factor in strengthening government resistance to deeper tariff cuts demanded as part of the Non-Agricultural Market Access (NAMA) negotiations in the WTO (McGuire 2009b).

2.3 Windows of opportunities in the policy process

Insofar as it underpins trade negotiation positions, the formation of trade policy itself is rather hidden and generally out of reach of unions, unless they have access through institutionalised forms of tripartism or strong links with the political party in power. Even then it can be difficult for unions to get their

²⁰ The Ministry of Foreign Affairs monopoly in trade negotiations was eroded, for example, and other government agencies were included in the negotiation processes.

concerns on the agenda. Where policy reviews do occur, they generally do not attract the same level of public attention and debate as reviews of health or education policy, for example.

However the negotiation of free trade agreements, whether at the multilateral, regional or bi-lateral level, provides a number of points of access and opportunities for intervention and influence.²¹ When governments announce that they propose to enter into a trade agreement, they may call for submissions or hold public hearings on the feasibility of entering into such an agreement, or at the least, they may advertise it in newspapers or place it on the department of trade's website (where one exists). This can provide an opportunity for unions to state their position and raise concerns through submissions to the department of trade, lobbying of members of parliament and writing press releases and articles to gain media attention. Announcements of proposed trade agreements usually attract high media interest. Even where there is no opportunity for consultation, this fact in itself can provide an opportunity to create scandal over the secrecy of the government's intentions and the lack of transparency in the trade negotiation process. In the case of substantial negative feedback, a government may decide not to proceed with a trade deal, particularly if there is a possibility of it becoming an election issue.

Once negotiations have started, there are a number of stages in the negotiation process which may receive considerable media and therefore public attention, including official meetings by heads of government and successive rounds of negotiations. Usually the content of the negotiations are relatively secret, but where negotiating 'ambitions' and outcomes are required to be made public or at least tabled in Congress, as is the case in the U.S.²², or where they are leaked, as was the case with the EU Services demands during the GATS negotiations (McGuire 2009a), this can provide a powerful opportunity for raising public concern and support. Where concerns are ignored or fall on deaf ears, the opportunity arises for cross-border solidarity and joint action through the creation of scandal around negotiating positions or the push for inclusion of labour rights and/or social clauses in trade agreements. As mentioned above, the timing of the electoral cycle can play an important role as it is generally easier to bring issues to the attention of the public and to elites in the lead up to elections (McCarthy 1996: 299). However, this depends on the sensitivity of the government to public pressure and the degree of elite consensus on trade. Also, there are no guarantees that issues supported by a political party during an election campaign will be implemented once the party is elected to government.

²¹ For a list of potential 'Windows of Opportunity' in trade negotiation processes see Appendix 2.

²² Members of Congress on the respective committees are regularly consulted by the administration.

2.4 *Expanding the political opportunity structure*

As mentioned above, national opportunity structures are not static. They can vary according to changes in the political and social context. Nor are national actors passive in this process. They can act within existing opportunity structures, but they can also create new or expand existing structures (Tarrow 1996; Sikkink 2004). The South African labour movement's actions in regard to NEDLAC are a good example of this. It was labour's push for a counterforce in socio-economic policy making that contributed to the creation of NEDLAC. As a result, labour had to expand its own levels of policy expertise in order to participate actively in this forum. This led directly to COSATU establishing a dedicated policy unit with experts for each corresponding chamber of NEDLAC, including a Trade and Industry Policy Coordinator (McGuire 2009b).

Trade negotiations themselves can also change and expand the political opportunity structure. The current NAMA negotiations in the WTO are a case in point. These negotiations and the demands on developing countries to substantially cut tariffs across a wide range of sensitive industries have led to substantial union action in affected countries (including three of our country case studies – Brazil, the Philippines and South Africa), the formation of new transnational union coalitions and, in some cases, changes to institutional structures and trade policy at the national level.

The formation of the NAMA 11 governments' group in the WTO, just prior to the Hong Kong WTO Ministerial at the end of 2005, provided an opportunity structure for the formation of a transnational union alliance between union movements in the respective countries, barely a year later. Unions in the NAMA 11 trade union group, as it is known, have effectively used this alliance to develop a common position with regard to the NAMA negotiations, and exerted considerable influence on negotiating positions at the national as well as the international level (for more on the NAMA 11 trade union group see, Busser 2009; Castro 2009).²³ At a regional level, these negotiations and the Doha Round negotiations more broadly, prompted the formation in 2007 of a South American based trade union coalition, the sindicatos OMC trade union group, which articulates with the NAMA 11 trade union group, but also includes on its agenda the process of free trade agreements and investment treaties (TUCA 2009).

In South Africa, union action in relation to the NAMA negotiations has resulted in deeper government engagement with the labour movement in relation to trade policy (especially as it impacts on industrial policy), the establishment of new consultation structures within NEDLAC, and changes in the government's trade policy position. The intensification of demands for tariff reductions and the perceived threat to local industries has built cooperation between industry and

²³ However, a cautionary tale: unions are not always the initiators of such engagement. According to a long-time union activist, trade union involvement in NAMA issues was prompted largely by NGO/civil society pleas for unions to get involved in the core area of industry, where the more agriculturally focused NGOs had less sway.

labour within NEDLAC and helped bring about a shift from more or less unilateral liberalisation to a more industrially led trade policy position. At the same time, the work demands produced by the highly complex and technical nature of the WTO negotiations (especially NAMA) have led to further capacity building within unions and the formation of special NEDLAC task groups on NAMA, services negotiations, non-trade barriers, and trade and the environment. More recently, special 'Bi-annual Strategic Sessions' have been introduced by the minister for trade, which open up further avenues for labour influence at a more strategic level (McGuire 2009b).

In Australia, civil society agitation over the lack of transparency of the WTO negotiations and the lack of consultation by the Australian government led to the formation of a new consultative body which included labour and civil society representation. In addition, labour representatives were included in some government delegations to WTO ministerials. However, unlike the South African situation, these measures were judged by some participants in the Australian delegations as rather 'tokenistic' because they did not provide any real opportunity for influencing the government's negotiating position. They did, however, provide opportunities for building alliances and networking with other civil society groups at both the national and international levels. In the case of the EU, the inclusion of labour delegates in the WTO delegation was judged as more central and did allow for both influence and better information flows at the Ministerials (McGuire 2009a).

In Brazil, the widespread mobilisation of unions and civil society during negotiations of the FTAA led to changes in the Brazilian trade policy landscape. While this did not lead to the creation of a fully institutionalised relationship as in South Africa, it did lead to the creation of new mechanisms of consultation between the state and civil society (de Motta Veiga 2007; Hachmann 2009).

Chapter 3: Capacity for State Repression

As outlined in the theoretical framework above, the level of political opportunity structure available to social movement actors also depends on the "state's capacity and propensity for state repression" (McAdam et al.1996: 27). McAdam sees the capacity and propensity for state repression as a significant factor in shaping "the level and nature of movement activity" (ibid: 28). While this topic was not explored in depth in our case studies, it is clear that unions and other civil society actors in a number of countries had to contend with a range of repressive tendencies, from bans on political or social strike action by unions to the use of outright violence against protestors.

Repression can be defined as forcibly preventing action. According to Tilly (1978), repressive political environments can raise the costs of collective action and mobilisation, especially for core groups, and therefore impact heavily on other dimensions of political opportunity structure. On the other hand, tolerant or facilitative political environments can enable, or even encourage particular forms of mobilisation. For example, in South Korea, the Roh government has actively

encouraged 'middle-class' citizen's groups while brutally suppressing those who protest against neo-liberalism (Kim 2009b).

The South Korean government has repeatedly demonstrated its willingness to use violent means to repress union and social protest. During the demonstrations against the KORUS FTA many protestors were arrested by the Roh administration, including key campaign leaders, and for many activists warrants and arrests were a harsh reality. The government also suppressed public participation by warning farmers and workers not to join anti-FTA activities and banning rallies organised by the Korean Alliance against the KORUS FTA (KOA) because of previous instances of violence at some local rallies (Kim 2009b).

In South Africa, a growing climate of anti-union repression makes it increasingly difficult for unions to strike in support of social and industrial issues. In recent years, both employers and the government have tried to obtain injunctions to stop strikes, and police violence against striking workers has increased. Police increasingly use tear gas and rubber bullets against striking and/or protesting workers and a number of trade unionists have been arrested or, in some cases, killed (IUR 2009: 18-19).

In Australia, restrictions on the right to strike prevent unions from engaging in social strikes in support of a union's agenda, which would theoretically include strikes against government trade policy and negotiations. Labour laws also ban secondary strikes in support of cross-border union action. Unprotected strikes risk severe penalties and fines for unions (Neilson 2009: 7). Of course this does not prevent union engagement in social protest. Australian unions have demonstrated their capacity to utilise a range of social movement campaign strategies in the face of a hostile government, including public demonstrations, rallies, court room occupations, and the direct involvement of non-union community members to achieve their aims (Gentile and Tarrow 2009). Although demonstrations in Australia are generally peaceful, Australian police have shown that they are prepared to use violence against demonstrators, as was seen in the M1 protests against the World Economic Forum (WEF) in Melbourne in 2000.

In Germany, there is a propensity for state repression of radical or unauthorised social protest (Kriesi, Koopmans, Duyvendak, and Giugni 1992). According to Kriesi et al, this, combined with the fact that there are (theoretically) many points of formal access to government, tends to encourage generally moderate forms of social protest but with radicalisation of a small violent minority. This in turn can be used as a justification for violent repression of social movement action.

PART II. IDENTIFYING TRADE UNION CAPACITY TO INTERVENE

As can be seen from the above analysis, external contextual factors are clearly important in facilitating or constraining union capacity to intervene in the trade policy process at the national level. While the degree of opportunity varies considerably across countries in the study, in all countries there appears to exist at least some possibilities for unions to intervene in the trade policy process. However, opportunity and access alone are not sufficient. Unions must regard trade as an important issue and have the capacity to take advantage of such opportunities. Beyond making trade a priority, the capacity to influence trade policy appears to rest on three pillars: the availability of sufficient policy and political expertise; a coherent position; and, the collective structures and resources necessary to mobilize members in support of that position. This requires sustained commitment and mobilisation of physical and human resources, unlikely to be found in small national union movements struggling for recognition. However, one would expect to find at least some of these capabilities and resources within large, well organised national union movements.

Chapter 1: Mobilising Structures and Resources

At the national level, individual unions are commonly organised into union federations in order to increase their collective power and standing in society (Finnemore, 2002). In most cases these federations act as an ‘umbrella’ body to coordinate policy and political activity at the national level. They frequently supply a range of other services to their affiliates as well, including research, education and legal assistance. They also represent national affiliates within regional and international union organisations such as the International Trade Union Confederation (ITUC)²⁴ and usually represent labour at International Labour Organisation (ILO) conferences and meetings. On a sectoral level national unions are also affiliated with Global Union Federations (GUFs), which play an important role in representing members’ interests at the global level. At the European level, national union federations are also affiliated to the European Trade Union Confederation (ETUC).

As the national voice for labour, national union federations can wield considerable political influence and power. However, this power rests ultimately on their organisational capacity and the effectiveness of their collective structures and networks. This includes their affiliated unions and workplace networks of union members, affiliations to international union bodies and cross-border links with other national trade union movements. It can also include a wide range of community and civil society networks to which the union movement has links, its political contacts and personal networks, and a range of international NGO networks.

²⁴ Formerly, the International Confederation of Free Trade Unions (ICFTU)

1.1 *Organisational capacity, expertise and resources dedicated to trade*

The organisational structure of the national labour movements studied can be grouped into three main types: single or dominant union federations such as those in Australia, Barbados, Brazil, Germany, Malaysia, Nigeria, South Africa, and South Korea (although other fairly important federations also exist in Brazil and South Africa); fractured systems such as those in the Philippines and Serbia; and small or marginalised systems such as in Moldova. However, within these main types we found considerable variety in terms of organisational capacity, sources of expertise, and levels of resources dedicated to trade.

Single or dominant union federations

Dedicated staff with expertise: Few federations, with the exception of COSATU in South Africa, have more than one or two staff dedicated to trade. This was the case, for example, in Australia (McGuire 2009a), Brazil (Ruppert 2009), Germany (Niggemann 2008) and South Korea (Kim 2009a). Staff assigned to cover trade also usually work on a wide range of other international relations issues. While there is often considerable overlap between trade and other international issues, the fact that union staff have such a broad portfolio of responsibilities can make it difficult for them to dedicate sufficient time to specific trade related issues. In addition to nationally-based staff, the DGB (Germany) maintains an office in Brussels to lobby at the European level (the DGB has considerable lobbying and policy expertise, but until recently, very little in relation to trade). In Australia, the lack of dedicated staff in the federal office is offset by the trade and global economic expertise of the current ACTU president, through her role as president of the ITUC and her work in the ILO (McGuire 2009a).

The union federations of Barbados, Malaysia and Nigeria generally lack dedicated staff with expertise in trade. In Barbados, the Congress of Trade Unions and Staff Associations of Barbados (CTUSB) represents labour in the institutionalised social partnership structures and trade consultation processes, but it lacks expert staff (Deane 2009a). Policy work within the Malaysian Trade Union Congress (MTUC) is officially conducted through union committees made up of elected representatives who must balance their work at the federation level with their normal union work. However, in practice the committee with responsibility for trade has not been active in the past years. Paramount decisions over policy issues are taken within the Working Committee led by the President and the Secretary General of MTUC. Until recently, trade policy issues were far from the MTUC's agenda. However, this has changed in recent times as it has taken a strong stand against the Malaysian government's attempts to negotiate a free trade agreement with the U.S. (Rajeswari 2009). In this context, some individuals, especially the MTUC general secretary G. Rajasegaran, have developed considerable trade expertise. In Nigeria, trade work is mostly done through the federation's economic research unit (James 2009).

Parallel structures within affiliate unions: However, in some of these countries parallel structures of trade expertise exist within affiliated unions. This was the case in Australia, Barbados, Germany and South Korea. In Australia, the ACTU is able to draw on key experts from within major affiliates to provide policy advice, write submissions and represent the federation at public hearings and other trade related events. The Australian Manufacturing Workers Union (the AMWU) and the National Tertiary Education Union (NTEU) in particular, have developed specialised trade policy expertise. However, a range of other services unions at the national and branch levels have also developed substantial expertise in trade and conduct their own lobbying and campaigns (McGuire 2009a). In Barbados, the main source of expertise and experience with regard to trade and international issues is found within the Barbados Workers' Union (BWU), which has strong political connections and relationships with government, as well as considerable expertise in international affairs due to extensive engagement with the ILO (Deane 2009a). The affiliates of the German DGB employ economic experts who also cover trade, and some unions have recently begun to develop expertise in relation to the trade in services (see below). In South Korea, KCTU affiliates across a range of sectors have played major roles in the campaign against the Korean government's negotiation of a free trade agreement with the U.S. (the KORUS FTA). Leaders from all KCTU affiliates and regional branches are part of a special committee on trade issues formed to coordinate the campaign and provide research and policy making advice (Kim 2009a/2009b). In some countries, such as Australia and Brazil, international committees made up of key representatives from affiliate unions also exist at the federation level. These committees provide an additional source of expertise and a forum for discussion and policy formation in relation to trade and other international issues (see respectively, McGuire 2009a and Ruppert 2009).

As mentioned above, some unions in Germany have also begun to develop expertise in trade related to services, mainly as a result of campaigns against the European Services Directive²⁵ and the GATS. This includes the large services union, ver.di, the main education union, the GEW, and the relatively small construction and agriculture union, the IG BAU (Niggemann 2008). The IG BAU was particularly active during the campaign against the European Services Directive and conducted its own lobbying, produced its own position papers and press releases and participated in Parliamentary hearings (ibid). Unions in the manufacturing and chemical sectors, which have traditionally supported the government's export policy, have generally developed very little capacity to intervene in trade policy. However, the IG Metall has developed some links with international fair

²⁵ This directive sought to 'harmonise' regulations related to services across the EU and to impose 'Country of Origin' (COP) principles whereby service providers would be subject only to the national provisions of their member state of origin (within the relevant field) and not the regulatory provisions of the host state. This raised concerns about wage dumping, unfair competition, threats to provision of social services and restrictions on the democratic right of countries to regulate labour laws and services (Niggemann 2008).

trade networks (mainly through its textiles' sector) and has been quite active in lobbying for labour standards in trade agreements (Schwetz and McGuire 2008).

The situation in South Africa is somewhat different. Here we found expertise both within the federal office and its affiliates. Compared to the other countries in the study, COSATU (which is the largest and most powerful of the three union federations organised nationally in South Africa)²⁶, has considerable policy expertise, developed largely as a response to the legacies of apartheid. COSATU views trade policy as a crucial tool for addressing poverty and social inequality and has a strong record of policy engagement. The federation has a specific policy unit, which was established in 2001 to provide the policy expertise needed to participate in tripartite negotiations in NEDLAC. This includes a dedicated policy officer for trade and economic policy. The existence of NEDLAC and the highly complex and often technical nature of trade negotiations have led to a great deal of capacity building and expertise, both within the federation office and within key affiliate unions. Affiliates are expected to supply detailed information and analysis about the impact of particular trade policies and agreements on their sectors. However, this capacity is more strongly developed in relation to manufacturing than services (McGuire 2009b).

Dedicated research capacity: Only three national labour movements had access to dedicated labour research institutes which could conduct research on related issues. In South Africa, the National Labour and Economic Development Institute (NALEDI), provides research and policy advice to COSATU and its affiliates on a wide range of matters, including trade and economic development. In some cases, it also holds seminars and conducts capacity building workshops. While NALEDI is an independent NGO, it was originally established by COSATU during the transition to democracy to meet the research needs of organised labour and improve its capacity to engage in policy issues (McGuire 2009b). In Brazil, the labour movement can call on the Observatório Social, a technical institute established by CUT in 1997, as a response to the campaign to include a social clause in the WTO. It is geared mainly towards producing research on labour and environmental standards adopted by transnational companies in Brazil (de Motta Veiga 2007) but it also conducts research into the impact of trade agreements.²⁷ In Nigeria, the NLC has established a dedicated Research and Economics Unit of five staff headed by a director, who is an associate professor in development economics and a seasoned policy analyst. This research unit collaborates with a wide range of trade related organisations at the national and international levels (James 2009).

²⁶ The other federations, the Federation of Unions of South Africa (FEDUSA) and National Council of Trade Unions (NACTU) also have some trade policy expertise and participate in trade related negotiations within NEDLAC.

²⁷ For example a study in 2008 on the impact of the NAMA negotiations on employment in the metal sector in Brazil (which was supported by the International Metalworkers Federation -IMF).

Integration into coalitions, alliances and networks: The other main source of expertise, research and mobilisation for union movements in countries with a single or dominant union federation was through integration into coalitions, alliances and networks engaged in trade related lobbying and campaigning. National union federations in our study are typically affiliated to the regional and international structures of the International Trade Union Confederation (ITUC), while on a sectoral basis, national unions are integrated into the regional and international structures of the Global Union Federations (GUFs). The ITUC and a number of the GUFs do considerable work on trade, especially in relation to the inclusion of labour rights into trade agreements, but increasingly also on other issues, including information sharing and capacity building in relation to bilateral, regional and international trade agreements. Public Services International (PSI) and Education International (EI), for example, have been very active in supporting their national affiliates in campaigns against further liberalisation of services through the GATS negotiations (McGuire 2005), while the ITUC has played an important role in coordinating national union efforts to influence the NAMA negotiations (Busser 2009). As mentioned above (Part I. Chapter 2.3), the demands on developing countries to substantially cut tariffs across a wide range of industries as part of these negotiations deepened national trade union engagement in trade issues and led to the formation of new transnational union coalitions such as the NAMA 11 trade union group (Busser 2009) and the sindicatos OMC trade union group (TUC 2009). Another important union network is the Global Unions²⁸ Forum on Trade, Investment and International Labour Standards (TILS), which plays a major role in circulating information about trade negotiations to unions and other interested groups and also brings representatives from national union federations together to strategise about trade and lobby at WTO Ministerials (Anner 2001; McGuire 2005).

In addition, many of the union federations (and/or key affiliate unions) in the countries of our study were integrated into a wide range of civil society coalitions and networks at both the national and global levels. Through these organisations, coalitions and networks, which are often interrelated or have close working relationships, national union movements are able to draw on extensive policy expertise and participate in many different discussion fora and arenas of action.

This was particularly significant in Brazil, where the CUT is integrated into a wide range of networks and alliances: first, through trade union alliances and affiliations to regional and global union confederations, including the ITUC and its regional body the Trade Union Confederation of the Americas (TUCA); and second, through participation in alliances of social movements and NGOs that belong to common networks such as the Brazilian Network for the Integration of People (REBRIP), the Hemispheric Social Alliance (HAS) and Our World is Not for

²⁸ At the global level the ITUC, the GUFs and the Trade Union Advisory Committee to the OECD (TUAC) work under the banner of Global Unions (www.global-unions.org).

Sale network (OWINFS).²⁹ The CUT also participates in a number of other monitoring and consultative bodies related to the consolidation of the South Cone of the Americas (MERCOSUR) (Ruppert 2009).

In Malaysia, the MTUC relies heavily on its integration into regional and international labour organisations to increase its political influence and leverage in lobbying on trade. In addition, it obtains most of its research and policy expertise through its relationship with national NGOs, many of which have very good research capacity in regard to trade issues and close connections to academic experts. As part of its campaign against the U.S. Malaysian FTA, the MTUC also sought expertise from its American counterpart, the American Federation of Labour and Congress of Industrial Organizations (AFL-CIO). The AFL-CIO supplied the expertise to help MTUC officers conduct an analysis of the agreement which was then distributed to MTUC officers and to its affiliated unions (Rajeswari 2009).

National trade-based coalitions have played a significant role in Australia, Brazil, Nigeria, and South Korea. These broad union and civil society coalitions, which were generally formed in response to campaigns against specific trade agreements, provide unions with additional expertise, resources, mobilising capacity and broad social legitimacy. However, in most cases these coalitions rely heavily on forms of voluntarism from the participating organisations and rarely have permanent staff. In some countries these coalitions have become institutionalised and play an increasingly important role in coordinating ongoing trade related campaigns (but still with very limited or only volunteer staff)³⁰. They include:

- the Australian Fair Trade and Investment Network (AFTINET), a national network of 90 union and civil society organisations, born out of union and civil society struggles against the Multilateral Agreement on Investment (MAI) in the late 1990s. The ACTU and major unions play an active role within the coalition and it is predominantly funded by a number of the larger unions (McGuire 2009a);
- the Brazilian Network for Integration of People (REBRIP) created by the CUT and Brazilian NGOs in 2000, as a response to the WTO Ministerial meeting in Seattle and the need to establish a broader network to campaign against negotiations for the Free Trade Agreement of the Americas (FTAA) (Hachmann 2009);
- the Trade Network Initiative (TNI) in Nigeria, a coalition of more than 41 trade unions and civil society organisations formed in 2005 as a response to growing concern about trade rules and their impact on development. The coalition, which is chaired by the NLC, has been very active in the

²⁹ OWINFS is a coalition of coalitions and activists, or a network of networks. Many national coalitions are integrated into specific regional or international trade campaign coalitions and/or broad international networks, which in turn, are also integrated into OWINFS (www.ourworldisnotforsale.org).

³⁰ AFTINET in Australia, for example, has only recently been able to employ a full time staff member.

ongoing campaign against the Economic Partnership Agreement (EPA) with the EU (James and Odigie 2009);

- the Korean Alliance against the KORUS FTA (KOA), an alliance of more than 300 union and civil society groups from almost every sector of the community, which mobilised massive union and public action against the proposed trade agreement with the U.S. (Kim 2009b).

Again, the situation in South Africa differs slightly. COSATU is integrated into the ITUC (and its regional affiliate ITUC Africa), and draws on additional expertise from national and regional NGOs, labour related research organisations and international civil society networks such as the Third World Network (TWN) and OWINFS, but to a much more limited extent than most other countries in the study. COSATU has participated in the Trade Strategy Group (TSG), a civil society alliance which has worked to mobilise action in relation to trade, but has not played a major role in this alliance. The TSG is more an initiative of social movement actors and groups. In general, COSATU prefers to do most research and policy analysis in-house or through the labour research institute, NALEDI, and to retain considerable autonomy in developing its position on trade (McGuire 2009b).

While the union movement in Barbados is well integrated into international trade union organisations such as the ITUC and also has strong connections with the ILO (through the well-connected leaders of the BWU), it has yet to develop good working relationships with NGOs and/or social movement networks. However, in recent times, there have been some attempts to link with international NGOs in order to lobby the European Parliament in relation to the EPA negotiations (Deane 2009b).

Fractured union movements

Despite the fractured nature of the union movement in the Philippines, we found a relatively high level of trade policy engagement. The main national labour centres active around trade are the Alliance for Progressive Labour (APL), the Trade Union Congress of the Philippines (TUCP) and MAKABAYAN (Workers for People's Liberation). These labour centres lack specific staff with trade expertise. Instead, responsibility for trade policy is generally delegated to high-level union officials who carry out trade related work in conjunction with other responsibilities. The APL also works closely with a small political party on their legislative lobbying and trade campaigns. Union organisations in the Philippines also draw expertise from a wide range of external labour and civil society sources, including think tanks, trade coalition partners, international labour organisations such as the ITUC, the ILO, the International Institute for Labour Studies (IILS), and social movement and NGO networks such as OWINFS, various trade campaign coalitions, the Third World Network (TWN) and the South Centre (Viajar et al. 2009a). In addition, the Public Services International (PSI) affiliate, Public Services Labor Independent Confederation (PSLINK), has been very active in relation to the GATS negotiations and has developed considerable expertise and influence in this area, both nationally and regionally.

As in Australia, Brazil, Nigeria, and South Korea, unions in the Philippines were part of a broad civil society coalition at the national level. The Fair Trade Alliance (FairTrade), which is a coalition of industry, labour, political organisations and NGOs, played a major role in providing expertise and coordinating action in the campaign against the Japan-Philippines Economic Partnership Agreement (JPEPA). Unions are represented in the policy making body of the alliance, and union members provide input at various other levels. Union leaders with policy expertise are often utilised as resource persons during public hearings on trade related issues (ibid).

Serbia also has a fractured union movement with two trade union centrals, the Confederation of Autonomous Trade Unions of Serbia (CATUS) and the Trade Union Confederation 'Nezavisnost'. Both lack staff and expertise in relation to trade issues and are more focused on processes related to the every day problems of workers and issues related to EU membership. While unions do receive help from external experts for training their members, the issues addressed in the training tend to be more related to work place problem of workers, such as, labour law, collective negotiations and privatisation processes, and do not cover issues linked to trade policy (Vukojicic and Ristic 2009).

Marginalised union movements

In Moldova, the union movement is weak as a result of the transition from being a welfare organisation of the Communist Party during the Soviet period to a system where unions need to play a more independent representational role. While the confederation of trade unions³¹ is beginning to deal quite well with socio-economic issues, it generally lacks staff and resources and has little capacity to engage in trade related issues. In addition, despite the generally negative impact of trade liberalisation policies on the Moldovan economy, it still does not see trade as a union issue (Boincean 2009).

1.2 Membership engagement

In most countries of the study, trade policy, along with other policy positions, is formulated through a consultation process with affiliates and the general membership. Union federations generally act within a broad mandate on trade issues, established during regular national congresses. In practice, draft policy positions are often formulated by key affiliates prior to such congresses and these are then discussed and voted on. In between national congresses, day-to-day decisions are usually made by an executive body consisting of elected delegates from national affiliates. Some national federations also have national councils which meet annually and call special meetings of affiliates when major or urgent decisions are needed.

³¹ The union confederation has changed its structure and name several times. About 10 years ago the General Federation of the Republic of Moldova (FGSRM) split into two confederation (CSRM&CNSL "Solidaritate") and two years ago merged again into a confederation named CNSM.

Union congresses can be very robust affairs with considerable debate and jostling by affiliates to have their positions adopted. However, beyond the formal processes, it is unclear how much actual discussion and debate about trade issues takes place at the level of general membership and how much input members at the grass roots level have into decisions about trade policy positions or subsequent lobbying and campaign action.

In the South African case, COSATU has conducted workshops and seminars on trade related issues for shop stewards, mainly in the manufacturing sector, but even then it is not clear how much information was conveyed back to the 'shop floor' (McGuire 2009b). The strongest evidence of grass roots engagement in trade related issues is in the South Korean case. Here, we find strong engagement by KCTU affiliates and members in the campaign against the KORUS, as demonstrated by the level of member participation in strike action and mass protests, despite high levels of police repression (Kim 2009b). This would seem to indicate strong delegate and communication structures and 'bottom up' processes.

Where broad civil society coalitions have formed in order to campaign on trade related issues, such as those in Australia, Brazil, Nigeria, the Philippines, and South Korea, key organisational and policy decisions are generally arrived at through a democratic or consensus-making process. Unions, along with other groups within these coalitions, are usually represented in the policy and decision making bodies. However, with the exception of the Philippines, it is not clear how much input comes from the grass roots membership.

In the Philippines, there has been a deliberate attempt to formulate policy positions and recommendations in relation to trade through a systematic process of discussions, consultations and deliberations on all levels of the organisational structures, including union and civil society organisations. The Fair Trade Alliance (FairTrade) makes key organizational and policy decisions through a democratic consensus-building process, with all sectors represented in the Convenors' Council, which is the policy-making body of the alliance. Trade union members have the opportunity to provide input on trade issues, not only through this Convenors' Council, but in all other venues as well, including sectoral consultations, workshops, and conferences. Leaders of trade unions affiliated with the Alliance are likewise invited as resource persons to public hearings on trade-related issues called by the congress (Viajar et al. 2009a).

1.3 External resources and internal mobilisation – some constraints

As we can see from the above analysis, it is not sufficient to look at the resources of the national union federation/s when assessing the mobilisation capacity of national union movements. Most federal offices in our study are relatively small, and few federations, except for COSATU, have more than one or two staff dedicated exclusively to trade related issues. Where trade is covered, it is usually in conjunction with a wide range of other international relations issues. However,

lack of capacity is frequently supplemented by expertise drawn from a variety of other sources, including union research institutes and key experts in affiliate unions and by integration into a range of regional and international union organisations and civil society networks.

However, some caution needs to be exercised in terms of using this to assess long-term trade union capacity. Earlier research by McGuire (2005) into trade union attempts to influence GATS has shown that trade expertise within the international labour movement and associated networks is concentrated in the hands (and minds) of a relatively small group of people and is therefore relatively fragile. Networks consist of more than a web of names, email contacts and telephone numbers. They are webs of trust and personal communication built over many years – and not easily transferred. There is a real risk that when one of these ‘pivotal’ people disappears, due to retirement or a career move, the knowledge and network relationships they have developed will disappear right along with them.

There are also some limits to the above analysis in terms of assessing mobilising structures and the degree to which internal structures and processes within national union federations facilitate or constrain mobilisation. Even though union federations in the countries studied generally have a democratic structure, with elected delegates at decision making levels, the extent of member engagement in developing policy positions is not clear.

One of the problems for national union movements is getting key people to understand the importance of trade and its potential implications for affiliates and members in various sectors. The hierarchical structure of unions as organisations plays a role in this. Where leading officials of union federations or individual affiliate unions are not convinced that trade is an issue, or where other issues take priority over trade, then trade-related information and campaign material often gets no further than the federal office or the national/branch office of affiliated unions (McGuire 2005). In addition, if members have no engagement in developing policy positions, it seems probable that they will be less likely to know about them or be willing to take action. However, to assess this capacity we would have needed more information on the structures within national union movements: the democratic processes; the relationships of affiliates to the union federation; the nature of branch and workplace delegate structures; the communication channels; and the degree to which members participate in or are genuinely engaged in policy making processes, especially with regard to trade. This level of detail was beyond the scope of the current research project.

Chapter 2: Developing a Coherent Position - 'Framing' Trade

As we outlined in our theoretical framework, in order to mobilise support for action on trade related issues, unions must be able to develop coherent policy positions capable of building common cause and a shared "sense of grievance", both within the union movement and the wider public. They must also develop strategic frames for putting their concerns on the agenda in the trade policy making arena and bring them to the attention of the media. In doing so, they must be prepared to defend their claims and discredit opposing positions, such as the so-called 'cost-free' benefits of free trade. For this section we draw on union experiences from campaigns against specific trade agreements³², in order to gain a picture of the way unions in the various countries have 'framed' trade issues and the factors which have contributed to the resonance of these issues with union members and the wider public. We do not analyse the outcomes of these campaigns or assess the degree to which the framing of issues actually influenced trade policy agendas or the outcomes of trade negotiations. As mentioned in the introduction, these campaign case studies will be published in more detail in a future publication.

The 'resonance' of trade issues and the willingness of union members and the wider public to engage in and take action on trade in the countries studied appears to depend on a number of interrelated factors: the level of awareness about trade issues within the union movement and the general community; the level of perceived threat; whether issues were framed in broad terms that drew on a wide range of social concerns or focused narrowly on the costs for union members; and whether or not unions had the communication structures needed to disseminate 'collective action frames' to targeted groups, including union members, the wider public, governmental and political actors, the media and opposition groups (for more on collective action frames see Benford and Snow 2000).

2.1 *Level of awareness and perceived threat*

Rising concerns about the negative impact of neo-liberal economic policy and trade liberalisation, made evident in high profile protests against the North America Free Trade Agreement (NAFTA), the Multilateral Investment Treaty (MAI), and the WTO negotiations at Seattle, have brought trade issues firmly into the 'global' public arena. The development of extensive anti-globalisation, alter-mondialist (alter-globalisation), environmental and developmental networks, often with strong links to developing countries, has enabled activists to share information about the likely impact and threat of proposed trade agreements. As our case studies show, the anti-U.S. sentiment, featured in the South Korean, Brazilian and Australian campaigns against free trade agreements with the U.S., can be attributed, in part, to shared knowledge about the impact of NAFTA and other U.S. negotiated agreements, the perception of the U.S. as an aggressive

³² Campaigns from Phase 2 of the study are listed in the bibliography.

free-trader, and fears of political and economic dominance (see respectively, Kim 2009b; Hachmann 2009; McGuire 2009a).

The level of awareness and perceived threat appears also to be related to experience. Where countries experienced negative impacts related to free trade and neo-liberalisation, or conversely, a 'win' in relation to stopping further liberalisation, there was greater awareness of trade-related issues and therefore greater potential for mobilisation. Unions and civil society groups in South Korea, for example, experienced many struggles against free-trade and neo-liberalisation prior to their campaign against the KORUS, including anti-WTO and APEC demonstrations and struggles against FTAs with Chile and Japan (Kim 2009a/2009b). In Brazil, the threat of loss of sovereignty to the U.S., which was a key mobilising issue in the campaign against the FTAA, was connected to ongoing struggles over external debt and the transfer of a satellite launching base to the U.S. (Hachmann 2009). In terms of wins, the 'successful' Australian campaign against the failed MAI³³ played a major role in raising awareness levels in the wider community and led to the development of networks of activists who subsequently played a significant role in the campaigns against GATS and the AUSFTA (McGuire 2009a).

2.2 *Framing issues to mobilise support*

In many of the cases in our study, campaigners used some kind of overarching or 'universal' frame such as national sovereignty, which could encompass many disparate groups, rather than focusing on single issues such as labour rights or job losses in specific sectors. The strongest mobilising frames appear to be those connected to an identifiable and relatively imminent threat. Frames were often context specific and varied, depending on the target, but there were some shared frames across countries. Except where there was a focus on fair trade as an alternative to 'free trade', frames tended to be defensive rather than offensive: focused more on defending social gains already made rather than proposing a new trade paradigm.

Appeals to national sovereignty or the national interest: In many cases, campaigners framed the 'coercive' elements of free trade agreements as threats to national sovereignty or the national interest, which enabled them to draw on powerful sentiments of national pride and bring together disparate groups of civil society actors. This was the case in Nigeria, the Philippines, Brazil, South Korea and, to a limited extent, Australia. In Brazil and South Korea, the threat to sovereignty was linked to the disparity of economic power between the trading partners and the perceived risk of domination or 'economic colonisation' by the U.S. (Hachmann 2009; Kim 2009). In Brazil, campaign organisers used the threat to sovereignty as an overarching frame to connect the campaign against the FTAA with two other emotive issues: calls for a review of Brazilian foreign debt and for

³³ The Australian campaign was connected to the wider global campaign against the MAI but was in essence a national campaign focused on issues of national sovereignty.

Brazil's withdrawal from negotiations for transfer of the Alcantara Launch Centre to the United States (Hachmann 2009).

In the Philippines and Nigeria, campaigners framed the struggle in terms of protecting the national interest rather than as an 'explicit' threat to sovereignty. The anti-JPEPA movement in the Philippines argued that the treaty provisions violated the national interest by removing limits on investment provisions, enabling foreign land ownership and introducing trade in toxic waste. The threat to the environment from the trade in waste was a cross-cutting frame that engaged the environmental movement and drew widespread media attention. The perception of the Philippines as the 'garbage bag of Japan' roused strong nationalistic sentiments, built links with the environmental community and garnered widespread media attention (Viajar et al. 2009b). In Nigeria, protection of the national interest was used to build consensus between diverse ideological groups during EPA negotiations with the EU. The negotiations were framed as a "we versus them" struggle against a common foe - the European Union. In this case, the Office of the President, as the lead institution involved in the negotiations, was targeted as an ally to win over, so as to resist EU pressure to sign a bad deal (James and Odigie 2009). Australian activists preferred to frame the coercive nature of trade agreement provisions as a threat to democratic process and decision making rather than as a threat to national sovereignty, due to fears of raising xenophobia (McGuire 2009a).

Injustice of the trade negotiating and policy process: Another major cross-cutting theme was the injustice of the trade negotiating processes. Unions and civil society activists in Australia, Germany and the Philippines 'scandalised' the lack of transparency, lack of access to information and lack of democratic processes, as a way of mobilising protest to defeat particular trade agreements and also as a way of pressuring governments to open the trade policy process to greater civil society participation (McGuire 2005 and 2009a; Viajar et al. 2009b). In Nigeria, campaigners focused on the 'unfair' and aggressive nature of EU demands of developing countries in the EPA negotiations to help build a shared sense of grievance against the EU as the common threat or 'foe' (James and Odigie 2009). Unfairness was also used in the Philippines as one of the arguments against liberalising the trade in garbage as part of the JPEPA (Viajar et al. 2009b).

Fair trade not free trade: The concept of fair trade was used as a broad 'umbrella' under which to shelter many different groups opposed to particular trade agreements, and also as a defence against accusations of being protectionist and anti-trade. This can be seen, for example, in the names of trade coalitions such as the Australian Fair Trade and Investment Network (AFTINET) and the Fair Trade Alliance (FairTrade) in the Philippines. In Australia, members of AFTINET, including the broader union movement, argued that they were not protectionist and not against trade. Instead, they supported fair trade and regulation of markets and an open and accountable trade framework compatible with United Nation (UN) agreements on labour rights, human rights and the environment (McGuire 2009a).

Policy space for regulation and development: The coercive elements of international trade agreements were also framed as threatening or at least limiting policy space for domestic regulation and development. This concept was utilised in both developed and developing countries but in slightly different ways: In developed countries, such as Australia and Germany, campaigners against the GATS focused more on the need to preserve existing space for domestic regulation of public and essential services (McGuire 2005 and 2009a), while in developing countries like Nigeria and South Africa, the concept was linked to development discourses such as the 'erosion of policy space for development' (James and Odigie 2009; McGuire 2009b).

Threats to economic livelihood: More specific mobilising frames were commonly developed to highlight the economic impact of trade agreements such as job losses and threats to existing working conditions. However, the extent to which these resonated was context specific. In the Philippines and South Korea, potential job losses in sensitive sectors were framed in terms of 'loss of livelihood', which evoked broad sympathy from the community and fellow workers (Viajar et al. 2009b; Kim 2009b). Whereas in Australia, it was more difficult to build broad support in relation to job losses in specific sectors (McGuire 2009a). In South Africa, there is a strong union discourse that trade should serve the needs of industrial policy and not vice-versa. This discourse has found its way into government policy statements and documents as well. Potential job losses resulting from trade agreements are therefore framed as a threat to the nation's economic and industrial policy, rather than as a threat to a specific industrial sector (McGuire 2009b). While unions in Australia, Malaysia and South Korea campaigned for the inclusion of a labour clause within trade agreements with the U.S. (McGuire 2009a; Rajeswari 2009; Kim 2009a/2009b), this was more of a union specific issue which drew on the existing trade-labour rights linkage in U.S. trade negotiations (Griffin, Nyland and O'Rourke 2003: 492-3),³⁴ and not necessarily an issue which resonated with the wider community. However, it was significant in mobilising cross-border union support. While the issue of labour standards was also raised in the campaigns against the EPA in Nigeria, and was a concern shared by a number of coalition partners, it was not the main focus (James and Odigie 2009).

Threats to the quality of life – selling off or trading away social aspects: Perceived threats to the environment or to the provision of services were frequently framed as 'selling off' social aspects to big trading partners. In South Korea, trade liberalisation was framed as 'driving' the privatisation of public and essential services such as education, healthcare, electricity and water, which would, in turn, lead to job losses and reduce access to services (Kim 2009b). In Australia, the threat of liberalisation of public and essential services, such as education, health and water, was also linked to privatisation. This was framed as 'selling off' or 'trading away' Australia's quality of life, especially during

³⁴ It is important to note that this linkage was largely achieved through the advocacy efforts of U.S. labour and other civil society groups over a period of many years (Griffin et al. 2003 and 2004).

negotiations for the AUSFTA. Such frames were more successful when connected to a specific identifiable threat, such as the possible loss of the subsidy scheme for pharmaceutical medicines, which was a major issue during negotiation of the AUSFTA (McGuire 2009a). In both Australia and Korea, the threat to cultural originality and diversity was also successfully used to raise broad public concern in campaigns against negotiation of FTAs with the US. This was partly related to anti-U.S. sentiment and fears of cultural 'colonisation'. In these cases, the threat to local media content also made it easier to gain sympathetic media coverage (McGuire 2009a; Kim 2009).

Oppositional frames and counter-frames: Unions must also be prepared to defend their claims and discredit opposing positions such as the so-called cost-free benefits of free trade. However, government and business claims such as the economic benefits of free trade, the need for leadership, and the danger of being left out of the global economic growth process or of alienating major powers, can be very difficult to counter. In Brazil, for example, the government and pro-FTAA groups used slogans such as 'we cannot face the pressure', 'Brazil cannot be isolated', 'Brazil cannot stay out of modernity', in order to counter union and civil society campaigns against the FTAA. The national campaign alliance countered this with a massive education and awareness raising campaign about the implications and 'threats' of the FTAA (Hachmann 2009).

In both the Philippines and Korea, the governments framed free trade agreements as bringing huge economic gains for the country (Viajar et al. 2009b; Kim 2009b). Pro-JPEPA advocates in the Philippines countered criticisms of job losses and environmental threats with claims that the agreement would create employment and that existing environmental laws would give sufficient protection. The government further defended its liberalisation economic strategy by likening it to a train that the country could not afford to miss. It was argued that the Philippines would be left behind by other ASEAN countries if they didn't 'get on the liberalisation bandwagon' and sign the agreement (Viajar et al. 2009b).

In Korea, opposition groups undermined the government's claims of economic growth by raising concerns about the potentially destructive nature of the KORUS FTA. Using Mexico's experience with NAFTA as an example, they raised the fear that further liberalisation and market opening would devastate the livelihood of people in South Korea. The agreement was also framed as a form of 'economic colonisation' which would lead to more uneven and unequal relations with the U.S.. This perception was reinforced by the actions of the U.S. in forcing Korea to import US beef as a preliminary to opening the KORUS FTA negotiations. As U.S. beef was suspected, at the time, of not being free from mad cow disease, this fuelled public outrage and anti-U.S. sentiment. However, in the end, the campaign against the KORUS FTA could not completely overcome the government's ideological argument of the need for economic growth. The Korean government launched a massive national public relations campaign to "sell" the KORUS FTA to the Korean people and roused the fear that a failure to sign would mean loss of exports and economic decline (Kim 2009).

2.3 *Communication structures*

Developing a coherent position is not sufficient – it must be communicated effectively to the targeted audience and persuade them to act in some way. This depends to a large extent on the effectiveness of communication structures within the national union movement and through/with global union bodies. While a union federation usually acts as the official ‘voice’ on trade policy, engagement with members happens closer to the ground, mainly at the individual union level. Unions in the study employed a wide variety of communication structures and strategies to diffuse their messages on trade related issues. These varied depending on the targeted arena.

Union members: Union members were typically targeted by relatively traditional means: through established affiliate and delegate structures. Where they had the resources, unions published trade related articles in newsletters and union journals, included information in briefings to affiliates and delegates, and produced and distributed educational and campaign material. In some cases, such as in South Africa (McGuire 2009b) and South Korea (Kim 2009b), unions also held seminars, meetings and educational programmes for union delegates. More active unions directly briefed members on trade related issues and produced significant educational and campaign material for both union members and the general public, including books, fact sheets, leaflets and even, in the case of South Korea, short films. In the Philippines, during the campaign against the Japan-Philippines EPA, the leaders of local unions held one-hour daily information drives during work breaks to explain the implications of the treaty for the workers (Viajar et al. 2009b). The internet was also widely used to distribute information, raise awareness of trade related issues and coordinate campaign actions, both for members and the general public. Many unions developed special campaign websites with direct links to other national and international sources of information. As mentioned earlier, some union federations, like the ACTU in Australia and the CUT in Brazil, have international committees through which affiliates participated in discussions on trade policy issues.

The general public and the media: Unions and their civil society allies used the media to create debates and spaces for discussions in which they could participate and publicise their views on negotiations, including participating in radio and television interviews, talk shows and debates. This type of publicity requires people with sufficient expertise to speak confidently on these issues. Where they had the resources, unions issued press releases, wrote editorials and opinion pieces, and sent letters to the editor of major newspapers. Unions also participated in and sometimes hosted public forums and staged protest actions as a means of attracting broader media coverage. In cases where unions were in relatively formalised alliances, such as in Australia, Brazil, the Philippines and South Korea (outlined in Chapter 1.1 above), these alliances played a major role in disseminating information, both to union members and the general public. They produced fact sheets, booklets, flyers and campaign material, which were also made available on campaign websites. In Brazil, for example, the National

Campaign against the FTTA produced and distributed 400 thousand copies of the book “To understand the FTAA”, 4 million newspapers about the campaign against the FTAA, 15 thousand books; 50 thousand posters; 3 thousand videos and 1.5 thousand CDs of radio programs on the FTAA (Hachmann 2009). The KCTU in Korea collected money from members in order to pay for radio advertisements, as they believed this was an important medium for educating the public about “the real face of the KORUS FTA” (Kim 2009b). Radio was also considered an important medium for raising public awareness in South Africa (McGuire 2009b).

Government, the legislature and political parties: Unions wrote formal letters to government ministers, opposition party members and members of parliament, asking for their position on particular issues, demanding further information and, where relevant, calling for their support. Where they had access to politicians, unions and their civil society allies also used formal and informal meetings with ministers and parliamentarians to lobby and put forward their views. As the analysis of national trade policy processes in Part I shows, parliamentarians and non-commerce related government departments in many of the countries in our study are commonly excluded from the trade negotiation process. Frequently, unions and civil society groups played a major role in educating government ministers and parliamentarians about trade issues. Petitions and sign-on letters with signatures from participating groups and alliance members were also commonly used – in this case communicating not just the message but also demonstrating how widely shared it was within the community.

Business and other opposition groups: Unions generally relied on media coverage to try and influence opposition groups. In some cases, as in Australia during negotiation of the AUSFTA, and in South Korea during negotiation of the KORUS FTA, union or civil society ‘experts’ were able to engage in television debates with business representatives or lobbyists (McGuire 2009a; Kim 2009b). Trade ‘experts’ from labour and civil society coalitions also acted as speakers for conferences and public events organised by universities and think tanks as a way of spreading their message more broadly.

Chapter 3: Strategies of Intervention and Protest

According to our theoretical framework, the ‘repertoires of contention’, or strategies of intervention and/or protest used by national trade union movements will depend on the resources, mobilising structures and framing processes available to the actors involved. This includes the “cultural stock” which is available to unions about how to organise and protest (drawn largely from past experiences and from other sectors in the society such as NGOs and social movements), and “the skills, orientations, and styles of the groups” within the movement (Zald 1996: 267). The nature of the political opportunity structure will also have a direct influence on the choice of union strategies, especially the level of union access to the national trade policy making process, as this will determine

the specific windows of opportunity available and the choice of targets to influence.

3.1 From lobbying to direct action

The strategies used by national labour movements to influence trade policy processes and trade negotiations in the countries studied can be grouped into four main categories:

- Formal strategies targeting the governmental and legislative arena, including participation in social dialogue and other consultative processes, legislative and executive lobbying, submissions to parliamentary enquiries, and participation in public hearings;
- Awareness raising and diffusion strategies, including monitoring and analyses of trade agreements, education, communication and information distribution, public forums, campaigns, and media strategies;
- Networking and coalition building, with pre-existing national groups and networks and informal international NGO networks, and use of international union linkages;
- Mobilization through protest and direct actions.

3.2 Linking POS and trade union strategies

Where unions have established access to government through institutionalised tri-partite processes or through the legislative process, we would expect them to use more formal strategies such as social dialogue, lobbying, meetings with ministers and decision makers, submissions to parliament and public hearings. Where unions are more or less excluded from the political and legislative process, we would expect to find more use of direct action strategies such as strikes, protests and rallies. Where there is limited access, we would expect to find a mixture of strategies.

Formal access to the policy process: Where unions have access to the policy process through institutionalised forms of social dialogue, as in South Africa, Barbados and to a certain extent Nigeria, one would expect to find less focus on direct action. However, this was not always the case. In South Africa, for example, unions have deliberately pursued a dual strategy of social dialogue through NEDLAC, combined with mass action to apply pressure in support of their policy positions when dialogue breaks down (McGuire 2009b).³⁵ Similarly, in Nigeria, mass action is seen as the best way to press home demands in relation to trade policy. While the NLC has formal channels of access through a National Focal Point and other consultation processes, these have not been used to a great extent, and unions feel there is little real chance for engagement in the actual

³⁵ This 'instrumental' approach to mobilisation has been criticised by some union officials and they expressed doubt at COSATU's real capacity to mobilise members in relation to trade, except where it was directly connected to a 'threat', for example, unemployment as a result of tariff cuts (McGuire 2009b).

negotiation process (James 2009). The use of direct action to bolster the ‘social dialogue’ process was more likely in countries where trade unions had a history of agitation in relation to workplace and socio-economic issues, such as South Africa and Nigeria. In countries where a more cooperative union culture existed, as in Barbados, unions felt the focus should be at the table, and they appeared reluctant to engage in other forms of lobbying or direct action, even when they were dissatisfied with the level and degree of consultation available through the social dialogue process (Deane 2009a).

Some consultation and limited access through legislative process: Where unions lacked institutional access but had some access at the executive or legislative levels, they tended to make use of formal lobbying strategies such as letter writing and meetings with ministers and politicians. This is the case in Germany, for example,³⁶ where the DGB relies mainly on formal lobbying at the national and European levels in order to promote the interests of its member unions in relation to trade (Niggemann 2008). Formal lobbying requires staff time and adequate political and policy expertise. In most cases, even large union federations had few staff dedicated specifically to trade policy. However, in some cases they were able to draw on expertise from larger affiliate unions and/or through coalitions with associated NGOs (this is elaborated in a separate section below). Where unions had a good relationship with government, as in Brazil, they utilised this channel of influence to invite key governmental officials to give briefings about the state of negotiations. This information could then be disseminated to union members and the wider public.

Where unions faced a hostile or resistant government, they utilised other avenues of access and points of pressure. In Australia, for example, in the face of a hostile anti-union government, unions were able to utilise opportunities provided in the parliamentary process. They lobbied members of the opposition party and independent members of parliament to raise their concerns in parliament and push for public hearings on trade agreements. This gave them the opportunity to make submissions and provide evidence at public hearings. They successfully used these hearings to ‘scandalise’ in the media the lack of transparency and democratic decision making in the trade negotiating process and raise public concern about the threat which both the GATS and the AUSFTA negotiations posed to the provision of services and to domestic regulation. They also used active monitoring of trade agreements to put a ‘brake’ on government trade commitments, especially in services negotiations. This meant building up the necessary expertise to be able to monitor trade negotiations, responding to changes in government negotiations, and alerting other unions and civil society groups about issues of concern (McGuire 2005 and 2009a).

German unions also utilised the parliamentary process, at both the national and European levels to raise concerns, firstly about the GATS negotiations, and later about the European Services Directive. The DGB, along with affiliates GEW and ver.di, campaigned jointly at the national level; with the ETUC at the European

³⁶ As mentioned previously, German unions lack institutional access in relation to trade.

level; and with Education International (EI) at the international level. Campaign activities included lobbying ministers and parliamentarians at both levels, as well as lobbying ministers and negotiators in the lead up to and during WTO Ministerials (McGuire 2005). During the campaign against the European Services Directive, the DGB used a dual strategy of lobbying at both the EU and at the national levels combined with submissions to and appearances at parliamentary and public hearings. They used these to put pressure on ministers, educate members of parliament, and raise public awareness and concern about the perceived threat of the Services Directive in terms of wage dumping, unfair competition, the weakening of labour law, liberalisation of social services, and restrictions on the German government's decision making power. As part of this process, German unions also sought alliances with civil society groups and other European unions, and called for member participation in national and European demonstrations, which were designed to put pressure on both levels of government at key points during the policy-making process (Niggemann 2008).

Prior to the workers' party (PT) coming to power in Brazil, unions and civil society actors relied largely on mobilisation and public action. For example, when the Brazilian government refused to organise an official plebiscite on the FTAA, despite the collection of 2 million signatures requesting it, the national campaign alliance against the FTAA mounted their own public plebiscite, linking the FTAA to two other sensitive political issues – a review of foreign debt, and transfer of a satellite base to the U.S.. This succeeded in mobilising wide-spread union and public engagement and strongly politicised the debate surrounding the agreement (Hachmann 2009).³⁷

No access – excluded from policy process: Where unions had no direct access to decision makers or capacity to intervene in the policy process in a formal way, they tended to favour awareness raising through education and public forums and/or mass action in the form of rallies and protests. However, the capacity for mass action also depends on the capacity for trade unions to engage members and the wider public in trade related issues. In the cases we looked at, this was connected to the way issues were framed and communicated to members and whether they were perceived as representing a direct threat to workers and the wider public interest, or whether they were seen as a form of injustice. It also depended on whether there was a culture of militancy and protest in relation to social and economic issues, as in the Philippines, South Africa and South Korea.

The KCTU, for example, has a history of using direct action to press its industrial demands, including rallies, marches, strikes, hunger strikes and sit-ins, and was able to utilise these mobilisation strategies in its campaign against the KORUS FTA. Its success in doing so, however, can also be attributed to the intensive education and influence strategies the KCTU and its affiliate unions used to engage union members and the wider public. Besides producing and distributing

³⁷ While the plebiscite was strongly supported by unions at a local level, the CUT did not support inclusion of the additional issues due to concerns about the impact on the presidential campaign of Lula and therefore did not officially support the plebiscite.

leaflets, briefing booklets and research reports for union members and the wider public, unions held public discussions, issued press releases and appeared on TV talk-shows. Many individual unions also made widespread use of the internet as a tool to engage members and distribute resources (Kim 2009a/2009b).

In some cases, unions that were shut out of the policy process made use of international forums to generate external pressure on the national government. In Malaysia, for example, where there was no possibility of social dialogue and little support for mass action, the MTUC used a 'boomerang' strategy, as it has been labelled by the NGO literature (Sikkink 2004: 154), in order to bring their concerns to the attention of the Malaysian government. The MTUC utilised international labour conferences held by the ILO and the ITUC-AP to put their concerns about the proposed trade agreement on the international agenda, which in turn put external pressure on the national government (Rajeswari 2009). Such 'boomerang' strategies can be very effective for 'weak' movements.

No access and no capacity: In countries where union movements had very little access to government and lacked awareness of trade issues and capacity, such as in Moldova and Serbia, there was no action in relation to trade issues beyond some recommendations made to the government of Serbia (Boincean 2009; Vukojicic and Ristic 2009).

3.3 Networking, coalition building and alliances

Because networking, coalition building and alliances played such a vital role, particularly in countries where unions had limited or no access to the formal trade policy process or political actors, these strategies require further elaboration. Coalition building has been identified in the union revitalisation literature as one of the key strategies for rebuilding union power (see for example, Frege and Kelly 2004).³⁸ A useful theoretical framework for understanding the forces driving union coalition building, and which seems to fit the cases in our study, has been developed by Frege, Heery and Turner (2004). They argue that union coalition building is driven by a range of push and pull factors. Unions are pushed to form coalitions by factors such as diminished resources (due to union decline) and political exclusion, pressure to broaden interest representation and their policy agenda, and the influx of new ideas and strategies from non-union activists and leaders. Coalition partners can provide access to legitimacy, expertise and resources. At the same time, unions are pulled to form coalitions by the availability of coalition partners with experience in globalisation issues and the degree of political opportunity, including "points of access", level of state centralisation, and degree of consultation. (Frege et. al. 2004: 145-148).³⁹

³⁸ There is also a growing body of literature which demonstrates the importance of coalition building for labour and civil society attempts to influence trade policy and negotiations (see for example, Massicotte 2003; Foster 2005; Laxer 2003; Shoch 2001; Compa 2005).

³⁹ In their analysis, Frege et al. also address the issue of national context and union identity, and the impact which differences in the nature of the union movement and its environment can have on coalition building processes. However, limits of space prevent any expansion of these concepts in this text.

Through use of the internet, union activists were able to plug into national and global networks through which they gained access to a wide variety of resources. Global networks, like Our World is Not for Sale (OWINFS), also played a key connecting role. Because many national and regional trade alliances and coalitions are also members of OWINFS, the global network effectively links union and civil society activists across countries and across issues. In addition, its loose organisational structure and broad social justice discourse enable OWINFS to accommodate many disparate groups and ideas.⁴⁰

Global networks leaked negotiating positions and draft agreements, provided analysis about the likely impact of trade agreements, conducted and shared research, developed campaign material, shared information and strategies, and, in some cases, organised training and capacity building courses. In most of the countries studied, this compensated for the lack of resources within national trade union organisations. Even a single staffer can accomplish a lot with access to such material. The MTUC in Malaysia, for example, has little internal expertise in relation to trade, but successfully formed alliances with trade-savvy NGOs to hold forums, meetings and seminars, on the possible consequences of the US-Malaysia FTA. The MTUC and NGOs initiated joint signature campaigns and sent memorandums to the trade ministry. The MTUC was also able to utilise international union networks to shift the debate to the international arena, utilising the above-mentioned 'boomerang strategy' to put pressure on the Malaysian government to listen to their concerns. Similarly, as we have seen, the CUT in Brazil is integrated into a wide range of regional and national union and civil society networks and alliances.

As mentioned, global networks also play a very important monitoring role by providing (sometimes 'leaked') information about trade agreements and negotiating positions of trading partners, thus making it harder for governments to keep negotiations secret, and providing valuable leverage for anti-FTA or anti-WTO campaigns. This happened, for example, during the GATS negotiations when the EU demands for services liberalisation were leaked to national union movements through a global NGO network called GATSwatch.⁴¹ In Australia, this information was picked up by unions and civil society groups and used to pressure the Australian government into revealing its negotiating position in the GATS negotiations: both its demands of other countries and its proposed commitments (McGuire 2009a).

Some national union federations also sought cross-border solidarity to influence trade negotiations. Cross-border strategies were most common in countries where FTAs were being negotiated with the U.S., as in South Korea, Malaysia and Australia. Union federations in these countries signed joint statements with the AFL-CIO as a way of focusing attention on the threat which these FTAs represented to labour rights and working conditions, and to put pressure on their national governments to support a labour clause. The success of this strategy

⁴⁰ For more information on this network see www.ourworldisnotforsale.org.

⁴¹ See the GATSwatch website (<http://www.gatswatch.org/requests-offers.html#outgoing>).

rested on previous 'wins' by the U.S. labour movement to have a labour clause included in all FTAs negotiated by the U.S. (McGuire 2009a). In the Malaysian case, the joint statement by the MTUC and the AFL-CIO also covered broader issues such as the need for transparency in trade negotiations, fair rules for trade, and the right for governments to regulate in the public interest (Rajaswari 2009). In the Korean case, the KCTU also visited unions in the U.S. to seek cross-border solidarity in campaigning against the KORUS FTA (Kim 2009b).

Other significant examples of cross-border solidarity and alliance building include the NAMA 11 trade union group and sindicatos OMC trade union group formed to monitor and influence WTO negotiations, especially the NAMA negotiations (already mentioned above) and union action against the European Services Directive. According to Niggemann (2008: 31), this was the first time that trade unions had mobilised around a European topic at the European level. Mobilisation and protests simultaneously targeted the European and national levels. The defensive nature of the campaign made it relatively easy to form a common union position and to incorporate a wide range of civil society groups, NGOs and even chambers of commerce. For those taking part, the solidarity between unions of different nationalities (including East European trade unions) was a lasting experience.

As already mentioned in Chapter 1.1 (above), unions in Australia, Brazil, Nigeria, the Philippines, and South Korea also participated in broad civil society coalitions at the national level, in many cases formed to campaign against specific trade agreements. These coalitions brought together diverse groups of actors in common campaigns against specific trade policies and trade agreements which were seen to have potentially negative impacts on employment, working conditions, social benefits, and the environment. Where these coalitions have become institutionalised, they play an increasingly important role in consolidating expertise and coordinating ongoing trade-related campaigns.

CONCLUSION

DEVELOPING A LABOUR VOICE IN NATIONAL TRADE POLICY - FINDINGS AND IMPLICATIONS FOR PRACTICE

The interaction of POS and trade union capacity

As the table below shows, we found great variation in our case studies both in terms of institutional opportunity and in terms of trade union capacity. Only in one country, South Africa, could unions be regarded as having both institutional opportunity, and the necessary policy expertise and mobilising capacity to take advantage of such opportunity. However, even here, capacity varied in terms of trade sectors and specific trade agreements: unions had more influence and success in mobilising member support in relation to manufacturing than in services, for example. Unions in Barbados and Nigeria also have relatively good institutional access, but less policy expertise and, at least in the case of Barbados, less mobilising capacity. In the case of Nigeria, unions have yet to make full use of the opportunities for institutional access that exist. In countries with institutionalised access, social dialogue appears to work best when union demands are relatively closely aligned with government policy, and where they are supported by the capacity to mobilise members and the general public in support of these demands.

However, capacity, like political opportunity, is not static. In recent times, the KCTU in South Korea has developed substantial capacity, due mainly to an extensive campaign against the FTA with the U.S.. However, Korean unions are virtually excluded from the trade policy process and must rely instead on intensive mobilisation and direct action. In Malaysia, too, the national union federation has recently developed some capacity to intervene in trade policy processes, mainly, as in the Korean case, as a result of its campaign against an FTA with the U.S.. However, also as in Korea, Malaysian unions are virtually excluded from the trade policy process. Increased mobilising capacity alone does not appear to compensate for lack of institutional, legislative or political access.

In the middle we see a cluster of countries where unions have some institutional access and have developed some capacity to intervene in trade policy processes and agreement making. Here we find Australia, Brazil and the Philippines. Germany stands out as something of an anomaly. Despite declining union membership, German unions retain relatively high institutional power and political legitimacy in terms of public policy issues. However, due to their alignment with the government's export position on trade, at least in regard to manufacturing, intervention in trade policy has not been a priority. This has changed in more recent years as unions become more concerned about the impact of the growing trade in services. At the lowest end of the spectrum we

find Serbia and Moldova, with very limited institutional access or capacity to influence trade policy.

Table 1. The interaction of Political Opportunity Structure and Trade Union Capacity

Great Variation		Institutional opportunities (POS) + Situational Opportunity (PO)		
		high	medium	low
TU Capacity* to influence trade policy	high	South Africa		
	medium	Barbados Nigeria	Australia Brazil Philippines	South Korea Malaysia
	low		Germany	Serbia Moldova

*Capacity here refers to 'potential' in terms of the existence of sufficient policy expertise, the capacity to develop a coherent position on trade, and the existence of structures and resources to mobilise wide support.

Making the most of opportunities

The opportunity structure for unions is not static. New opportunities can emerge as a result of changes in the political, economic or social context. However, unions need not be passive in this process. As McAdam (1996: 35) argues in relation to social movements: "Opportunities open the way for political action but movements also make opportunities". They can reshape the "institutional structure and political alignments of a given polity". As we can see from the cases in South Africa and Australia (outlined in Part I), it is possible for unions to capitalise on opportunities which arise as a result of changes to the political or economic context.

There appear to be more opportunities to intervene in the trade policy process than unions are generally aware of, but for this they need expertise. For example, the negotiation of free trade agreements can provide windows of opportunity for

trade unions to influence trade policy at a number of stages: at the point of initiation; during negotiations; at the point of approval or signing; and during ratification and/or implementation of required legislation. In some cases, trade agreements may also have mandatory review processes.⁴² However, to take advantage of these opportunities, unions need to understand national trade policy and agreement making processes, and be able to identify the legal requirements and actual government practices, the actors involved, and the opportunities for intervention (see Appendix 2 for a suggested pro-forma). This requires staff with sufficient trade policy and politics expertise who have time to dedicate to trade-related work.

Even where unions have limited access and capacity, they can have an impact. Unions were able to put pressure on the government's negotiating agenda by 'scandalising' the secrecy and lack of democratic process in the agreement making process, through public hearings and the media, and by actively monitoring and raising public awareness about ongoing negotiations.

The capacity to mobilise direct action appears to be a key factor in applying pressure on government positions, regardless of the level of access to the policy process. Formal strategies such as social dialogue, lobbying, submissions, and public hearings were more effective when accompanied by robust mobilisation of union members and the wider public in some form of public protest. The availability of direct action strategies depended on the capacity of unions to develop a coherent position on trade issues, capable of mobilising wide member and public support. However, we should keep in mind that more direct forms of public action and protest may be limited in countries where union movements have a relatively cooperative culture or where there is state repression of social protest.

The timing of intervention in the trade agreement making process is also important. In many cases, unions attempted to intervene quite late in the trade negotiating process, often at the point of signing or ratification. At this stage it is very difficult to make changes, unless sufficient opposition and public mobilisation is generated to prevent signature or ratification of the treaty. In at least two cases, the Philippines and South Korea, civil society mobilisation has contributed to delays in signing or ratifying a free trade agreement.⁴³ In part, late intervention is related to the high level of secrecy surrounding trade negotiations. However, it also reflects a general lack of awareness and expertise about trade issues within national union movements.

It is important to keep in mind that access to the trade policy process and decision makers, and/or political parties does not equal influence. Unions need to be wary about assuming the automatic support of labour parties, even where a formal affiliation or alliance exists. As the cases of Australia and South Africa show,

⁴² To some extent, these processes correspond with the general policy processes outlined by Dye (2005), which were mentioned in the introduction (see Appendix 1. for an overview).

⁴³ One must be cautious here in attributing too big a role to union and civil society mobilisation. A range of other political and economic factors have no doubt also contributed to these delays.

the hegemony of neo-liberal free-trade can also dominate labour parties at various historical junctures. Unions should look for cracks in the elite consensus and identify possible elite allies within other political parties and government ministries

Mobilising support for intervention

As mentioned above, we found that the capacity to mobilise union members and the wider public was a key factor in influencing government positions on trade policy and negotiations. To do that, union movements needed to make trade a priority, and possess sufficient policy and political expertise to understand trade issues and how to intervene in political and policy processes. They also needed to be able to develop a coherent position and mobilize support for that position.

Building policy and political expertise: The capacity to analyse complex trade agreements enables unions to identify the probable impact of trade agreements and the issues that are likely to resonate with members and the wider public. Unions without access to such expertise struggle with the complexity of agreements and may not understand their potential impact or how to translate that into clear messages that resonate with members and the public. Most union federations looked at in our study lack sufficient institutionalised expertise. This situation is clearly not static, and many union federations have gained additional experience and expertise through participation in trade related campaigns. In fact, our research highlights the key role which networking, coalition building and forging alliances play in bolstering trade union capacity. Through these avenues, national union movements are able to gain access to vital research and policy analysis, new ideas and strategies, and achieve broad social legitimacy.

However, unions should exercise some caution in these relationships, especially with NGOs. While NGOs can be valuable allies and often have substantial expertise on trade issues, it is necessary to be wary about the sources of donor money and the agenda behind them. Unlike trade unions, which rely mainly on members' affiliation fees to fund most of their activities, NGOs access funding from a variety of donors, including governments, trusts and foundations.

Framing trade to mobilise support: We found that the willingness of union members and the wider public to engage in and take action on trade in the countries studied was greater where there was a higher level of awareness about trade issues within the union movement and general community, where there was some sense of imminent threat, and where appeals for support and mobilisation were broadly based rather than narrowly defined.

Participation was more likely where unions and civil society groups were integrated into external trade networks and therefore had access to information about the impact of trade liberalisation in other countries, and where countries themselves had suffered from trade liberalisation. In many cases, unions and civil society groups built on pre-existing sentiments about the threat of trade liberalisation and fear of economic and cultural dominance by a stronger, more aggressive trading partner. In most cases, except where there was a focus on fair

trade as an alternative to 'free trade', frames were defensive rather than offensive: that is they were focused on preserving existing rights and conditions rather than presenting an alternative position.

In general, mobilisation was more widespread where frames were underpinned by more universal discourses with themes such as social justice and threats to national sovereignty or the national interest, rather than those of labour rights or loss of jobs in a particular sector – although this varied to some extent depending on the context. Where the possible loss of jobs was framed in terms of 'loss of livelihood', it appeared to have more resonance, especially in developing countries. The strongest mobilising frames were those connected to an identifiable and relatively imminent threat. Frames were often context specific and varied depending on the target, but there were some shared frames across countries. In many cases, campaigners framed the 'coercive' elements of free trade agreements as threatening national sovereignty or the national interest. This enabled them to draw on powerful sentiments of national pride and bring together disparate groups of civil society actors. However, such a frame also runs the risk of building or reinforcing xenophobia. The threat to domestic policy space (or sovereignty) was also utilised in both developed and developing countries, but in slightly different ways. In developed countries, the focus was more on preserving the existing capacity 'policy space' to regulate, while in developing countries, it was linked to development discourses and the need to ensure future capacity for development. Lack of transparency and democratic processes in trade negotiations was also a common frame, which was used to 'scandalise' the trade negotiating process and pressure governments to open up the process to (non-business) civil society actors.

Unions also need to be prepared to counter oppositional frames and look for weaknesses and contradictions to exploit. Government and business claims for the economic benefits of trade agreements, and the danger of being left out of the global economic growth process can be very difficult to counter. However, gaps and contradictions do appear. During the EPA negotiations for example, the EU has lost a certain degree of legitimacy by talking about development but acting aggressively in its negotiations with developing countries. This has made it an easily identifiable target and, at least in the case of Nigeria, helped bind disparate civil society organisations together against the EU as a common threat or foe.

Codifying knowledge

It is important that unions codify and institutionalise existing knowledge and experience. Trade related expertise and resources within the labour movement are spread quite thin and often depend on a few key people. One solution is for unions to codify existing technical expertise and knowledge, and to share this information with other union movements and networks. The ITUC, for example, has recently produced a booklet titled 'Trade Unions and Bilaterals: Do's and Don'ts – a Trade Union Guide' (ITUC 2008), which has been widely distributed and is available on their website; and the Global Union Research Network (GURN)

website (www.gurn.info) has a section on trade, including some publications in multiple languages. A number of GUFs, such as PSI and EI for example, have been quite active in producing booklets and other information in relation to trade agreements (see PSI and EI publications on GATS, for example).⁴⁴ One issue identified by country case study researchers was the need to have more trade-related resources translated for use and dissemination at the national level.⁴⁵ This may require unions to invest more resources into English language skills and translation of key documents.

Clearly, the state is still an important arena within the trade policy and agreement making process. However, without knowing where and how to intervene in the trade policy process, and without the necessary expertise and capacity to mobilise support for their positions, trade unions can easily be side-lined or outmanoeuvred by other social forces. This working paper represents an attempt to provide that missing link.

⁴⁴ See the PSI website (www.world-psi.org) and the EI website (www.ei-ie.org). Other civil society and social movement groups and networks are much further advanced in this respect. See, for example, the websites of OWINFS, (www.ourworldisnotforsale.org), Bilaterals.org (www.bilaterals.org), and GATSwatch (www.gatswatch.org).

⁴⁵ While this point is not made explicit in the research reports, it was a major point raised by researchers in discussions at the research workshop held during the GLU Summer School in Berlin, September 2009.

FURTHER RESEARCH AND PUBLICATION

A second paper will include the results of phase two of the research, which focuses on specific examples where unions, in conjunction with civil society allies, have campaigned vigorously at the national level against trade agreements which they perceived as threatening existing social, environmental and labour standards and conditions, and the future domestic policy sovereignty of national governments.

Further research is also needed in at least two key areas: the impact of global political and economic processes in structuring domestic possibilities for successful collective action by trade unions in relation to trade (for example, factors such as EU membership, WTO accession and IMF policy);⁴⁶ and the role which internal structures and processes, such as union democracy, play in the capacity for national trade union movements to mobilise member support in relation to trade.

⁴⁶ For arguments in relation to the impact of global political and economic processes in structuring domestic possibilities for successful collective action see, for example, McAdam (1996).

GLU RESEARCH PROJECT CASE STUDIES

TRADE UNION ADVOCACY IN TRADE POLICY AT THE NATIONAL LEVEL

Part 1: Mapping the trade policy process and trade union capacity to intervene at the national level

Boincean, Svetlana (2009) Trade Policy Process and Trade Union Capacity to Intervene at the National Level: the Case of Moldova, Research group background paper, Part 1, No.1. Global Labour University (GLU).

Deane, Doreen Delreece (2009a) Trade Policy Process and Trade Union Capacity to Intervene at the National Level: the Case of Barbados, Research group background paper, Part 1. No. 2. Global Labour University (GLU).

James, Eustace (2009) Trade Policy Process and Trade Union Capacity to Intervene at the National Level: the Case of Nigeria, Research group background paper, Part 1. No. 3. Global Labour University (GLU).

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Part 2: Case studies of campaigns designed to influence specific trade negotiations at the national level.

Deane, Doreen (2009b) Barbados union engagement in negotiation of the CARIFORUM/EU Economic Partnership Agreement. Research group background paper, Part 2. No. 1. Global Labour University (GLU).

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Hachmann, Luciana C. (2009) Brazil: The national campaign against the Free Trade Agreement of the Americas (FTAA). Research group background paper, Part 2. No. 3. Global Labour University (GLU).

Kim, Mijeoung (2009b) South Korea: The campaign against the South Korea-U.S Free Trade Agreement (KORUS FTA). Research group background paper, Part 2. No. 4. Global Labour University (GLU).

Viajar, Verna Q. Dinah; Serrano, Melisa; Certeza, Ramon (2009b) The Philippines: The campaign against the Japan-Philippines Economic Partnership Agreement (JPEPA). Research group background paper, Part 2. No. 5. Global Labour University (GLU).

In Erratum: In the above reference there is an error in the name of the author/s listed. It should read as follows:

Viajar, Verna Q. Dinah (2009) The Philippines: The campaign against the Japan-Philippines Economic Partnership Agreement (JPEPA). Research group background paper, Part 2. No. 5. Global Labour University (GLU).

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APPENDICES

APPENDIX 1.

Table 3-1 Policy making as a process adapted from Dye (2005)⁴⁷

Process	Activity	Participants
Problem identification	Publicizing societal problems Expressing demands for government action	Mass media Interest groups Citizen initiatives Public opinion
Agenda setting	Deciding what issues will be decided, what problem will be addressed by government	Elites, including president, Congress Candidates for elective office Mass Media
Policy formation	Developing policy proposals to resolve issues and ameliorate problems	Think tanks President and executive office Congressional committees Interest groups
Policy legitimation	Selecting a proposal Developing political support for it Enacting it into law Deciding on its constitutionality	Interest groups President Congress Courts
Policy implementation	Organising departments and agencies Providing payments or services Levying taxes	President and White House staff Executive departments and agencies
Policy evaluation	Reporting outputs of government programs Evaluating impacts of policies on target and non-target groups Proposing changes and reforms	Executive departments and agencies Congressional oversight committees Mass media Think Tanks

⁴⁷ While the participants in Dye's diagram of the policy making process are based on the United State's system, most countries have a range of similar actors and institutions.

APPENDIX 2.

Windows of opportunity in the treaty making process

Process	Legal Requirement	Actual Practice	Opportunity for Union Intervention
<p>1. Before negotiations</p> <p>Who initiates?</p> <p>Is there any previous consultation?</p> <p>Public information available?</p>			
<p>2. During negotiations</p> <p>Is an impact statement required?</p> <p>Is publication of information required/available?</p> <p>What forms of consultation exist?</p> <p>Composition of the negotiating delegation – can it include labour representation?</p>			
<p>3. Approval/signing process</p> <p>Government approval</p> <p>Publication prior/after entry into force</p>			
<p>4. Ratification/review processes</p> <p>Which branch of government ratifies?</p> <p>Is domestic legislation required?</p> <p>Can agreement be changed at this stage?</p> <p>Is there a review process?</p>			

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